



THE SUPREME JUDICIAL COUNCIL AND ITS ROLE IN MANAGING THE PROFESSIONAL CAREER PATH OF JUDGES

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Abstract:

The Supreme Judicial Council is a constitutional body responsible for supervising and managing the professional career path of judges. It also ensures the protection of the independence and dignity of the judicial profession. Given its importance in achieving judicial independence and as a key guarantee for the protection of judges, the Algerian legislator has established a separate organic law governing its organization and enhancing its performance, independently from the basic statute of the judiciary.

This law is based on standards and principles that focus on guarantees, individual competencies, and the efficient and objective performance of judicial duties. Accordingly, the Supreme Judicial Council has undergone several developments through legislative texts regulating it, both in terms of its composition and the management of its administrative and judicial bodies. These developments aim to improve performance outcomes, keep pace with modern transformations, and adopt methods based on efficiency and objectivity, within a forward-looking legal framework that ensures the continuity of justice and the preservation of equality.

Keywords: Judge; Supreme Judicial Council; Disciplinary Powers; Promotion; Transfer.

Introduction:

The judiciary, as a traditional and vital public service, has been closely associated with the emergence of the modern state, as it provides a range of public services to individuals. Therefore, members of the judicial profession are subject to special legal frameworks. The legislator has subjected judges to a basic law regulating their profession, as well as to a disciplinary system ensuring their

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impartiality and integrity, in line with the principle enshrined in Article 156 of the Algerian Constitution of 1996, as amended, which corresponds to Article 163 under the 2020 constitutional amendment.

This principle, namely the independence of the judiciary, positively impacts judges by enabling them to conduct fair and impartial trials, thereby ensuring the protection of individual and collective rights and freedoms of citizens and foreigners within the territory of the state.

Legal doctrine considers that one of the most effective guarantees for the protection of rights is the judge, who is constitutionally empowered to issue binding decisions and judgments. To ensure this role, the judiciary must be independent, impartial, and fair in both procedures and rulings. This is particularly reflected in adopting a system of permanent judicial tenure and granting judges a fundamental legal status derived from the Constitution, which clearly defines aspects of independence such as appointment, promotion, training, retirement, and guarantees ensuring their independence from public authorities.(Boushayer, 2017, p. 47)

Among the most important of these guarantees is the Supreme Judicial Council, which oversees the professional career path of judges and ensures their independence and impartiality in the performance of their duties.

Accordingly, the main research question is: What role does the Supreme Judicial Council play in managing the professional career path of judges?

To answer this question, this study adopts a descriptive-analytical approach, highlighting the nature of this body and the powers granted to it by law. It also emphasizes that judges are subject to a disciplinary system distinct from other public servants. This study is divided into two main sections:

- The first section examines the nature of the Supreme Judicial Council.
- The second section addresses its powers.



1- The Nature of the Supreme Judicial Council

This section is divided into two main parts. The first examines the definition and legal nature of the Supreme Judicial Council, while the second addresses its composition.

1.1- Subsection One: Definition and Legal Nature of the Supreme Judicial Council

1.1.1- First Part: Definition of the Supreme Judicial Council

The Supreme Judicial Council is defined as a constitutional institution representing the judicial authority, similar to how Parliament represents the legislative authority and the Presidency of the Republic and the Government represent the executive authority. However, with the exception of its disciplinary formation, it is not a judicial body in the strict sense, as it does not issue judicial rulings or decisions. Rather, it is an independent administrative authority whose primary function is to ensure compliance with the fundamental law governing the judiciary. (Khadir, 2017, p. 64)

The Algerian Constitution, particularly Article 181, defines the Council through its functions by stating that it decides, under conditions determined by law, on the appointment, transfer, and career progression of judges. Judicial appointments to specific positions are made by presidential decree after obtaining the Council's binding opinion. It also ensures compliance with the provisions of the judiciary's fundamental law and supervises judicial discipline under the presidency of the First President of the Supreme Court.

Furthermore, Organic Law N°. 22-12 of June 27, 2022, which regulates the election, organization, and functioning of the Supreme Judicial Council, states in its Article 2 that the Council is an independent body with legal personality and financial and administrative autonomy.

1.1.2- Second Part: Legal Nature of the Supreme Judicial Council

By examining the relevant legal texts, it becomes evident that the Supreme Judicial Council enjoys financial and administrative independence, which qualifies it as an independent administrative authority. In addition, it possesses disciplinary powers and provides prior advisory opinions to the President of the Republic, particularly regarding the exercise of the presidential pardon, as stipulated in Article 182 of the 2020 constitutional amendment.

This dual nature has led legal scholars to classify the Council as an independent administrative authority with quasi-judicial powers. For instance, it has been argued that the Council manages the professional career of judges, exercises disciplinary authority, and provides consultative opinions on matters such as presidential pardon.

However, Algerian administrative jurisprudence, particularly that of the Council of State, has considered that decisions issued by the Supreme Judicial Council in its disciplinary formation constitute final judicial decisions subject to cassation before the Council of State, rather than annulment proceedings. This position was confirmed in a decision dated April 19, 2006, which recognized the Council, when acting in disciplinary matters, as a specialized administrative judicial body issuing final judgments. (Mellouya, 2010, pp. 409-410)

Legal doctrine and administrative jurisprudence have established certain criteria for classifying a body as an independent administrative authority, including:

- Being established by law
- Having an administrative nature
- Not being a purely judicial authority

Based on these criteria, the Supreme Judicial Council can be considered an independent administrative authority entrusted with managing the professional career of judges. It combines quasi-judicial disciplinary powers with purely consultative functions, such as



advising the President of the Republic on pardon decisions and judicial organization matters.

1.2- Subsection Two: Composition of the Supreme Judicial Council

This subsection examines the structure of the Council, distinguishing between its ordinary composition and its disciplinary formation.

1.2.1- First Part: Ordinary Composition

According to the 2020 constitutional amendment, particularly Article 180, the President of the Republic presides over the Supreme Judicial Council, in his capacity as the guarantor of judicial independence. This reflects the importance of the Council's role in organizing and managing judicial affairs.

The Council consists of 26 members, including:

- The First President of the Supreme Court (Vice-President of the Council)
- The President of the Council of State
- Seventeen (17) elected judges
- Six (6) qualified individuals appointed based on their expertise
- The President of the National Human Rights Council

Membership in the Council lasts four (4) years and is non-renewable, with half of the members being renewed every two years.

Judges eligible for election must be tenured and have at least fifteen years of professional experience. Judges who have been subject to disciplinary sanctions are not eligible unless they have been rehabilitated.

Additionally, in case of vacancy, the candidate who received the highest number of votes among the non-elected candidates is appointed to complete the remaining term.

The Council also elects a permanent bureau composed of eight members, chaired by the Vice-President of the Council. It meets in ordinary sessions at least once every three months and may hold extraordinary sessions when necessary. Decisions are adopted by majority vote, with the President having the casting vote in case of a tie.

1.2.2 - Second Part: Disciplinary Formation

The disciplinary formation of the Supreme Judicial Council is chaired by the First President of the Supreme Court, rather than the President of the Republic, in order to reinforce the principle of separation of powers.(Zouaimia, 2012, p. 18)

This formation is responsible for exercising disciplinary authority over judges. It operates under specific procedural rules and ensures that disciplinary matters are handled independently and objectively

1- Section Two: Powers of the Supreme Judicial Council

This section is divided into two main subsections. The first addresses the powers of the Council in managing the professional career of judges, while the second examines its disciplinary powers.

1.2-Subsection One: Powers Related to Managing Judges' Career Paths

This subsection is divided into two parts:Powers of appointment and promotion andPowers of transfer and secondment.

1.2.1- First Part: Powers of Appointment and Promotion

The 2020 constitutional amendment, particularly Article 181, grants the Supreme Judicial Council the authority to decide on the appointment, transfer, and career progression of judges.



Although the President of the Republic holds the power to appoint judges by virtue of his constitutional authority, the law requires prior consultation with the Supreme Judicial Council before issuing presidential decrees concerning judicial appointments. However, this consultation is not binding; it is merely a procedural requirement.

This consultative role applies particularly to appointments to specific judicial positions, as defined by the fundamental law governing the judiciary. However, certain high-level judicial appointments—such as the First President of the Supreme Court, the President of the Council of State, and senior prosecutors—are made without prior consultation of the Council.

In addition, the Supreme Judicial Council is responsible for examining promotion files, ensuring compliance with criteria such as seniority, inclusion on eligibility lists, and performance evaluation. It also has jurisdiction to review appeals submitted by judges concerning their exclusion from promotion lists.

1.2.2 - Second Part: Powers of Transfer and Secondment

With regard to transfers, the Supreme Judicial Council may transfer judges within the framework of the annual judicial movement, particularly when required by the interests of justice or the proper functioning of the judicial system.

The Council is informed, after the fact, of transfers and appointments affecting public prosecutors, state commissioners, and judges assigned to central administration or judicial institutions under the Ministry of Justice. This allows the Council to ensure proper regulation of judges' professional situations.

Regarding secondment, judges may be temporarily assigned to positions either within or outside their original grade. In such cases:

- Secondment is generally limited to one year, renewable
- The judge retains their salary if it is more favorable

- The Council is notified to regularize the administrative status

In some cases, secondment to a lower-grade position requires the explicit consent of the judge concerned.

1.2- Subsection Two: Disciplinary Powers of the Supreme Judicial Council

The 2020 constitutional amendment establishes that judges are accountable before the Supreme Judicial Council for the manner in which they perform their duties. Consequently, disciplinary authority is exclusively vested in this body.

This subsection is divided into two parts:

- Disciplinary procedures
- Disciplinary offenses

1.2.1- First Part: Disciplinary Procedures

The Supreme Judicial Council exercises its disciplinary powers through its disciplinary formation, chaired by the First President of the Supreme Court.

The disciplinary process begins with the appointment of a reporting judge from among the Council members. This judge must hold at least the same rank as the judge subject to disciplinary proceedings. The reporting judge is entrusted with broad investigative powers, including:

- Hearing the judge concerned
- Collecting testimonies
- Conducting on-site investigations
- Requesting documents from administrative bodies

The judge under investigation must appear personally before the Council. Postponement is generally not allowed, except in cases of



valid justification. However, the judge has the right to be represented by a lawyer or a fellow judge.(Khadir, 2017, pp. 66-67)

The legislator guarantees the right of defense as a fundamental principle. This includes:

- The right to be informed of the charges
- The right to access the disciplinary file
- The right to submit written or oral defenses
- The right to be assisted by legal counsel

The disciplinary file must be made available to the judge at least five days before the hearing.

1.2.2 - Second Part: Disciplinary Offenses and Sanctions

A disciplinary offense is defined as any breach of professional duties by a judge. It may involve either negligence or intentional misconduct.(Boudiaf, 1986, p. 76)

Serious disciplinary offenses include actions that may harm the reputation of the judiciary or disrupt the proper administration of justice, such as:

- Failure to declare assets or submitting false declarations
- Breach of the duty of impartiality
- Engaging in unauthorized professional activities
- Violating confidentiality of deliberations
- Denial of justice
- Refusal to recuse oneself when legally required

Disciplinary decisions are taken by majority vote, provided that at least two-thirds of the members are present. In the event of a tie, the chairperson has the casting vote..(Khadir, 2017, pp. 190-191)

Sanctions are classified into three (levels):

A-First-degree sanctions:

- Warning or reprimand
- Automatic transfer

B-Second-degree sanctions:

- Demotion in rank
- Downgrading in professional grade. (Kherchi, 2010, pp. 340-341)

C-Third-degree sanctions:

- Suspension (up to one year, with partial or total salary deprivation)
- Dismissal (the most severe penalty) .(Boudiaf, 1986, pp. 27-29)

All disciplinary decisions must be reasoned and formally issued. They may be challenged before the Council of State through annulment proceedings.

Disciplinary actions are subject to a statute of limitations of three years from the date of the offense.(Mellouya, 2008, p. 88)

Conclusion

The Supreme Judicial Council is a constitutional body endowed with both administrative and quasi-judicial powers. It plays a central role in ensuring judicial independence and managing the professional career of judges.

The 2020 constitutional amendment introduced significant reforms that strengthened the Council's independence, expanded its composition, and reinforced its powers—particularly regarding judicial appointments and disciplinary matters. These reforms contribute to enhancing the guarantees of judicial impartiality and the proper functioning of the justice system.



Key Findings on the Role of the High Council of the Judiciary

A number of key findings can be drawn regarding the role of the High Council of the Judiciary:

1. Upholding Judicial Independence

The High Council of the Judiciary contributes to strengthening the independence of judges by overseeing appointments, promotions, and disciplinary actions, thereby limiting interference from the executive authority.

2. Regulating Judges' Career Paths

The Council serves as a central body responsible for managing the professional careers of judges, from appointment to retirement, ensuring a degree of job stability.

3. Ensuring Merit and Competence

In principle, the Council relies on objective criteria in promotion and transfer decisions, such as seniority and competence; however, in practice, some ambiguity may arise in their application.

4. Exercising Disciplinary Authority

The Council plays an important role in holding judges accountable through disciplinary measures, which enhances integrity and discipline within the judiciary.

Recommendations

To strengthen the role of the High Council of the Judiciary and improve the management of judges' career paths, the following recommendations are proposed:

1. Strengthening the Council's Actual Independence

- Reducing the influence of the executive authority in its composition.
- Ensuring a majority of elected judicial members within the Council.

2. Enhancing Transparency in Decision-Making

- Publishing clear criteria for appointments and promotions.
- Providing reasoned justifications for the Council's decisions.

3. Establishing Precise and Objective Career Management Criteria

- Adopting a periodic performance-based evaluation system.
- Incorporating modern criteria such as continuous training and digital competence.

4. Reinforcing Judges' Guarantees in Disciplinary Matters

- Expanding the right to defense.
- Allowing judges to appeal the Council's decisions before an independent body.

5. Digitizing the Management of Judicial Careers

- Creating a national database for judges.
- Implementing electronic systems to track career progression.

6. Benefiting from Comparative Experiences

- Reviewing successful international models of judicial councils.
- Adapting them to the specific context of the Algerian legal system.



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