



**Roundtable on Implementation of the
2012-2016 Strategic Programme for Legal and Judicial Reforms in the Republic of
Armenia
Yerevan, 11-12 April 2013**

Conclusions

The Roundtable on Implementation of the 2012-2016 Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia was organized by the OSCE/ODIHR and the OSCE Office in Yerevan in co-operation with the Council of Europe on 11-12 April 2013, at the Congress Hotel Best Western in Yerevan. The event is a follow-up activity to the roundtable on judicial independence and the Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia, that ODIHR and the OSCE Office in Yerevan organized in June 2011.

Representatives of the government, judiciary, parliament, and civil society exchanged views and offered input on how best to implement on-going judicial reforms in Armenia in line with international rule of law standards. The Ministry of Justice presented to participants government plans on reforming the roles of judicial administration bodies and of court presidents, on amending the disciplinary criteria and procedures, on developing criteria and procedures for evaluating the performance of judges, and on establishing a new Justice Academy.

Constructive discussions resulted in the elaboration and adoption of conclusions for Sessions I, II, and III, as follows:

Session I Reforming the system for judicial administration and self-governance

1. The shifting of a number of competencies from the Council of Court Chairpersons to a different or new judicial self-governance body was welcomed as a means to ensuring representation of all judges

2. The participants agreed that the Council of Court Chairpersons is not a body of judicial self-governance according to international standards. However, maintaining the Council of Court Chairpersons may be necessary as a compromise and transitional measure in this round of judicial reforms.
3. There should be an opportunity for the participation of lawyers and civil society representatives in the procedures of judicial self-governance bodies, as appropriate, to ensure transparency and public trust in these bodies and the judiciary altogether. In principle, public participation in or observation of meetings of judicial self-governance bodies should be possible.
4. The upcoming draft amendment of the Judicial Code of the Republic of Armenia on a new judicial self-governance body needs further public discussion with all concerned stakeholders, in particular the judges of all levels and the legal community.
5. Ensuring gender balance in bodies of judicial self-governance, as required by the Judicial Code of the Republic of Armenia for the judiciary in general, should be taken into consideration in practice.
6. The Ministry of Justice will elaborate a proposal on limiting the number and length of court chairs' terms in office, in line with the Strategy, the current Constitution and international recommendations, and submit it to the Cassation Court for consultation with the judiciary.

Session II Reforming the procedures and grounds for disciplining judges

7. The planned clear division of competencies to initiate disciplinary cases on the one hand and to decide them on the other hand was generally welcomed, to ensure that one judicial body is not at the same time initiating and deciding disciplinary cases.
8. As a rule, the wrong interpretation of the law, assessment of the facts and weighing of evidence by judges should not be subject to any sanctions. However if "obvious and grave violation of the law" is retained as ground for disciplinary proceedings, it has to be clearly defined and spelt out in the law.
9. A decision of a higher court that a judgement was made in obvious and grave violation of the law should not automatically pre-determine a decision on the disciplinary responsibility of a judge.

10. When the Council of Justice rules in a disciplinary case that a judgment was made in grave and obvious violation of the law, this should not automatically lead to the reopening of the case, where the judgment was already final and binding (*res judicata*). In addition to Article 352 of Armenia's Criminal Code, a remedy for miscarriages of justice could be considered for violations in non-criminal cases.
11. Hearings of the Council of Justice in disciplinary matters should be public unless the judge in question asks that they be closed to the public. Other elements of the right to a fair trial as enshrined in Art. 6 of ECHR should be introduced in line with international standards in relation to disciplinary proceedings.
12. Affording a right to appeal disciplinary decisions of the Council of Justice should be considered within the margin of the Constitution.

Session III Introducing objective criteria and procedures for the performance evaluation of judges

13. Plans to develop a system for evaluating judges' performance as a means to increase transparency and fairness of decisions on the promotion of judges were broadly welcomed. Such a system is expected to enhance the accountability of judges and increase public trust in the judiciary.
14. The broad lines of the future system for evaluating the performance of judges were described as relying on objective (quantitative and qualitative) criteria and allowing for an appeal. The reversal rate of judgments of a particular judge (rate of overturn or quashing at higher instance) should be excluded from the consideration as a performance criterion except when it is excessively high.
15. Performance evaluation of judges should only be used constructively to improve judges' performance, and not as a basis for sanctions.
16. Procedural protection of judges (such as the right to be heard and the right to appeal) needs to be built into the system for evaluating their performance.
17. All judges should participate in developing performance standards. Non-governmental organizations involved in trial monitoring can provide useful input to developing the criteria for judges' performance evaluation. Principles should be described by law and the technicalities can be elaborated in internal regulations.

18. It is advisable to rely on multiple sources of information on the judges' performance, and carefully consider a proper and transparent way of data collection. The purpose for collection needs to be clear; the methodology for data collection needs to be fair and clear and based on professional methods; careful consideration should be given to which entity is responsible for data collection, formal monitoring and evaluation.