

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY ALGERIA**

ARTICLE 11 UNCAC

JUDICIAL AND PROSECUTORIAL INTEGRITY

ALGERIA (FOURTH MEETING)

(1) Information on the implementation of article 11 of the UN Convention against Corruption

*** Measures taken to strengthen integrity and prevent opportunities for corruption among members of the judiciary**

- According to the constitution, the judicial power is independent and exercised within the framework of the law, the judge is protected against any form of pressure, interventions or manoeuvres which prejudice his mission or the respect of his free will and the judge obeys to the law only (Articles 138, 147 and 148 of the Algerian Constitution, annexed hereto).

The Basic Judiciary Law also states that the judge is bound by a duty of discretion to avoid all suspicion and conduct that could prejudice his neutrality and free will. He must act as an impartial judge, faithful to the principles of justice. (Articles 7 and 9 of Organic Law no. 04-11 of 6 September 2004, containing the Basic Judiciary Law, annexed hereto.)

In order to protect the judge from anything that could subject him to the suspicion of corruption, the law prohibits the judge from possessing, in his own right or through a third party, business interests that could impede the normal execution of his duties or prejudice the independence of the judiciary in general. The law also obliges the judge to declare his assets every five years and each time an appointment is made to a specific position. (Articles 18 and 25 of Organic Law no. 04-11 of 6 September 2004, containing the Basic Judiciary Law, annexed hereto.)

- The Code of Ethics states that the judge must clear himself of all suspicion and refrain from exploiting his influence for his own benefit or that of others. (Code of Ethics, deliberations of the High Council of Magistracy on 23 December 2006, annexed hereto.)
- The selection and appointment of judges is governed by legal and organizational texts which include the requirement for judges to be selected through a national competitive examination under the responsibility of the Legal Service Training College (Article 36 of Organic Law no. 04-11 of 6 September 2004, containing the Basic Judiciary Law, annexed hereto). The

eligibility criteria to sit the competitive examination and enrol in the College (Article 28 of Law no. 05-303 of 20 August 2005, containing the organization of the Legal Service Training College, annexed hereto) include the following:

- Candidates must have a law degree or equivalent qualification.
 - Candidates must enjoy civil and national rights.
 - Candidates must be of good moral character.
 - To ensure transparency, the opening of competitive examinations for entry to the Legal Service Training College and the results of such examinations must be announced on the website of the College and in the media (sample contained in annex).
 - Judges are appointed after three (3) years of basic, theoretical and applied training, following which they are awarded a licence by the Legal Service Training College.
 - Judges are appointed to their posts in the various jurisdictions based on merit and their preference when they graduate from the Legal Service Training College.
 - Judges are accredited by the High Council of Magistracy, which is the body responsible for monitoring judges' career paths and all related matters, including appointment to specific posts and transfers to new posts, while judges reserve the legal right to remain in their positions and to oppose any arbitrary transfers. The Council is responsible for promotions, which are granted automatically to judges at specified intervals. The Council is also responsible for examining disciplinary proceedings filed against judges for the commitment of professional errors or violations detrimental to the honour of the profession, such as corruption, and approving sanctions to be taken, which can include expulsion from the profession (Articles 26, 39, 40, 54, 63 and 68 of Organic Law no. 04-11 of 6 September 2004, containing the Basic Judiciary Law; Articles 18, 19 and 20 of Organic Law 04-12 of 6 September 2004 relating to the composition, work and terms of reference of the High Council of Magistracy, annexed hereto).
- To improve transparency and efficiency in the allocation of files to judges, the law stipulates that the court comprises various divisions, each of which is presided by a judge according to his competence. Only the Chief Justice has the legal authority to distribute judges among the divisions and branches at the beginning of each judicial year.
 - Applications from litigants or their representatives are received through a reinforced window at the court supervised by a clerk, who registers the application according to the order of receipt, in addition to the case number and the date of the

first hearing, according to a system which removes any discretionary power from the file allocation process. As regards criminal cases, the principle of appropriate supervision as recognized by the public prosecutor does not give the latter absolute authority in the allocation of files to magistrates; files are assigned to examining magistrates in the order of receipt and the case schedule for the divisions is drawn up automatically and objectively. This system provides procedural guarantees to ensure neutrality and integrity, since it is possible for the State party, the accused or the civil party to request for a case to be withdrawn from a judge who has already been notified of it, and passed onto another judge, in the interests of the proper course of justice. (Article 71 of the Law on Criminal Procedures; Article 16 of Organic Law no. 05-11 of 17 July 2005 on the organization of the judiciary; Article 16 of Law no. 08-09 of 25 February 2008, containing the Law on Civilian and Administrative Procedures, annexed hereto).

- In addition to the fact that hearings are public as a general principal, to ensure full transparency in judicial work and dealings with litigants and to provide an insight for the public and the media, the public is also permitted to attend trials. An automated system has been established in the jurisdictions, enabling a court case to be followed from the moment the case is filed or the general complaint is raised until a verdict or decision is passed or a sentence is handed down. The schedule of hearings is published and citizens are able to consult information on their case using an online portal. Litigants themselves can also look up the outcomes of their cases online by accessing the Ministry of Justice website with a user name and password. Furthermore, the public can consult the verdicts and decisions of the Supreme Court and the State Council, which are published in the journal and respective websites of these bodies.

As part of this initiative, the justice sector regularly holds “open door” events to inform the public and the media, providing as many people as possible with information on the judicial departments and litigation process, so as to raise citizens’ awareness of the role of the judiciary and make it more accessible.

*** Examples of successful implementation of the approved measures at a national level, in accordance with Article 11 of the Convention:**

- At the Legal Service Training College, magistrates in training study the article on anti-corruption mechanisms. Judges working in this field (including judges, prosecuting judges and examining magistrates) benefit from continuing training programmes supervised by national and international experts and professors of the College. Additionally, meetings and educational days are held for the benefit of judges; since 2006, over 500 judges and prosecutors have attended training sessions on corruption-related matters such as money laundering, public contracts and crimes involving currency exchange and banking.

*** Evaluation of the extent of the effectiveness of the approved measures taken to implement Article 11 and results of this evaluation:**

- In general, the work of judges is evaluated using legal mechanisms. This is carried out by the general inspectorate, which has wide-reaching legal powers in the field of investigation, inquiry, examination and monitoring. It contributes to the evaluation process of judges and conducts the necessary investigations to establish the extent to which judges respect their professional obligations and adhere to the Code of Ethics (Executive Decree no. 05-322 of 13 September 2005, containing the organization, operation and objectives of the general inspectorate at the Ministry of Justice).

The general inspectorate and other central administrative offices receive complaints from citizens by post and email. These are used to identify weak points in the judicial system, reveal instances of breach of professional duty and propose appropriate measures to be taken.

- The office of the Ministry of Justice has published email, telephone and fax contact details on its website so as to provide citizens the opportunity to voice any concerns, offer any opinions and communicate with the Ministry in general. There is also a permanent drop-in centre at the Ministry of Justice for this purpose.