



RECOMMENDATIONS

On the RA Draft Laws on Making Amendments and Supplements to the RA Constitutional Law “RA Judicial Code” and in Other Related Laws

On June 31 of 2020, the RA Ministry of Justice presented the draft laws on making amendments and supplements to the RA Constitutional Law “RA Judicial Code” and in other related law to public discussion, by which a specialized anti-corruption court is intended to be established, as well as the election of the judges and their appointment order, the amount of their remuneration and other regulations are respectively prescribed.

The Protection of Rights without Borders NGO presented recommendations on the above-mentioned draft laws.

The following observations are being presented on the draft laws presented to public discussion:

1. It is prescribed by Paragraph 3 of Article 8, that the Supreme Judicial Council has the right to engage experts to participate in the qualification check of judge candidates for the anti-corruption court.

It is prescribed by Paragraph 13 of Article 21 of the draft law, that 3 persons having the relevant professional working experience in anti-corruption field for at least 3 years can be engaged as experts.

It should be noted, that the persons to be engaged in the selection process of the judges for specialised court, who shall be responsible to provide consultative opinion on the judge candidate, should have more professional working experience /at least 7 years/.

Moreover, it is not mentioned any other additional criteria for the experts than professional working experience. We think, that the experts should possess high professional and personal traits, regardless the conflict of interest and other related risks.

The fact of defying the election order of the anti-corruption court judges by transitional provisions of the draft law and not by the main articles.



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We recommend

- To define a requirement of at least 7 years of professional working experience for the experts. Define also an opportunity for engaging international experts as well.
- To define requirements related to other professional and personal characteristics for the experts to ensure their independence and to exclude the conflict of interests cases.
- To define the election order of the anti-corruption court judges by the main articles of the RA Constitutional Law on “Judicial Codes” and not by the transitional provisions of the legislative act.

2. The succession of the judge candidate lists is prescribed by Article 15 of the draft law, according to which the candidates having a scientific degree are given an advantage.

We think, that conditioned by a scientific degree, the candidate should not have any advantage and even under the conditions of such advantage, the scientific degree should be connected to the activity field of the anti-corruption court. Moreover, in the scope of evaluating the candidates with a scientific degree the legality issue of granting the scientific degree, the lack of plagiarism in the work should be a matter of examination.

We recommend

- Grant the judges of the anti-corruption with a scientific degree an advantage exclusively in case of the availability of the scientific work in regard to the field of court’s activity.
- During the evaluation process of the candidates with scientific degree the legality issue of the granting the scientific degree, the lack of plagiarism in the work should be a matter of examination should be taken into account.

3. It is prescribed by the package of the draft laws to make amendments in the RA Law on “Remuneration of Persons Holding Public Offices” by which 18.00 coefficient for the president of the anti-corruption court and 17.00 coefficient respectively for the judges of the anti-corruption court shall be prescribed. Meanwhile, the official coefficient for the president of the court of general jurisdiction is 11.00 and for the judges of the same court is respectively 10.00.

At the same time, the coefficient for the judges of the anti-corruption court of appeals is not prescribed by the same draft law, from which it can be assumed that the latter are identical with the current regulation of the law, which defines 11.50 coefficient for the president of the court of appeals and 11.00 coefficient for the judge of the court of appeals.

Under the conditions of such essential difference of remuneration, an obvious unfair approach has been



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displayed between the judges of the court of general jurisdiction and the judges of anti-corruption court by humiliating the difficulty, importance and responsibility of the activities conducted by the judges of the Court of General Jurisdiction.

We recommend

To define fair remuneration for the president and judges of the anti-corruption court in comparison to the remuneration of the president and the judges of the court of general jurisdiction.