First Study Commission Judicial Administration and Status of the Judiciary

1. Does your country’s judicial include prosecutors (or equivalent)? If so, do prosecutors benefit from the same guarantees of judicial independence as other judges?

The Judiciary in Armenia is independent and immune from any influence or pressure. The Constitution provides that the judge is only subject to the law.

The Armenian Judiciary does not include prosecutors or their equivalent, but only judges appointed by the one and only authority to appoint judges namely, Council of Justice. The Chairman of Council of Justice is the President of the Republic of Armenia, who approves the candidates of judges brought by the Council.

Prosecutors do not benefit from the guarantee mentioned in the Constitution and the Judicial Code of the RA.

2. How would you define “judicial independence” in the context of the political and social system of your country today?

As to the definition of "Judicial Independence" in the context of the political and social system of Armenia, we should define the immunity as an absolute one, preventing the exertion of any influence, persuasion or pressure on each or every Judge, as assured by legislation of the RA, constitutional guarantees.

3. Which objective criteria would you identify as indicating that the judiciary of your country is independent and why?

The objective criteria identified, in addition to the above cited provisions of the Basic Law, are the following:

There is no possibility to dismiss a judge, except by a decision of a Council of Justice of the RA.
Guaranteed by the Constitution of the RA, a judge can serve until the age of 65, provided he does not make use of the alternative provided by the law to retire earlier.

4. Which subjective criteria would you identify as indicating that the judiciary of your country is independent and why?

The subjective criteria identifying the independence of the judiciary mostly related with the individual cases, which in practice can happen.

5. If you have to identify the three most important criteria for indication judicial independence in your country, what would they be and why?

The three most important criteria for indicating judicial independence in Armenia are:

a. The tenure of a judge until the age of 65, as provided by the Constitution, unless he retires earlier by his own will.

b. Appointing in the position of a judge only by The Council of justice.

c. The provision of the article 97 of the Constitution of the RA: "The Judge and the member of the Constitutional Court may not be detained, involved as an accused or subjected to administrative liability through the judicial process except with the consent of the Council of Justice or the Constitutional Court respectively. The Judge and the member of the Constitutional Court shall not be arrested save for cases when caught in the act or immediately after that. In this case the President of the Republic and the Chairman of the Cassation Court or Constitutional Court, respectively, shall be notified immediately about the arrest".
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