

Questionnaire of the Special Rapporteur on the independence of judges and lawyers for the Kingdom of Bahrain

1. The constitution provides in paragraph (d) of Article 105 the establishment of the Supreme Judicial Council (SJC) that is responsible for managing functional and personal affairs of judges and public prosecutors including selecting, appointing, promoting, suspending and removing judges. The SJC has purely judicial composition.
2. The SJC is composed of 12 judicial members; the head of court of cassation (the highest court in Bahrain), the Attorney General and 10 judicial authority members. They are appointed by Royal Decree for three-year term. The judicial authority law ensures the administrative and financial independence of the Judicial authority and it establishes the secretariat headed by a judge as an administrative structure for this purpose.
3.
 - a) The basic criteria for appointment of a judge is outlined in Article 22 of the Judicial Authority Law which includes passing the examinations and the training course as set by the SJC. The process is based on identified competences by the International Organization for Judicial Training covering among other things intellectual capacity and legal qualities. Judicial candidates then undergo a serious of intensive assessments relating to their legal skills and personality as well as a personal interview testing further the established criteria such as leadership and management skills, authority and communication skills as well as ability to understand and act deal fairly. The assessments are conducted and supervised by a committee which includes judges, lawyers, legal academics and a psychologist.

The initial training program was designed by the judicial training committee and in co-operation with the Dutch judicial training institute (SSR) covering workshops on substantive and procedural laws, human rights and international treaties as well as judicial craft including drafting of judgments, examination of witnesses and case and hearing management. The candidates also sat in courts so that they have live experience of being judges. They also prepared and discussed research papers and conducted a series of moot courts where judicial candidates adjudicated real cases. The candidates were constantly assessed and mentored by senior judges. At the end of a 14 months initial training program which involves over 1000 hours of training, a final assessment consisting of drafting and deliberation of civil and criminal judgements before the judicial training committee who in turn recommends to the SJC, candidates that will be appointed by royal order (highest legal instrument in Bahrain). Further, recruitment takes place from members of the public prosecution after specialist and extensive training and assessment.

All assessment results are subject to review before the appeals committee, wholly composed of judges and chaired by a court of cassation judge. A candidate is also

able to appeal the decision of the appeals committee before the administrative court and then further before the court of cassation.

- b) Judges in Bahrain are appointed by royal order which aims at protecting the judge's independence through life tenure and immunity from detention and prosecution (stated in Article 34 of the Judicial Authority Law) which can only be lifted upon the request of the Attorney General and the decision of the SJC. Judges are also restricted in their actions through the judicial authority law and their code of conduct. It is not permitted for a judge to involve himself/ herself in any commercial activities and membership of political parties. It is also the duty of judge to inform the SJC of any conflict of interest whether real or perceived.
- c) The judicial inspectorate directorate which was established under Article 44 of the Judicial Authority Law and composed of appeal judges conducts regular (every two years at least) and unscheduled technical inspection on 60% of cases completed within 2 months chosen randomly as well as investigating complaints from the public and lawyers. A new judicial inspection criteria was approved in the end of 2015.

Judicial inspectorate reports are sent to the judges including comments on technical abilities and skills with areas for improvement. The report may be appealed by a judge before the SJC within 15 days from receipt of the report. The report is then sent by the head of the court of cassation for review by the SJC which will determine the course of action in relation to each judge. Once approved by the SJC, the report is included in the confidential file of the judge.

Judges' promotion is based on the two main criteria; seniority and performance. On average judges are considered for promotion after they serve 3-4 years in a specific grade and after passing twice the technical inspection above average. The criteria that was adopted in January 2016 assess the judge 360 degrees of his/her performance; legal skills, integrity and impartiality, management of hearings, conduct, professionalism, administrative skills, quantitative criteria as well as specialist criteria for certain courts such juveniles and commercial. The law and the judicial code of conduct is the main basis for which judge's actions and conduct is measured.

- d) Transfer of judges between courts is done by the order of SJC annually or when is required by courts' caseload.
- e) If a judge receives two inspection reports resulting in below average result, then the SJC may refer the judge to disciplinary procedure which outlined in detail in the Judicial Authority law. Also, if after investigating a complaint, a judge is found to be in breach of the code of conduct, then he/she will also be referred to disciplinary procedure. As judges have life tenure, therefore, they can only be removed by royal order upon the recommendation of SJC, after an extensive procedure and in limited situation as prescribed in Article 34 of the judicial authority law.