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INTERNATIONAL ASSOCIATION OF JUDGES

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1ST Study Commission

ANSWERS TO THE QUESTIONNAIRE ON THE ROLE AND FUNCTIONS OF THE HIGHER COUNCILS OF JUSTICE.

1. Institution-Composition

- 1.1. In Morocco there is what we call the Higher Council of Magistracy : (H.C.M.) = "Conseil Superieur de la Magistrature (C.S.M).
- 1.2. The Higher Council of Magistracy ensures the implementation of guaranties granted upon judges in terms of their promotions, discipline, designation to responsibility positions.
- 1.3. The representatives of judges in the H.C.M. are elected by their colleagues and are divided into two colleges :
 - ◆ College of Appeals Courts Judges.
 - ◆ College of First Degree Jurisdictions Judges.Each college includes all active or attached whatever is their grade confirmed or delegates.
- 1.4. The H.C.M. is a constitutional board presided by the king and is made up of members automatically appointed : The Minister of Justice as vice-president, The First President of The Supreme Court, The General Prosecutor and the President of the First Chamber of said Court.
 - ◆ Two representatives elected among them, by the judges of the courts of appeals
 - ◆ Four representatives elected among themselves by the First Degree Judges.
- 1.5. The majority is made up of judges.
- 1.6. College of Appeals Courts Judges : Two representatives as above indicated above. They are elected on the basis of a four years period as from January 1st, after elections. They can be reelected only once.
- 1.7. The principal of Powers Separation is ensured by the H.C.M. which ensures the guarantee of the independence of the Judiciary authority from any other power.

2. Responsibilities of the H.C.M.

2.1. No.

2.2. No.

2.3. Judges are designated by virtue of a Dahir (*The Dahir is a decree made exclusively by His Majesty the King, who is the highest judiciary authority of the kingdom; for, decrees are rendered in his name*), on proposal from the Higher Council of Judges.

2.4. Yes, the promotion of judges includes the advancement in grades and scales. It is continuous from grade to grade and from scale to scale.

No judge may be promoted, within the constraints of the vacant budgetary position, to a superior grade if he is not on an aptitude list. This list includes only judges, who have five years service on the time said list is established.

The list is established and fixed yearly by the Minister of Justice on proposal from the H.C.M. and is published in the Official Bulletin.

The judges elected as members of the H.C.M. cannot be promoted in grade nor can they be transferred or delegated during their term.

2.5. The secretariat of the H.C.M. sets forth lists of promotions to responsibility positions (President of Prosecution Chiefs) and submits the same to the council which chooses the persons that best fulfil the conditions required in order to assume such responsibility : competence of the candidate, university diplomas, cultural activities, experience : seniority, professional integrity, good morals, supervision power, strong personality...;

2.6. **Formation** : Formation is, first and for most , carried out by the National Institute of Legal Studies.

2.7. **Discipline** : Any failure in his professional duty, and towards the honor, delicacy or dignity constitutes an error liable to a disciplinary sanction. Such failure is communicated to the Minister of Justice who summons The Higher Council of Magistracy and designates a reporter that shall make preliminary investigations on the case.

2.8. Evaluation made by the president of jurisdiction of the concerned judge shall be taken into account during the deliberations of the H.C.M. on advancement or promotion of the concerned judge.

2.9. No.

2.10. No

2.11. Projects on modernizing the justice sector in terms of exchanges between governments, training, ethics... are being carried out.

3. Independence of Magistrature

- 3.1. One of the essential tasks of the H.C.M. is to ensure the implementation of guarantees granted upon judges ; A fact that represents a tremendous advantage since it is related to many aspects of professional life of judges.
- 3.2. (see above) : The question is not posed because the concerned organ exists and assumes its functions.

4. Criticisms.

- 4.1. We can mention in this respect :
 - 1- The non participation of the H.C.M. to the elaboration of the jurisdictions budgets ; a matter exclusive to the executive power (that is : The Minister of Justice).
 - 2- The elaboration of draft laws relating to the Legal-Judiciary field is similarly treated as it is exclusive to the legislative power.
 - 3- Judges formation which is given to an other institution other than the H.C.M.
- 4.2. There is no use making any criticism since the H.C.M. operates in accordance with the provisions that rule the same with the purpose of ensuring, above all, the independence of the judge, through some measure taken at his advantage towards the crystallization of such a principal.
- 4.3. Projects are being carried out but not yet revealed.

5. Themes :

- 5.1. The impact of Globalization on Justice.