

**POLICY PROPOSALS FOR THE ARMENIAN COURT**  
**ADMINISTRATION REFORMS**

**Policy Brief Paper**

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## *EXECUTIVE SUMMARY*

The existing system of court administration in Armenia is recognized by many involved in the justice system as in need of substantial changes. The latter is particularly acute at the present stage of public administration reforms, where significant accomplishments have been registered in reforming the executive and legislative branches of Government, yet leaving out the judiciary. The lack of transparent and unified court administration structure and policies and uncertain status of court employees potentially give grounds for nepotism, arbitrary actions and intensify the decline in trust and confidence in courts administration system.

Key factors and the potential needed for restructuring the court administration towards more effectiveness and efficiency are present. This policy brief presents specific policy recommendations that will guide the implementation of reforms. These include:

- Ø Develop a statutory and policy framework for judicial employment
- Ø Provide a statutory basis for salary setting and judicial branch compensation
- Ø Strengthen the judicial administration body
- Ø Enhance the judiciary's planning and budgeting

## *BACKGROUND AND IMPORTANCE OF THE PROBLEM*

After declaring independence from the Soviet Union, the first Constitution of the independent Armenia was adopted in 1995. It replaced the Soviet court system by a principally new three-tier [\[1\]](#) judicial system, which was based on the legal equality and competitiveness of the parties (to the trial), presumption of innocence, independence, stability and impartiality of judges and other democratic principles. The major changes were enforced with the adoption of the “Law on Judiciary” in 1998, which also established the judicial administration body – the Council of Court Chairmen (CCC).

As a judicial administration body, the CCC lacks authority for policy formation and oversight and has provided limited guidance to courts in such areas as personnel, budgeting, training, court performance, public and media relations. Its decisions and directives have no legal force and are of advisory nature only. The analysis revealed that the CCC in its present position impedes the overall court administration rather than facilitates it. This institution needs profound reformation and strengthening.

Another major issue is the absence of laws providing court employees with the protection similar to that of other public servants working in the executive and legislative branches. The current legislation governing the judiciary does not provide any legal framework for judicial

employment. There are no criteria for hiring, promotion, minimum performance or training – in fact all is left to the court chairmen judgment. Lack of job descriptions results in overlap of functions and vague reporting relationships; salaries may be increased and bonuses may be provided at discretion of the court chairmen. As stated in the Judicial Reform Index prepared by ABA/CEELI, “...judge respondents suggest that low staff salaries afford some opportunity for petty corruption at the sub-judicial level”.

### *CRITIQUE OF THE CURRENT POLICY APPROACH*

There are several major contradictions between the Law on Judiciary, Law on Public Administration Institutions and the court Charters. These relate to the reporting relationships, control of financial assets and authorities of the court chairman, head of staff, and the chairman of the court of cassation <sup>[2]</sup>. There is a discrepancy between the provisions on the CCC mandate stated in the Law on Judiciary and the Charter of the CCC (with a resultant ambiguity in its authorities in the eyes of judges, courts staff, attorneys, and Ministry of Justice).

The current compensation levels for like positions in the judicial and executive branches vary significantly, with the judicial branch salaries being lower. It is understood that salary rates for like positions in the three pilot courts do fluctuate, as a result of the current salary setting procedure and mechanisms. Therefore, it is becoming problematic to secure engagement of qualified staff, encouraging high performance and continuous improvement of employee’s professional qualifications.

Moreover, lack of explicit employment policies and procedures fosters conflicting, negligent and unmotivated working environments, where dominating are non-transparency, favoritism, and unjust actions.

Since the establishment of the Judicial Education Center (2001), only two training session for court staff, focused on case management and organization of court sessions, was conducted in cooperation with a donor project in 2001. Problems include: a lack of funding; lack of a clear mission, strategic vision and an explicit training policy and procedure. Provided that no actions are taken to formalize the training requirement, the situation will deteriorate and judicial and non-judicial training will depend only on donor support, within the narrow subject areas that are of donors’ interest only.

### *POLICY RECOMMENDATIONS*

#### **1. Develop a Statutory and Policy Framework for Judicial Employment**

This recommendation covers the judiciary's human resources management and aims at establishing uniform policies and procedures analogous to and in some cases improving on those in the executive branch, including:

- 1.1 Uniform recruitment procedures based on open competition and merit-based selection in accordance with the minimum knowledge, skills and abilities requirements
- 1.2 Uniform performance appraisal
- 1.3 Job descriptions for the staff of courts and the judicial administration body
- 1.4 Uniform in-service training procedure.

1.1 The key elements of a statutory framework providing sufficient professionalism of and protection for court employees are competitive selection procedures, regular performance evaluation and rewards for performance, training, and discipline. It is recommended that the new legislation on judicial service be drafted by establishing uniform, merit-based selection of non-judiciary personnel. Candidates should be selected based on qualifications called for in the job descriptions. Examination of candidates should focus not only on the *knowledge* required by court staff but also the necessary *skills and abilities*.

1.2 Introduction of regular, annual performance reviews by the immediate supervisor will be novel concepts for the court system. The procedure will define and provide measures for standards of performance, identify criteria for recognizing and rewarding achievement, thus provide linkages to staff recruitment, classification, compensation, and training.

1.3 Model job descriptions can be created for all professional positions in courts and the centralized administration body to allow avoiding overlap of functions, defining reporting relationships and ensuring that similar position holders in the same-jurisdiction courts have similar rights, duties and responsibilities. The general model job descriptions can be developed by the administration body with the input from courts. Further, courts can be allowed to create job descriptions more specific to their positions as long as these fall within the scope of the broader model description and in a format approved by the central judicial management body.

1.4 The minimum in-service training requirements can be provided in the statutory framework, with more detailed training procedure developed and approved by the judicial administration body. It is proposed that professional development programs be separately designed for new and existing personnel.

## **2. Provide a Statutory Basis for Salary Setting and Judicial Branch Compensation**

It is recommended that the salary setting and salary raise mechanisms in the judicial branch be clearly defined in a relevant statute to eliminate arbitrary actions, allow for pay for performance

and be competitive with like positions in other branches of Government. The key implementation requirement is to perform a salary survey to:

- Compare judicial branch current compensation levels with like positions in the executive branch,
- Compare current compensation levels of judicial servants across the courts.

Based on survey results, the pay scheme (salary scales and levels for each classification grade and sub-grade) in the civil service can be reviewed and recommendations be made on its application in the judicial service.

### **3. Strengthen the Judicial Administration Body**

First, the formal mandate of the judicial management body should be defined in the law. The role of the body for strategic planning, budget management, planning and expenditure monitoring needs to be substantially enhanced. This can be done either within the present institution or through the creation of a new one. Based on the benchmarking research, various models for court management from other jurisdictions have been identified.

To ensure a strong and viable institution is at place, a legal framework for the new structure, new functions and roles is to be developed. The administrative body can be responsible, in particular, for the following:

- § Creating common personnel policy for the courts
- § Conducting external audits of the courts
- § Preparing the budgetary request for the whole judiciary based on the requests received from the courts and presenting it to the executive and legislature
- § Developing trainings
- § Managing international relations
- § Statistical reporting from the courts and providing analysis and review of court practice based on the statistical data and reports received from the courts.

Through a legal framework, independence of the judiciary in financial matters can also be strengthened, including clarifying the manner in which the budget is submitted to and reviewed by the executive and legislative branches, ensuring that the judiciary is represented at legislative budget hearings, and providing that, once approved by the parliament, the budget be protected from reductions by the executive branch.

More complete and effective implementation of new functions would require that the existing structure of the CCC be substantially strengthened both in terms of staffing and technical

capacity. It will be necessary to create new positions and equip the staff with computers connected via LAN, e-mail, internet access and printers.

To strengthen the general management structure and processes, trainings on strategic planning, personnel management functions, expenditure monitoring and forecasting, budget preparation and drafting budget narratives for staff of the courts and the administration body can be conducted.

#### **4. Enhance the Judiciary's Planning and Budgeting**

To enhance the planning and budget submission of the courts, explicit policies and instructions guiding budget development are needed. In addition, a formal process for the courts to discuss their budget requests and fiscal forecasts with the judicial management body should be developed so that budget approval does not rest solely on the strength of written submissions.

The budget for courts is developed on a line-item basis without narrative explanations. The budget submissions can include a budget narrative describing the operational justification and benefits of proposals.

Because the first instance, economic and appeal courts are budget users with their own accounts and budget requests are made by each court, the government distributes funds to individual courts on a quarterly basis and requests to transfer funding between items at an individual court are approved by the Ministry of Finance or the government. One of the options to improve planning and create a stronger bargaining position for the judiciary vis-à-vis the government is to redefine the judiciary as a single budget user and develop and submit a single judicial branch budget to the government. This approach would also imply granting more authority for the judicial branch to approve movement of funds across courts as needed and perhaps approval of funds for new positions in the courts.

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Courts of first instance, Court of Appeals on Civil Cases, Court of Appeals on Criminal and Military Cases, and the Court of Cassation.

[2]

In accordance with the Law on Public Administration Institutions, the chairman of the court of cassation is considered to be the Founder of the courts.