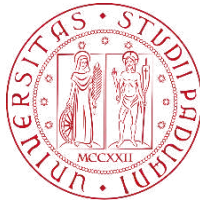


UNIVERSITÀ DEGLI STUDI DI PADOVA

DEPARTMENT OF POLITICAL SCIENCE, LAW,
AND INTERNATIONAL STUDIES

**Master's degree in
Human Rights and Multi-level Governance**



JUDICIAL ELECTIONS AND APPOINTMENTS IN
POST-REVOLUTIONARY CONTEXTS: THE CASE OF
ARMENIA'S POST-VELVET REVOLUTION

Supervisor: Prof. SARA PENNICINO

Candidate: ARMENUHI UNUSYAN

Matriculation No. : 2072101

A.Y. 2024/2025

*I dedicate this thesis to my grandfather,
who passed away while I was in Italy.*

He gave me strength and made me believe I am capable of greatness.

*He reminded me, every chance he got, how important it is to be a good lawyer and to
protect human rights.*

I miss you every day.

ACKNOWLEDGMENT

My journey in Italy has been beautiful, filled with unforgettable moments both within the university and beyond. Coming to study at the University of Padova was one of the best decisions of my life. Though I arrived feeling uncertain and lost, I gradually found my way, both professionally and personally, thanks to the people who surrounded me.

Writing this thesis was a truly meaningful experience, and I want to use this chance to thank first *my supervisor, Sara Pennicino*, who mentored me and helped me find my path while I was lost in the waves of thought. She might not know this, but she was my ultimate inspiration from the very first day I saw her and attended her lecture. I was honoured to have her as my supervisor.

To my parents, Samvel and Shushanik, they are my twin pillars, without whom I cannot stand. They raised me as a proud feminist in a patriarchal society and never once made me feel there was anything I could not do or become. I am proud to be their daughter.

To my siblings, Raffi and Maka, who are my soul ties. They listened patiently to endless conversations about this thesis and supported me in every way imaginable.

To my partner, Edoardo, whose love, joy and calm presence filled my days. He made Italy feel like home and gave me the peace of mind I needed to focus on my work.

To my best friends, Sona, Oumaima and Tachat, for their constant love and support. I am truly blessed to have them by my side.

To all my professors who opened new intellectual paths for me and taught me to see the world through different lenses, and *to the experts* who supported me during the writing of this thesis.

To all the people in Armenia and around the world who continue to fight for a democratic and better country, even in times of uncertainty and war. Your strength and commitment are a true source of hope.

LIST OF ACRONYMS.....	1
INTRODUCTION.....	3
CHAPTER I. THE FOUNDATIONS OF JUDICIAL REFORM: RESTORING LEGITIMACY, INDEPENDENCE AND TRUST IN POST-REVOLUTIONARY TRANSITIONS.....	7
1.1. Judicial Reforms in Post-Revolutionary and Post-Conflict Settings.....	7
<i>1.1.1. Defining Judicial Independence and its foundational importance.....</i>	<i>8</i>
<i>1.1.2. Theoretical Perspectives on Judicial Reforms and Appointments During Political Transitions.....</i>	<i>13</i>
<i>1.1.3. Challenges of Implementing Judicial Reforms in Post-Revolutionary Contexts</i>	<i>16</i>
1.2. The Role of Judicial Councils in shaping an independent judiciary.....	19
<i>1.2.2. The Competences and Models of Judicial Councils.....</i>	<i>25</i>
<i>1.2.3. The Critical Role of Judicial Councils in Post-Revolutionary Judicial Reform.</i>	<i>27</i>
CHAPTER II: ARMENIA’S VELVET REVOLUTION AND THE IMPERATIVE FOR JUDICIAL REFORM: FOCUS ON ELECTIONS AND APPOINTMENTS.....	31
2.1. Armenia’s Political Transition and the Imperative for Judicial Reform.....	31
<i>2.1.1. The Pre-Revolutionary Judicial and Political Landscape.....</i>	<i>31</i>
<i>2.1.2. The Velvet Revolution: Genesis and Impact on Judicial Reform Demands....</i>	<i>35</i>
2.2. Judicial Reform and the Challenge of Judicial Selection.....	39
<i>2.2.1. Judicial Reform History and Post-Revolution Developments.....</i>	<i>39</i>
<i>2.2.2. The 2019-2023 Judicial Reform Strategy: Vision and Implementation.....</i>	<i>42</i>
<i>2.2.3. The Supreme Judicial Council in the Post-Revolutionary Era.....</i>	<i>46</i>
<i>2.2.4. Vetting in Armenia: A Contentious Path to Judicial Integrity.....</i>	<i>54</i>
<i>2.2.5. Between Reform and Reproduction: Judicial Appointment and Election after the Revolution.....</i>	<i>61</i>
<i>2.2.6. International Collaboration and Its Impact on Judicial Reforms.....</i>	<i>69</i>
CHAPTER III. HUMAN RIGHTS DISCOURSE IN ARMENIA’S POST-REVOLUTIONARY JUDICIAL REFORM TRAJECTORY.....	75
3.1. The Imperative for Reform and the Ongoing Challenge of Public Trust.....	75

3.1.1. <i>Accessibility, Transparency and Public Trust in the Judiciary</i>	75
3.1.2. <i>Legal Aid, Case Backlogs and Barriers to Accessing Justice</i>	79
3.2. Fair Trial Guarantees and the Rule of Law.....	84
3.2.1. <i>Judicial Independence and Political Interference</i>	84
3.2.2. <i>Impacts on Fair Trial Rights and Broader Human Rights Protections</i>	90
CHAPTER IV. COMPARATIVE ANALYSIS OF JUDICIAL REFORMS IN POST- REVOLUTIONARY AND TRANSITIONAL COUNTRIES	95
4.1. Country Experiences in Judicial Appointments after Political or Systemic Transitions.....	95
4.1.1. <i>Georgia: Appointment Reform without Rotation of Judicial Power</i>	96
4.1.2. <i>Ukraine: Post-Maidan Judicial Reform and Resistance</i>	101
4.1.3. <i>Slovakia and Czech Republic: Contrasting Paths under a Shared Legal Legacy</i>	105
4.2. Comparative Reflections on Judicial Reforms in Transitional States.....	110
4.2.1. <i>Common Patterns and Challenges</i>	110
4.2.2. <i>Institutional Differences in Judicial Reform Approaches</i>	113
4.2.3. <i>Lessons for Armenia's Reform Development</i>	115
CONCLUSION	118
BIBLIOGRAPHY	123
ANNEXES	133
<i>ANNEX I</i>	133
<i>ANNEX II</i>	139
<i>ANNEX III</i>	144

LIST OF ACRONYMS

ACC	Anti-Corruption Committee
BTI	Bertelsmann Transformation Index
CCJE	Consultative Council of European Judges
CEPEJ	European Commission for the Efficiency of Justice
CoE	Council of Europe
CPC	Corruption Prevention Commission
CSM	Consiglio Superiore della Magistratura (Italian High Council of the Judiciary)
ECHR	European Court of Human Rights
EU	European Union
GRECO	Group of States against Corruption
HACC	High Anti-Corruption Court
HCJ	High Council of Justice
HQCJ	High Qualification Commission of Judges
ICT	Information and Communication Technology

IT	Information Technology
JCSR	Judicial Council of the Slovak Republic
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PEPR	Public Expenditure and Performance Review
PIC	Public Integrity Council
PRWB	Protection of Rights Without Borders
RA	Republic of Armenia
RPA	Republican Party of Armenia
RPR	Reanimation Package of Reforms
SJC	Supreme Judicial Council
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
USAID	United States Agency for International Development

INTRODUCTION

Judicial independence is a cornerstone of constitutional democracy, yet establishing it in post-revolutionary and post-conflict states remains one of the most complex tasks of state reconstruction. Courts in post-revolutionary or post-conflict settings face an expectation to not just apply new legal frameworks, but to address past injustices while attempting to stabilize a political transition and deliver moral legitimacy to the new regime. With such monumental expectations to fulfill, these courts will frequently have a legal and organizational heritage that is deeply politicized, and accompanied with corruption and public distrust. As noted, the appointment of judges in most countries is still politically determined; it is one of the things, among others, that undermines both judicial independence and public trust.¹ The mechanisms regulating the appointment, promotion, and removal of judges become important arenas through which political power can be contested and institutional legitimacy constructed or challenged.

In transitional justice theory and comparative judicial reform scholarship, appointments are increasingly seen not as mere administrative functions but as a structural and symbolic expression of democratic transformation. As was observed, the moral authority of the judiciary does not depend only on the dialogic processes through which judges exercise power but as to whether judges are free from political influence.² According to this theory, the procedures and people in charge of selecting judges are directly related to judicial independence. The judiciary's credibility as an independent institution that can serve as a check on power is determined by whether appointments are made in a transparent manner, through independent and merit-based processes, or through manipulation by political authorities. Perhaps Ginsburg states it best by arguing that constitutional designers may enable courts not because they trust them to be neutral, but because they expect to lose power and want to protect their interests through independent adjudication.³ This

¹Méndez, Juan E.; O'Donnell, Guillermo; & Pinheiro, Paulo Sérgio (Eds.). (1999). *The (Un)Rule of Law and the Underprivileged in Latin America*. University of Notre Dame Press, pp. 259, 284.

²Fiss, Owen M., (1993) "The Limits of Judicial Independence," *University of Miami Inter-American Law Review* 25: p. 60.

³Ginsburg, Tom. (2003). *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. Cambridge University Press, p. 25.

underscores why post-revolutionary governments often rely on judicial reform to not just realize democratic goals, but also to respond to uncertainty in a chaotic political environment.

Judicial councils are often the primary institutional means of reconciling judicial independence and accountability in many post-revolutionary states. Given their often intermediary function between the judiciary and the political branches, these structures have gained popularity globally and draw influence from ideas of democratic norms with external, international actors; most notably the Council of Europe and the Venice Commission, both of which strongly supported them.⁴ However, scholars, such as Kosař, have cautioned that such councils may, in transitional contexts, produce elite control and institutional opacity when introduced without transparency and without involving wider reform processes.⁵

The study revolves around three interrelated questions. First, how do political transitions, revolutions in particular, impact the processes of judicial appointments and independence in post-revolutionary countries? Secondly, how did the Velvet Revolution of 2018 in Armenia influence judicial reforms in regards to the role of the Supreme Judicial council and whether its effectiveness in appointments was improved? And finally, what comparative lessons can be learnt from other post-revolutionary and transitional countries regarding judicial councils and the challenges of balancing independence with democratic accountability?

This thesis has two goals. First, it critiques how judicial appointments and elections are reformed in post-revolutionary circumstances. The primary case study is the reform process in Armenia following the Velvet Revolution of 2018. This revolution represented more than a change in government; it created a broad public mandate for institutional renewal, including immediate judicial reform in response to long-standing politicization, opacity and general distrust of the judiciary. Particular attention is given to the role of the Supreme

⁴ Venice Commission. (2007). *Judicial Appointments* (Opinion No. 403/2006, CDL-AD(2007)028-e). European Commission for Democracy through Law (Venice Commission), para. 19.

⁵Kosař, David, (2016), *Perils of Judicial Self-Government in Transitional Societies: Holding the Least Accountable Branch to Account*, Cambridge University Press, p. 287.

Judicial Council (SJC), not as an end in itself, but as the institutional actor in charge of appointment management, procedure supervision and creating a balance between judicial independence and political influence. The SJC, despite its central role, was widely criticised for lacking transparency, internal accountability, and effective protection from the influence of legacy elites. Second, the thesis contributes to broader debates on judicial selection in transitional democracies by identifying the structural and political factors that enable or obstruct judicial independence. In doing so, it challenges the assumption that the judicial council model offers a universally effective solution and argues for a more context-sensitive understanding of judicial governance in post-authoritarian settings. The Armenian case is situated within a wider comparative analysis of judicial reform in Georgia, Ukraine, Slovakia, and the Czech Republic, enabling a critical assessment of how international actors have promoted judicial councils and whether these bodies have meaningfully fulfilled their intended function in protecting judicial independence.

To address these questions, the study uses qualitative and comparative methods, which are founded in doctrinal legal analysis and institutional evaluation, using political-institutional theory. The study used a variety of primary and secondary sources, including national legislation, policy documents, and international reports. It draws on both Armenian and English materials. Three expert interviews were also conducted with current judges and with former SJC members in which they revealed detailed knowledge on the implementation of the reforms and the internal mechanisms of how the SJC has functioned.

The study is structured as follows. The first chapter begins with the theoretical basis of the thesis by analyzing judicial independence in its *de jure* and *de facto* forms, particularly on appointments and control over personnel. It highlights the distinctions between institutional, decisional and functional independence, which are influenced by how judges are appointed and retained. The chapter also draws from scholars such as Ginsburg, Helmke, Teitel and others to review broader theories, including democratization, historical institutionalism, rational choice and transitional justice and to explain how judicial appointments, and control over personnel, becomes essential to political strategy institutional continuity in transitional contexts.

Chapter II turns to Armenia as a case study. It provides an in-depth recounting of the Velvet Revolution of 2018, as well as the context of judicial distrust and institutional dysfunction leading up to the Velvet Revolution and the major legal reforms of the new post-revolutionary government. The chapter focuses on the Supreme Judicial Council and its mandate, internal structure, appointment practices, and whether it has contributed to democratizing the judiciary. The chapter highlights that while formal reforms have introduced new procedures and legal frameworks, the persistence of elite continuity, internal division and legal ambiguity still impact the SJC's independence and the appointment processes.

Chapter III begins by placing the Armenian experience within a wider human rights and rule of law narrative. It describes the current Armenian context regarding the politicization of appointments and delays in vetting and resistance from within the judiciary. It highlights practical challenges such as backlogs in cases, insufficient numbers of judges and the limited capacity to discipline judges for their misconduct that impacts how legal reforms can be implemented. The chapter concludes with the argument that without credible, transparent and merit-based appointment procedures, guarantees of due process rights including fair trial rights and impartiality of judges cannot be assured.

Lastly, Chapter IV provides a comparative assessment of judicial reforms in Georgia, Ukraine, Slovakia, and the Czech Republic, with demonstrations of how differing models of judicial governance have shaped appointment practices and independence. It compares Georgia's entrenched judicial elite, Ukraine's externally driven, but fragmented vetting process, Slovakia's European-style council model, and executive-led governance in the Czech Republic. The chapter also evaluates the international promotion of judicial councils, highlighting their potential to enhance independence but offering examples of vulnerability due to politicization or elite capture without adequate institutional reform.

CHAPTER I. THE FOUNDATIONS OF JUDICIAL REFORM: RESTORING LEGITIMACY, INDEPENDENCE AND TRUST IN POST-REVOLUTIONARY TRANSITIONS

1.1. Judicial Reforms in Post-Revolutionary and Post-Conflict Settings

One of the most urgent yet difficult tasks after a revolution or conflicts is the restoration of the judiciary. Courts will be expected to foster a new, democratic order, redress historical harms, and help stabilize society. However, the path towards establishing an independent, impartial, competent, and ultimately effective judiciary, which is genuinely capable of meeting these extraordinary demands, is invariably fraught with peril.

But the very same institutions often have major problems from the past administration, whether that be corruption, political interference, or a lack of independence. Appointment, promotion and removal of judges is the most important. Such procedures often become extremely politicised, and if they are seen to be unfair or politically motivated, they can undermine public confidence in a legal system.⁶ In the eyes of many people, the courts are still seen as “hostile, corrupt, and manipulated by the political and economic elites”.⁷

As many scholars stated, efforts to reform the judiciary cannot be disconnected from the broader challenge of democratic consolidation. The judiciary must not be seen as a mere technical institution but as a pillar of democratic legitimacy. These reforms are deeply political and often difficult, because the rules that regulate the appointment, promotion, and removal of judges explain much of the dysfunctionality of the judiciary.⁸ Without serious reform, including transparent, merit-based appointments, it is hard to expect these systems to deliver justice in a way that supports democratic values.

In these unstable circumstances, courts face complex demands, including prosecuting human rights violations, addressing past injustice, and rebuilding public trust through

⁶Méndez, Juan E.; O'Donnell, Guillermo; & Pinheiro, Paulo Sérgio (Eds.). (1999). *Supra* note, pp.259, 284.

⁷ *Ibid.*, p. 277.

⁸ *Ibid.*, pp. 244, 249.

significant institutional reforms.⁹ Indeed, rulings at critical transitional moments, especially regarding political legitimacy and constitutional interpretation, put immense pressure on courts, requiring significant institutional legitimacy and impartiality.¹⁰

As noted, conflict may have devastated institutions, destroyed infrastructure, and led skilled professionals to flee the country.¹¹ The courts and police may remain permeated by political influence and corruption, making it impossible to expect meaningful reform unless legitimacy is restored. Even when new legal frameworks are introduced, they frequently fail to address these deeper structural issues. In many cases, post-conflict judicial reform efforts often only scratch the surface of these deeper problems.¹²

Patronage-based appointments, a lack of transparency, and pervasive corruption further worsen institutional flaws by undermining public trust. As the authors explain, reducing corruption appears to be much more closely linked to increasing transparency and meritocracy in hiring, promotions, and discipline than to legal guarantees alone. For example, despite legal protections for judicial independence, political pressure, low pay and insecurity still plague judges, resulting in a major problem of interference and limited impartiality.¹³ These conditions fuel a crisis of legitimacy and prevent justice institutions from fulfilling their role in rebuilding public trust and supporting democratic consolidation.

1.1.1. Defining Judicial Independence and its foundational importance

The principle of judicial independence is at the heart of any serious attempt to reform the judiciary. This is not just a procedural or bureaucratic issue, but a *sine qua non* of democratic transitions, especially in post-authoritarian contexts in which courts are charged with serving two masters: acting as legal arbiters and moral authorities.¹⁴ As noted, the moral authority of the judiciary does not depend only on the dialogic processes through

⁹ Teitel, Ruti G. (2000). *Transitional Justice*. Oxford University Press, pp. 202-203, 224.

¹⁰ Ginsburg, Tom; *The Politics of Courts in Democratization: Four Moments in Asia* (draft for presentation at the Constitutional Court of Korea, December 2009), pp.4-5.

¹¹ Stromseth, Jane; Wippman, David; & Brooks, Rosa. (2006). *Can Might Make Rights? Building the Rule of Law After Military Interventions*. Cambridge University Press, p. 187.

¹² *Ibid.*, pp. 186, 226.

¹³ *Ibid.*, pp. 241-242.

¹⁴ Fiss, Owen M., (1993), *supra* note, p. 57.

which judges exercise power but as to whether judges are free from political influence.¹⁵ In fragile democracies, legitimacy of judicial institutions cannot be predicated at all on formal structure, but on their insulation against coercion and on their interiorization of constitutional values in their interpretation of law. Such interpretations are rooted in a vision of democracy tethered to such notions as ‘constitutionalism’ or the ‘rule of law’ than immediate popular will.¹⁶

Judicial independence requires judges to resolve disputes based strictly on law and fact, without interference or arbitrary removal. It demands that judges be protected both institutionally and personally from external control or influence in performing their duties.¹⁷ Notably, the significance of this principle is reflected in its inclusion as a key element of several international standards and instruments relevant to building just and effective justice systems.¹⁸ Judicial independence, in this view, captures both the formal protections written into law and the on-the-job independence of judges to operate without interference. These two dimensions are typically called *de jure* and *de facto* independence. The former pertains to constitutional and legal protections aimed at shielding the judiciary from political interference, such as secure tenure, safeguarded salaries and transparent protocols for appointment and removal, while the latter is about whether judges are in practice able to decide cases free from bias and external influence.

In transitional democracies this discrepancy between forms can be particularly salient as formal guarantees certainly have not always been matched by greater *de facto* independence.¹⁹ And even in cases where there are legal protections, those protections can be overridden by political reality, with judges adjusting their behavior based on shifts in political power instead of the law.²⁰ This disjuncture is hallmarked by the more fundamental problem with measuring judicial independence, since the institutional design can depart

¹⁵*Ibid.*, p. 60.

¹⁶*Ibid.*, p. 66.

¹⁷Ginsburg, Tom. (2003). *Supra* note, p. 4.

¹⁸United Nations, *Basic Principles on the Independence of the Judiciary* (1985); *The Bangalore Principles of Judicial Conduct* (2002). Adopted by the Judicial Group on Strengthening Judicial Integrity, revised at The Hague. Available via UNODC, OHCHR.

¹⁹*Ibid.*, p. 56.

²⁰Helmke, Gretchen.(2002) “The Logic of Strategic Defection: Court–Executive Relations in Argentina Under Dictatorship and Democracy.” *American Political Science Review* 96, no. 2, p. 293.

radically from the functioning of courtrooms in politically fraught environments. Contemporary scholars disagree over how to define and measure judicial independence for precisely this reason, since there is this tension between structural independence and judicial practice.²¹ Understanding this distinction matters not for just evaluating the legal robustness of courts, but for determining whether they actually fulfill their role as credible and impartial institutions in a period of democratic transition.

The concept of judicial independence is frequently disaggregated into three important and interlinked dimensions, each of which is fundamentally driven by the selection mechanism adopted for the judiciary, whether they are appointments or elections. Institutional autonomy, refers to the judiciary's ability to operate as a self-regulating and autonomous power of the state controlling its own administration, budgeting and the appointment, raising, and punishment of judges. As described, the principal ways in which judicial independence may be encroached upon can be grouped into four categories: structural, personnel, administrative, and direct, and all are reflective of potential points of undue influence.²² Of these, personnel control: meaning appointments and removals, is particularly sensitive, as it is one of the most powerful means of political influence. Institutional structures that protect these processes, like merit-based and independent judicial councils, are thus considered necessary safeguards. In line with this, the Venice Commission has stressed that appointments to judicial office should take place in accordance with transparent procedures and within bodies that are independent and pluralistic in composition so that decisions are based on merit and are insulated from political influence.²³ When appointment systems are in heavy executive or legislative control, they per se erode this dimension of institutional autonomy, opening the judiciary to political capture.

Decisional independence means the judge must be able to decide cases purely on the basis of legal reasoning and their conscience, free from improper influence. It stipulates that

²¹ *Ibid.*, p. 291.

²² Russell, Peter H., & O'Brien, David M. (Eds.). (2001). *Judicial Independence in the Age of Democracy: Critical Perspectives from Around the World*. University Press of Virginia, p.13.

²³ Venice Commission (Council of Europe). (2010). *Report on the Independence of the Judicial System Part I: The Independence of Judges*. CDL-AD(2010)004, pp.16-17.

every judge is at liberty to decide matters before him according to his own opinion of the facts and his own understanding of the law, and without fear or favour, inducement or bias, direct or indirect, from any person or for any reason. This principle requires that the judge's master is the law and that he or she decides on the basis of considerations that are external to the judge and that may even conflict with his personal view.²⁴ Relatedly, the Bangalore Principles emphasize that independence extends beyond the individual to a structural norm, namely, judges must not only perform their roles free of any extraneous influences, inducements, pressures, threats or interference from any quarter or for any reason, but should, thus, both ensure the reality and appearance of impartiality and the public trust.²⁵

Functional independence includes the collective authority and practical capacity of the judiciary to discharge its constitutional responsibility, especially to exercise the power of judicial review. This dimension of independence is much more foundational than formal, for it has been suggested that independence sufficient to render judicial review meaningful is a corollary requirement of republican constitutional order.²⁶ Therefore, judicial independence is the dominant variable shaping how much the judiciary can act authoritatively and be perceived to be acting authoritatively, as a check on the other branches of government. How effectively constitutional supremacy is upheld and fundamental rights are protected, in turn, is governed by this. This authority, established by judicial review, empowers courts to uphold constitutional supremacy and protect fundamental rights.²⁷

The judicial power of checking fundamentally depends on institutional legitimacy. Central to this legitimacy is how courts are constructed. It is this structural and symbolic positioning that enables the judiciary to imply itself institutionally in conflicts over the separation and distribution of powers and to assert its institutional right to be the

²⁴ Barak, Aharon. (2006). *The Judge in a Democracy*. Princeton University Press, pp. 77-78, 101.

²⁵ *Bangalore Principles of Judicial Conduct*. (2002). Value 1, Application para. 1.1-1.6.

²⁶ Peter M. Shane, (1998) *Interbranch Accountability in State Government and the Constitutional Requirement of Judicial Independence*, 61 LAW & CONTEMP. PROBS. 21, 30.; Geyh, Charles Gardner. (2006). Rescuing Judicial Accountability from the Realm of Political Rhetoric. *Case Western Reserve Law Review*, 56(4), pp. 925-926.

²⁷ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).; *The Federalist* No. 78 (Alexander Hamilton).

last arbiter of the meaning of the Constitution.²⁸ Their willingness to endorse judicial authority when rulings undermine majoritarian policies or established power thus turns largely on the perception that courts are not only formally independent of other branches of government, but also procedurally and ethically legitimate, criteria that are determined, at least in their vital early stages, by the way judges are selected and empowered. In this light, a court whose members are seen as political appointees may find its pronouncements on constitutional matters dismissed as merely political statements, thereby undermining its functional independence. The power or independence of a court can vary widely and the particular configuration of exercised power constitutes the role of the court.²⁹

Judicial independence is an enabling principle of constitutional democracy, and its legitimacy derives to a significant degree from the method by which judges are appointed. This is particularly important in transitional and post-revolutionary contexts, where courts often play the role of stabilizers struggling with weak institutions. Nevertheless judicial independence remains fragile, needing both insulation mechanisms and attention, so that platitudes about the benefits of independent courts do not distract from the ease with which judicial safeguards can be disabled.³⁰ Furthermore, the genesis of judicial independence is often a matter of political contingencies: it emerges most reliably when political parties anticipate that they may at some point be out of power, and thus prefer stronger courts to defend minority interests.³¹ As argued, legitimacy becomes especially important when there is disagreement over what public policy should be and courts need the leeway to be able to go against public opinion to protect the rights of the minority.³² However, this legitimacy, once achieved, acts as an important buffer in turbulent political environments, providing a set of attitudes that structure a variety of expectations and choices and helping to sustain the public's trust even in times of substantial conflict.³³ These findings illustrate

²⁸Klug, Heinz. (2000). *Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction*. Cambridge University Press, p. 159.

²⁹Ginsburg, Tom. (2008). Courts and New Democracies: Recent Works. *University of Chicago, Public Law Working Paper No. 231*, pp. 4-5.

³⁰Ginsburg, Tom, & Huq, Aziz Z. (2018). *How to Save a Constitutional Democracy*. University of Chicago Press, p. 191.

³¹*Ibid.*, pp. 189-190.

³² Gibson, James L., and Gregory A. Caldeira. (2009); *Citizens, Courts, and Confirmations: Positivity Theory and the Judgments of the American People*. Princeton: Princeton University Press, pp. 39-40.

³³ *Ibid.*, p. 95.

that in transitional or fragile democracies, ensuring the legitimacy of the judiciary through a transparent appointment process is not just a matter of democratic action, but of strategic importance for establishing institutions that can endure.

1.1.2. Theoretical Perspectives on Judicial Reforms and Appointments During Political Transitions

There are multiple theoretical traditions regarding the complex dynamics that shape processes of reform and establishing democracy, particularly regarding the highly politicized and often contentious politics of judicial appointments and elections in moments of extreme political turmoil.

Democratization theories locate judicial independence within the broader process of democratic transition and consolidation, not as a preferred institutional characteristic but as a necessary condition for ensuring the rule of law and effective accountability. As one account emphasizes, there is, of course, no consolidated democracy without a relatively autonomous rule of law, and an independent judiciary plays the most important role in interpreting old laws, the constitutionality of new laws, and the state's implementation of law.³⁴ In particular, new democracies often suffer from conditions where horizontal accountability is weak or intermittent, and consolidation depends on institutions legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment. The ultimate effectiveness of such mechanisms depends heavily on decisions by courts that are adequately and independently endowed with resources, and insulated from political interference, yet not captured by partisan or unaccountable interests.³⁵

According to the state-building perspective, particularly in post-conflict contexts where state capacity is severely degraded, efforts focus on reestablishing the state's monopoly of the legitimate use of physical force within a given territory, which is described as the

³⁴Linz, Juan J., & Stepan, Alfred. (1996). *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Johns Hopkins University Press, p. 248.

³⁵O'Donnell, Guillermo. (1998). Horizontal Accountability in New Democracies. *Journal of Democracy*, 9(3), pp. 112, 117-118, 122.

essence of stateness and the foundation of enforcement.³⁶ Courts, as part of a functioning legal order, are crucial to restoring public security, justice, and legitimacy.³⁷ While neither source isolates the judiciary, both imply its role within the broader framework of enforcement and governance.

The creation of apolitical bureaucratic structures such as courts and police is key to maintaining peace and rule of law.³⁸ As the volume concludes, international actors must support coherent institutional coordination while allowing space for national authorities to focus on restoring the viability and legitimacy of a state, starting with its core institutions.³⁹ Judicial systems are central to dispute resolution and restoring legitimate state authority.

The broad family of institutionalist theories offers particularly powerful tools for analyzing the politics surrounding judicial appointments and elections and their consequences. Among those, *historical institutionalism* underscores the notion of path dependence, stressing that institutional reformers are operating within a complex set of context-dependent particularities: economic, political, social, that has historically shaped the development of extant institutions. These particularities shape the nature and extent of potential institutional reforms.⁴⁰

Strategic (rational choice) models focus on the specific calculations, incentives, and strategic interactions of key political and judicial actors concerning judicial appointments. Rather than thinking of courts as neutral arbiters or as institutions underpinned by some normative ideals of independence, these models are attuned to the political salience of judicial design. Helmke argues that judges facing insecurity adjust rulings strategically against weakening governments.⁴¹ Ginsburg similarly argues that politicians design courts strategically to secure their interests.⁴²

³⁶Fukuyama, Francis. (2004). *State-Building: Governance and World Order in the 21st Century*. Cornell University Press, p. 6.

³⁷ World Bank, *World Development Report 2011: Conflict, Security and Development*, 2011, p. 17, 149.

³⁸Chesterman, Simon et al. (2005). *Making States Work: State Failure and the Crisis of Governance*. United Nations University Press, p. 2.

³⁹ *Ibid.*, p.363.

⁴⁰Prado, Mariana Mota, and Michael J. Trebilcock. (2009), *Path Dependence, Development, and the Dynamics of Institutional Reform*. University of Toronto Law Journal, Legal Studies Research Series No. 09-04, p. 10-11.

⁴¹ Helmke, Gretchen.(2002), *supra* note, p.291.

⁴² Ginsburg, Tom. (2003), *supra* note, pp. 23-24.

At the same time, judicial empowerment often correlates with political fragmentation. Ginsburg affirms the “fragmentation thesis”, noting that judicial power expands with divided politics, especially where no single political actor can dominate appointments. In contrast, unified political control tends to reduce judicial independence, as judicial willingness to confront the government decreases when power is concentrated in a single ruling faction.⁴³ This highlights the strategic character of judicial appointments: elites may make them not due to normative fealty to independence, but rather to manage uncertainty and protect their interests. Although initially created to support regimes, courts can become more autonomous over time, depending not only on formal reforms but also on informal norms and professional identities.⁴⁴

Transitional justice frameworks often restructure state institutions, including the judiciary, following repression and systemic abuse. These mechanisms are especially focused on integrity-based processes for public service. As one definition suggests, vetting ordinarily refers to a process of assessing integrity to determine suitability for public employment, it aims at excluding such persons from public service in order to re-establish civic trust and restore legitimacy to public institutions.⁴⁵ So too successor purges are deployed to undo a past regime’s repression, with these sorts of processes operating as performative acts that explicitly invert the bases of the processes supporting the past regime.⁴⁶

Transitional justice and rule of law efforts often run parallel but can destabilize fragile judicial sectors in the short term.⁴⁷ Courts tasked with overseeing or implementing such reforms frequently carry the burden of transformation to a rule-of-law system, while striving for some independence from politics.⁴⁸ At the same time, transitional judicial institutions often struggle to assert authority when political transition may rely on

⁴³*Ibid.*, p.21-22.

⁴⁴*Ibid.*, pp.23, 31-34.

⁴⁵Bleeker, Mò, (2006) ed. *Dealing with the Past and Transitional Justice: Creating Conditions for Peace, Human Rights and the Rule of Law*. Bern: Political Affairs Division IV, Federal Department of Foreign Affairs FDFA, p. 33.

⁴⁶ Teitel, Ruti G. (2000), *supra* note, pp. 170-172.

⁴⁷Mihr, Anja, and Chandra Lekha Sriram. *Rule of Law, Security and Transitional Justice in Fragile and Conflict-Affected Societies*. The Hague: Commission on Global Security, Justice & Governance, 2015., pp. 6-7.

⁴⁸Teitel, Ruti G. (2000), *supra* note, pp. 22-24.

individuals that could be affected by a vetting process or when those involved in past abuses have an interest in covering up and protecting their positions.⁴⁹ Thus, transitional justice transforms institutional frameworks and also reshapes the personnel and legitimacy of judicial systems under complex and politically sensitive conditions.

1.1.3. Challenges of Implementing Judicial Reforms in Post-Revolutionary Contexts

There is often a significant gap between the aspirations for judicial reform and their sustainable realization, especially regarding control over judicial personnel and selection integrity. A major obstacle is the lack of genuine political will, with reforms often serving entrenched political interests rather than true democratization.⁵⁰ Even when legal reforms are passed with apparent consensus, they are often the cooperative project of all the main parties, yet some part of the underlying motivation may not be democracy strengthening, as their real interest is building a higher fence around the political ground they have staked out for themselves.⁵¹ Efforts to empower courts often trigger political resistance, with appointments used strategically to undermine autonomy.⁵² Examining these patterns offers insights into how judicial selection and appointments can become a site of struggle over control, where appointments are employed strategically to undermine autonomy and reestablish regime control.

Courts that align with political elites lose legitimacy, and in fragile contexts, may become irrelevant to democratization.⁵³ For those courts, which often result from politicized or obscure processes of judicial appointment, this dependence may in time produce a pattern of strategic alignment with the preferences of majority or elite actors that prioritizes the maintenance of compliance over the protection of principled legality. In some contexts, where political opposition is overwhelming, or institutional capacity is negligible, the end result may be judicial irrelevance, in which courts make no significant difference to the

⁴⁹ Bleeker, Mò, (2006), *supra* note, p.34.

⁵⁰ Carothers, Thomas. (2006). *Confronting the Weakest Link: Aiding Political Parties in New Democracies*. Carnegie Endowment for International Peace, p. 224.

⁵¹ *Ibid.*, p. 222.

⁵² Ginsburg, Tom. (2008), *supra* note, pp. 13-14.

⁵³ Ginsburg, Tom; (2009), *supra* note, p. 5.

direction of democratization due to either their own weakness or a conscious strategy of neutrality or avoidance.⁵⁴

It is also necessary to emphasise that personnel reform via lustration and vetting represents a direct interference in the make-up of the judiciary and other state bodies. Vetting processes aim at accountability and democratization, but face significant normative and practical challenges. Transitional personnel policies are not only political-security measures. They carry symbolic meanings that help explain their origin and shape their political and social effects. They are never neutral; instead, they pass judgment on the persons involved, often labeling former officials in ways that determine whether any civic relationship with them is possible at a societal level. The practical challenges are equally pressing. The vetting process has not been without its difficulties, the greatest deficiency being the lack of a nation-wide standard, and in many cases, implementation was obstructed from within.⁵⁵ In transitional settings, maintaining a balance between institutional trust and social cohesion is critical. In addition, the demarcation line for complicity is all too frequently a fine one. In this context, the success of personnel reform depends not only on normative justifications but also on procedural fairness, symbolic clarity, and political independence. As David notes, personnel reforms must be handled carefully to avoid creating new sources of fragility.⁵⁶

Another problem is the deep-seated institutional weaknesses. The lack of merit-based systems for the appointment of judges reflects the severe structural and institutional deficits that characterize most post-conflict societies. Even where constitutional or legal frameworks are present, their effects are undermined by executive domination, low public trust, and politicized selection processes, compounded by under-resourced and institutionally deficient mechanisms.⁵⁷

⁵⁴ *Ibid.*, pp. 17-18.

⁵⁵ Stan, Lavinia (Ed.). (2009). *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*. Routledge, pp. 29, 84.

⁵⁶ David, Roman. (2011). *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*. Pennsylvania State University Press, p.8.

⁵⁷ Stromseth, Jane et al. (2006)., pp. 231-233.

Although formal qualifications are often mandated, many appointed judges still lack them.⁵⁸ This is intimately related to larger failures of legal education, as inadequate university legal education can be a serious obstacle to the development of a fair and effective justice system, with law schools that are underfunded and understaffed and curricula that may not have been updated for decades.⁵⁹ These mutually-reinforcing institutional incapacities reduce the pool of potential candidates and corrode the legitimacy and effectiveness of judicial reform.

Chronic resource scarcity undermines efforts to establish professional and independent mechanisms for appointments, and so constitutes another challenge in implementing judicial reforms. Poor societies often lack the funds for sustainable progress, forcing reliance on external support that frequently misaligns with local priorities.⁶⁰ These same structural constraints extend to judicial institutions, with a critical need for stable funding to support credible selection processes, appropriate training, and competitive pay.

Justice delivery in fragile and post-conflict states is heavily influenced and shaped also by the challenging social, cultural, and political environments. In many cases, formal state systems lack legitimacy and are viewed as instruments of coercion, whereas informal justice systems, rooted in social networks, retain public trust.⁶¹ In addition, in regions where formal mechanisms may have completely disappeared or been discredited, informal justice systems may be all that is available for many years.⁶² These factors make it difficult to strengthen formal judicial institutions where parallel systems might possess more legitimacy and access than official bodies in the eyes of the public, particularly poor and marginalized groups.⁶³

The layers of overlapping questions: conceptual, institutional, political, social, and security in both post-revolutionary and post-conflict scenarios are at the crux of the challenge associated with the development of independent, strong judiciaries. Judicial reforms in

⁵⁸ *Ibid.*, p. 233

⁵⁹ *Ibid.*, pp. 244, 333-334.

⁶⁰ Carothers, Thomas. (2006), *supra* note, p. 79, 228-229.

⁶¹ Wojkowska, Ewa. (2006). *Doing Justice: How informal justice systems can contribute*. UNDP Oslo Governance Centre, pp. 13, 18.

⁶² *Ibid.*, p. 14.

⁶³ *Ibid.*, p. 5.

such contexts are not merely technical exercises in institutional design but deeply political, and often difficult, processes. The politics and practicalities of judicial appointments and elections often lie at the heart of these struggles, explaining why significant change has been so slow and uneven. Building an effective and legitimate judiciary is more complicated than just passing new laws or creating formal appointments mechanisms. It requires sustained political will to protect judicial selection from partisan capture, long-term investments in institutional capacity, and careful sequencing of reforms across both formal structures and informal cultures. More importantly, successes must be context-sensitive, attuned to a country's legal traditions, historical legacies, and socio-political environment. This complex foundational landscape provides the critical backdrop for interrogation of institutional design and function through examples such as judicial councils, Armenia's specific post-revolutionary trajectory, and other comparative transitional contexts.

1.2. The Role of Judicial Councils in shaping an independent judiciary

The concept of the judicial council, also known as High Councils of the Judiciary, originated mainly in continental Europe, and primarily post-World War II, in response to a concern that during periods of crisis political control of the judiciary, traditionally exercised through a Ministry of Justice, could undermine judicial independence.⁶⁴ The first such institution was created in France in 1946, followed by Italy in 1958, with the establishment of the Consiglio Superiore della Magistratura, which formally began operating in 1959⁶⁵. These councils were designed to reinforce judicial independence by removing or significantly reducing executive influence over judicial careers. While all judicial councils in these countries share the feature of including judicial representatives, their scope and structure vary. The Italian Consiglio has considerable autonomy and plays an instrumental role in appointment and promotion while the French Conseil Supérieur de la Magistrature has retained considerably less autonomy retaining executive involvement.⁶⁶ These differences reflect distinctive national arrangements concerning judicial independence and

⁶⁴Guarnieri, C., & Pederzoli, P. (2002). *The Power of Judges: A Comparative Study of Courts and Democracy*. Oxford University Press. pp. 50-51

⁶⁵*Ibid.*, pp. 50, 54.

⁶⁶ *Ibid.*, pp. 52-54, 62.

democratic accountability.⁶⁷ The requirement for the establishment of councils for the judiciary was proposed by the Committee of Ministers of the Council of Europe in its Recommendation.⁶⁸

Relatively few studies exist on bodies ensuring judicial independence, so analyses focus mostly on practical issues. Some authors, studying the models of ensuring the independence of the judiciary in European countries, divided them into five groups:

- The Ministry of Justice model, in which the Ministry plays a key role both in the appointment and promotion of judges and in the management of courts,
- The Judicial Council model, in which it is an independent intermediary body and is located between judicial authorities and executive authorities or politically responsible parliamentary bodies,
- The judicial service model, in which the main function of an independent body is judicial management and budgeting of courts,
- A hybrid model that combines the characteristics of the three previous models, but differs significantly from each of them.
- The socialist model, in which the Prosecutor General, the Supreme Court and the Chairmen of the courts have authority over the courts, and the aforementioned bodies are under the jurisdiction of the Communist Party.⁶⁹

It is important to note that over time the socialist model is no longer applied, and most European countries tend to favor the judicial council model as the best. Czech scholar D. Kosar links the introduction of judicial councils to the phenomena of globalization, as a result of which, in order to create an independent and accountable judicial system, especially (...) in countries in transition, it has often been decided to implement institutional reforms, which have usually been limited to the implementation of only one specific model, the judicial council model. In the author's opinion, this model was proposed as a universal

⁶⁷ Garoupa, N. and Ginsburg, T., (2008), *The Comparative Law and Economics of Judicial Councils*, Berkeley, *Berkeley Journal of International Law (BJIL)*; p. 57.

⁶⁸ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, The Committee of Ministers of Council of Europe, 2010, 26-29, [website](#).

⁶⁹ Bobek, M., & Kosař, D., (2014), *Global Solutions, Local Damages: A Critical Study in Judicial Councils in Central and Eastern Europe*, Brugges, *German Law Journal*, 15(7), pp. 6-9.

"correct" solution that was supposed to eradicate the defects of previous models, in particular, the consequences of the management of the courts by the Ministry of Justice. The new model of the Judicial Council was supposed to enhance judicial independence by reducing political interference and increasing judicial efficiency.⁷⁰

The authors' opinions on the extent to which the Judicial Councils have achieved their goals are highly controversial. Although Judicial Councils can play an important role in strengthening the independence of the judiciary they are only one component of a broader strategy for judicial reform, which should cover a wide range of issues, including access to justice, enforcement of judicial decisions, and the fight against corruption.⁷¹ The Judicial Council model is the most common in most European countries, as well as in Latin American countries.

The judicial council is generally defined as an independent intermediary body positioned between the judiciary and politically accountable actors such as the executive or parliament. The Judicial Council has significant powers, primarily in the area of appointment and promotion of judges and/or the exercise of disciplinary powers against judges. Although judicial councils may also play a role in the areas of administrative management, court management and court budgeting, these powers are only secondary to their powers over judges and staff.⁷² As an intermediary body between politicians and judges, the Judicial Council represents a potential means of increasing both the accountability and independence of the judiciary⁷³.

1.2.1. International and European Standards for the Composition and Basic Powers of Judicial Councils

Judicial councils vary in almost all countries, taking into account the specifics of each State, but at the international level, a number of criteria have been developed that judicial councils must meet. The authors classify the criteria for judicial councils into two types: global and European. The Global Standards were adopted by the United Nations General

⁷⁰ *Ibid.*, p. 10.

⁷¹ V. Autheman, S. Elena, Global Best Practices, (2004), JUDICIAL COUNCILS, Lessons Learned from Europe and Latin America, IFES Rule of Law Series, p. 1.

⁷² Bobek, M., Kosař, D., (2014), *supra* note, p. 16.

⁷³ Garoupa, N. and Ginsburg, T., (2008), *supra* note, p. 56.

Assembly and define the basic principles that countries should follow in the administration of justice.⁷⁴ The European standards were established by the Consultative Council of European Judges operating under the Council of Europe (hereinafter referred to as "CCJE"), and for the member States of the European Union by the European Network of Councils for the Judiciary.

The concept of a Judicial Council cannot be considered complete without incorporating the criteria identified by supranational organizations, through advisory opinions and recommendations, as essential for their effective functioning. While structures may differ across countries, judicial councils should meet the following standards, as outlined by the Council of Europe and various EU bodies.

According to the CCJE, the Judicial Council must have constitutional status. This requirement is rooted in the principle of the separation of powers. The justification is that the Council for the Judiciary should be protected from the risk of seeing its autonomy restricted in favour of the legislature or the executive which is possible only if it is enshrined in the constitution.⁷⁵ At least fifty percent of the members of the Judicial Council should be judges. When there is a mixed composition (judges and non-judges), the CCJE considers that, in order to prevent any manipulation or undue pressure, a substantial majority of the members should be judges elected by their peers. While the CCJE values the participation of judges in the Council, it also emphasizes the importance of a balanced structure that reflects diverse societal perspectives, recommending a mixed composition overall.⁷⁶

The Judicial Council should have not merely advisory, but also decision-making powers. While it is generally accepted that the appointment or promotion of judges can be formalized through an act by the Head of State, it is essential that Heads of State are bound by the Council's proposals. Given the fundamental role of judges in society, appointments

⁷⁴ Basic Principles on the Independence of the Judiciary, Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 1985, [website](#).

⁷⁵ Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE), Strasbourg, 21-23 November 2007, p. 18, [website](#); ENCJ, Councils for the Judiciary Report 2010- 2011, 1.4, [website](#).

⁷⁶ Ibid, para. 18, European Charter on the Statute for Judges, Strasbourg, 8 -10 July 1998, para. 1.3, Resolution of the ENCJ on "Self Governance for the Judiciary: Balancing Independence and Accountability" of May 2008, para. 4 (b).

should not originate from the executive. The Council cannot simply be consulted for an opinion on a pre-selected candidate, as the fact that the proposal stems from a political authority may undermine the public perception of judicial independence, regardless of the candidate's individual qualifications.⁷⁷

The Judicial Council should have decisive authority over all matters related to the careers of judges, including their selection, appointment, promotion, transfer, termination of office, and disciplinary sanctions. This authority is essential to safeguarding the independence of the judiciary from both the executive and legislative branches.⁷⁸ In line with CCJE recommendations, the selection of Council members may be through election or, in certain cases, ex officio: for instance, including presidents of Supreme Courts or Courts of Appeal. Court presidents and acting presidents should not be excluded from the right to be elected as members of the Judicial Council.⁷⁹

The composition of judicial councils is a key point of contention in relation to achieving a position of balance and equilibrium between judicial independence and accountability. The composition of an appropriately functioning judicial council is the suitable balance between these two conflicting forces. On one side, we want to avoid an educated and effective judiciary becoming overly corporatist within its judicial council, while on the other side we want to avoid the issue of the judiciary being unduly influenced by politics. As emphasized by the Venice Commission, a balanced composition is fundamental for a fair and impartial outcome in a disciplinary process as well as protection from undue outsider pressure.⁸⁰

The inclusion of non-judicial members is often justified on the basis that the proper functioning and public trust in the judiciary go beyond the interests of individual judges. When councils are composed exclusively or overwhelmingly of judges, the risk of corporatist management increases. To address this, countries often involve the legislative and, in some cases, the executive branches in the formation of the council. In many systems, parliaments elect a portion of the council members. In others, such as France,

⁷⁷*Ibid.*, para. 48, 49, ENCI, Councils for the Judiciary Report 2010-2011, para. 3.4, 3.13.

⁷⁸ *Ibid.*, para. 42

⁷⁹ *Ibid.*, para. 26.

⁸⁰ Venice Commission. (2007). *Judicial Appointments* (Opinion No. 403/2006, CDL-AD(2007)028-e). European Commission for Democracy through Law (Venice Commission).

Bulgaria, and Romania, the Minister of Justice participates in the council as a member or chair, though typically without voting rights on sensitive matters like disciplinary actions.⁸¹

Nevertheless, the engagement of political actors creates concerns about the risk of politicisation. The Venice Commission supports the depoliticisation of judicial councils and suggests measures that can aid in the depoliticisation process, including requiring a qualified majority of parliamentarians to be present in order to elect council members, thus preventing the ruling majority from filling a council with designated supporters or confederates. The proposal would, in effect, discourage monopoly and encourage compromise with the parliamentary opposition in order to achieve a more balanced and professional council membership.⁸²

Beside formal composition, there are the ways in which the backgrounds of council members create actual distributions of power. Judges may still hold a dominant position in councils where they are not the numerical majority. This happens for several reasons. First, other members of the council typically depend on information and technical knowledge provided by the judiciary. Second, although judicial councils do not exert direct control over the judiciary, they operate within a configuration of powers that blends authority and accountability; this requires expertise, which judges are best placed to provide. Third, judges are incentivized to represent judicial interests more strongly, as they return to careers within the judiciary, unlike external members.⁸³

The interaction between the composition and the competences of judicial councils is also an important consideration. One hypothesis is that a council composed mostly of non-judges will be granted fewer substantive powers to prevent resistance from the judiciary. Another view suggests that judicial councils were historically established to enhance judicial accountability, which may mean that councils with more non-judicial members are designed to act as checks on the judiciary. These opposing models reflect different objectives: either to ensure independence by giving control to judges or to promote accountability by placing them under scrutiny from outside actors. In practice, various

⁸¹ *Ibid.*, para. 27-31.

⁸² *Ibid.*, para. 31-34.

⁸³ Garoupa, N. and Ginsburg, T., (2008), *supra* note, pp. 22-24.

combinations exist. The independence and strength of a judicial council is not intrinsic to its numerical composition, but to how those members act, how they are selected and the situation in which they operate. For instance, if judges on the council come primarily from higher courts, they may reinforce hierarchical control within the judiciary. If judges come from different levels and backgrounds, intra-judicial dynamics such as associations or unions may play a role in how unified or divided their influence is.⁸⁴

In our view, the ideal arrangement is one that facilitates a meaningful judicial presence without reverting to a self-serving, insular council. The proportion of judges elected by their colleagues will ensure their independence, while a purposely selected minority of professionals outside the judiciary adds transparency and an outside perspective. The political actors may have an opportunity for appointment or selection in the Council, but their role in the Council should be limited and well-controlled particularly when it involves the Council's disciplinary function and appointments.

1.2.2. The Competences and Models of Judicial Councils

Broadly speaking, judicial councils have three important competences: housekeeping functions (managing the judiciary's budget, material resources, and daily operations); the appointment of judges; and performance evaluation, which includes promotion, discipline, removal, retention, and judicial salaries. While the first competence is primarily managerial in nature, the second and third are more directly related to judicial career incentives and contribute more explicitly to judicial quality. For all of these functions, the key issue lies in achieving an effective calibration between judicial independence and external accountability.

This balance can be shaped through factors such as the council's composition, its appointment mechanisms, or the sharing of specific functions with other branches of government or external bodies. There is no universally optimal balance between independence and accountability; democratic systems must navigate carefully between

⁸⁴ *Ibid.*, p. 23.

these two poles, as moving too far in either direction risks undermining judicial effectiveness or legitimacy.⁸⁵

Some powers vested in Judicial Councils are not directly linked to judicial independence or constitutional guarantees. In this regard, opinions among legal scholars diverge. For instance, some scholars point out that even functions not explicitly linked to independence, such as those involving remuneration, can still affect judicial autonomy, particularly when material incentives are used to influence judicial behavior. Other scholars also highlight the value of these organizational powers. Specifically, several advantages are noted. First, the Judicial Council can offer technical assistance to courts in developing new approaches to case management and improving procedural and organizational accessibility. It can help courts build and refine internal policies and managerial competencies for both judges and staff. Moreover, the council can play a crucial role in advancing the use of information technology (IT) systems, which contribute to more systematic approaches to training, education, and the professional development of judicial actors. Courts may also benefit from the establishment of a unified policy for interaction with participants in court proceedings, enhancing consistency and transparency. At a broader political and systemic level, the Judicial Council can formulate legislative proposals on judicial matters and actively participate in resolving institutional issues through dialogue and cooperation with the government and other key stakeholders within the justice sector.⁸⁶

Based on an analysis of leading international practices and European experiences, it can be concluded that judicial councils across Europe generally fall into two distinct models, classified according to the primary focus of their competences: the Northern model and the Southern model⁸⁷. In the countries following the Southern European model, the council is established on a constitutional basis and performs only the core functions related to ensuring judicial independence, for example, making recommendations on judicial appointments or exercising disciplinary authority over judges. In the Northern European

⁸⁵Garoupa, N. and Ginsburg, T., (2008), *supra* note pp. 21- 22.

⁸⁶ Bunjevack, (2017), From individual judge to judicial bureaucracy: the emergence of judicial councils and the changing nature of judicial accountability in court administration, *Sydney UNSW Law Journal*, Vol 40.2, p. 824.

⁸⁷European Commission For Democracy Through Law (Venice Commission), *Compilation of Venice commission opinions and reports concerning courts and judges 1*, CDL-PI(2015)001, Strasbourg, 2015, p. 70.

model, in addition to core functions such as advising on judicial appointments and disciplinary procedures, the councils possess significantly broader powers in areas of judicial management (caseload handling, case flow efficiency, promotion of legal uniformity, and quality assurance), court administration (infrastructure development, automation, personnel selection, training, etc.), and also play an important role in court budgeting (participation in budget formation, fund distribution, spending oversight, supervision, etc.). However, it should be noted that in these countries, judicial councils generally have limited authority over judicial appointments and the termination of judicial office.⁸⁸ Generally, the Southern model is found in countries such as France, Italy, Portugal, and Spain, while the Northern model is applied in countries like Sweden, Denmark, and Norway.⁸⁹ The choice between these models depends on the specific role a country envisions for its judicial council within the broader judicial system. As such, each model presents distinct advantages and disadvantages, reflecting the varying priorities and institutional frameworks of different national contexts.

1.2.3. The Critical Role of Judicial Councils in Post-Revolutionary Judicial Reform

Judicial councils in transitional and post-revolutionary states have emerged as major actors in reconfiguring the judiciary's form, role, and legitimacy. Transitional and post-authoritarian states were faced with the pressing responsibility of refocusing a judiciary which had been an organ of state control into one administered by the rule of law, judicial independence, and democratic accountability. As Kosař notes, after such regime changes, judicial councils were frequently established as part of a deliberate strategy to insulate the judiciary from renewed political interference while simultaneously aligning legal institutions with European democratic standards.⁹⁰ In this context, councils were tasked not only with insulating the judiciary but with actively facilitating its transformation,

⁸⁸Albers, P., Voermans, Wim., *Councils for the Judiciary in EU Countries*, Leiden/The Hague, European Commission for the Efficiency of Justice, 2008, p. 14, D. Preshova, I. Damjanovski, Z. Nechev, *The Effectiveness of the 'European Model' of Judicial Independence in the Western Balkans: Judicial Councils as a Solution or a New Cause of Concern for Judicial Reforms*, CLEER PAPERS 2017/1, p. 17.

⁸⁹ V. Autheman, S. Elena, (2004), *supra* note, p. 3.

⁹⁰Kosař, David, (2016), *Perils of Judicial Self-Government in Transitional Societies: Holding the Least Accountable Branch to Account*, Cambridge University Press, p. 5.

particularly through appointment and promotion procedures that could ensure a break from past practices and values.

The judicial appointment process within post-revolutionary contexts is not a normal exercise of administration, but a symbolic and structural realignment. It is the public assertion of the state's dedication to justice, transparency, and impartiality. The CCJE affirms that every decision relating to a judge's appointment or career should be based on objective criteria and be either taken by an independent authority or subject to guarantees to ensure that it is not taken other than on the basis of such criteria.⁹¹ In transition contexts, these demands assume an even more urgent tone. Judicial councils are meant to create new, depoliticized, and transparent standards that emphasize not only professional competence, but also integrity, demonstrated adherence to democratic principles, and often, overt disengagement from the former regime's practices. In early stages of reform, councils often failed to meet these expectations, as appointments were made through opaque processes where no vacancies were advertised, decisions were made behind closed doors.⁹² In such a context, transparency is not a procedural luxury, it is a foundation for legitimacy.

Judicial appointments are the primary mechanism of judge selection in most post-revolutionary systems, but judicial elections are used by some nations, especially for lower courts or decentralized regions. Where this is so, although the Judicial Council's role may be relatively diminished, it continues to be a vital institution for upholding ethical and professional standards. Even in situations where separate electoral bodies are in charge of the electoral process, the Council can have a profound impact by setting eligibility criteria, including the professional and ethical standards that must be met by candidates to be eligible for election. In addition, the Council can monitor campaign activities to ensure that the conduct of candidates maintains the decorum and impartiality that is necessary for judicial offices, as well as disseminating impartial information regarding candidates' qualifications to the general public. These functions, though indirect, help to uphold the integrity of the judiciary even where popular vote is the method of election.

⁹¹Venice Commission. (2007). *Judicial Appointments* (Opinion No. 403/2006, CDL-AD(2007)028-e). European Commission for Democracy through Law, para.18.

⁹² Kosař, David, (2016), *supra* note, p.287.

However, extending elections to the selection of judges, especially in post-revolutionary situations, holds tremendous risks. These include politicization, popular pressures, and the risk of judicial capture by dominant forces or special interest groups. Recognizing these dangers, most international standards advise caution. The Venice Commission, for example, has expressed the view that judicial elections can endanger independence, especially where political parties or legislatures control the process.⁹³ Where judicial elections are used nonetheless, the role of the Judicial Council is all the more significant following an election, and in particular in the application of codes of conduct and disciplinary measures as and when necessary.

In these situations, judicial councils have a key role in the ethical transformation of the judiciary. The establishment of new ethical norms is particularly important in post-revolutionary situations, where the previous judiciary may be suspected of having been engaged in systemic corruption or political partiality. The council may be in a position to spearhead adoption and implementation of updated judicial conduct codes, hence addressing historical instances of misconduct directly by establishing expectations on impartiality, transparency, and adherence to democratic values. This involves the establishment or updating of codes of ethics, issuing interpretative guidelines, and developing frameworks for disciplinary oversight.⁹⁴

The European Charter on the Statute for Judges, an important normative reference in European legal development, similarly mandates the intervention of an authority independent of the executive and legislative powers, composed of at least half judges elected by their peers through mechanisms ensuring the widest representation of the judiciary.⁹⁵ This composition is of great importance in post-revolutionary regimes where there is widespread suspicion of political institutions. It is crucial that judicial councils are

⁹³ Venice Commission. (2007), *supra* note, para. 26.

⁹⁴This analysis builds upon the principles of judicial conduct outlined in the Commentary on the Bangalore Principles of Judicial Conduct (UNODC, 2007) and responds to critics of judicial council performance in transitional societies highlighted by David Kosař, *Perils of Judicial Self-Government in Transitional Societies* (Cambridge University Press, 2016). While neither source explicitly frames judicial councils as the primary agents of ethical transformation, their emphasis on judicial integrity and the challenges of post-revolutionary reform informs this perspective.

⁹⁵ Venice Commission. (2007), *supra* note, para. 19.

perceived as independent and trustworthy, with appointments heavily influenced by the judiciary but firmly grounded in public accountability. It is noted that overemphasis on independence, without internal accountability mechanisms, might result in institutional inertia, whereby a stable elite group perpetuates itself in power, thereby undermining the very goals of reform.⁹⁶ Judicial councils, therefore, ought to be crafted as carefully balanced institutions that are adequately independent to discourage external interference while also being adequately inclusive and transparent enough to resist internal entrenchment.

Beyond their appointment role, judicial councils operating in transitional settings are supposed to redefine the position of the judiciary within a democratic constitutional order. Such councils have been referred to by the Venice Commission as effective instruments to serve as a watchdog of basic democratic principles.⁹⁷ In post-authoritarian settings, where other democratic institutions are also in transition, the judiciary can be a pillar of stability and legitimacy but only if its appointments are viewed as being fair, depoliticized, and democratic. The judicial council's function therefore becomes pivotal in establishing the tone in both the personnel and the values of the post-revolutionary judiciary.

However, the sheer existence of a judicial council is not sufficient. The Venice Commission remarks that where systems are based on independent councils, political influence can still assert itself indirectly through parliamentary nominations, executive involvement in appointments, or strategic monitoring of council membership.⁹⁸ For this reason, the Council's actual competences and internal rules of operation matter as much as its formal status. It must be empowered to play a decisive influence in appointment and promotion decisions and, where relevant, disciplinary proceedings.⁹⁹ These roles allow the Council to act not only as a buffer against political manipulation but also as a norm-setter for judicial excellence and ethical behavior.

In summary, in post-revolutionary and transitional contexts, judicial councils serve a dual and delicate role. On one hand, they are institutional safeguards against the re-politicization

⁹⁶ Kosař, David, (2016), *supra* note, p 419.

⁹⁷ Venice Commission. (2007), *supra* note, para. 22.

⁹⁸ *Ibid.*, para. 23.

⁹⁹ *Ibid.*, para. 25.

of the judiciary; on the other, they are active participants in redefining judicial identity for a new constitutional era. By making judicial appointments and elections open, participatory, and depoliticized, the councils are critical to the task of ensuring that the judiciary reflects the fundamental values the revolution aimed to create. Whether the councils will succeed in this task is dependent not only on their constitutional independence but on their effective capacity to impose new norms and to function with integrity, legitimacy, and institutional maturity.

The preceding sections set out the theoretical and comparative frameworks for approaching judicial reforms in transitional and post-revolutionary settings. Some of the key issues, such as the relationship between judicial independence and appointments, the key role of judicial councils, and the structural difficulties inherent in post-conflict reforms, will here be explored in the particular setting of Armenia. In the wake of the Velvet Revolution of 2018, Armenia launched a complex and politically charged process of judicial transformation.

The next chapter will examine the post-revolutionary context of Armenia, attempted legal and institutional reform, and its implications for the role of the judiciary in the consolidation of democracy more broadly.

CHAPTER II: ARMENIA'S VELVET REVOLUTION AND THE IMPERATIVE FOR JUDICIAL REFORM: FOCUS ON ELECTIONS AND APPOINTMENTS

2.1. Armenia's Political Transition and the Imperative for Judicial Reform

2.1.1. The Pre-Revolutionary Judicial and Political Landscape

Armenia, prior to the Velvet Revolution, was steadily drifting toward authoritarianism. This is evidenced by the distortion of elections, nepotism, vote-buying, and the rise of a clientelist political system. Citizens increasingly felt alienated from power, resulting in a delegitimization of state institutions and the political system at large. In addition, the state bureaucracy, comprising the legislative, executive, and judicial branches, though formally distinct from political power, was increasingly politicized. The civil service, which by

definition were meant to be professional, independent, and impartial, became entangled in political subservience and party-driven subjectivism.¹⁰⁰

The absence of executive accountability, as well as informal practices that consistently hollowed out and otherwise undermined the effects of the country's formal democratic institutions and resulted in endemic illegitimacy, demonstrated the reality of the country's competitive authoritarianism.¹⁰¹ Over nearly three decades, Armenia's political scene was marked by a recurring cycle of mass mobilizations, contested elections, and violent or repressive responses to dissent. This cycle was indicative not of democratic vibrancy but of structural stagnation rooted in elite fragmentation and a fractured selectorate inherited from the perestroika era.¹⁰²

Armenia's political culture was heavily shaped by the legacies of the Nagorno-Karabakh war, which helped solidify a militarized elite status quo. Presidents Robert Kocharyan and Serzh Sargsyan, both former Nagorno-Karabakh leaders, also derived more of their legitimacy from the symbolic capital of "victory in the Patriotic War" than democratic principles. Over time, however, the legitimacy of the regime has diminished as the original veterans were replaced by oligarchs and presidential cronies with influence derived from monopolized economic resources and control over parliamentary politics.¹⁰³ If we accept that over time there were both objective and subjective reasons for alienation between society and the political opposition and that over time, a single pole or unitary political system was formed around an immutable ruling elite, we can conclude that state service and ruling party interests had become inseparable. Public service was reduced to functioning in a clientelist political system, where the construction of any state function was limited to that of satisfying the interests and ambitions of political allies to assure the reproduction of the regime.¹⁰⁴

¹⁰⁰Khalatyan,A.(2018). Հայաստանի Թավշյա հեղափոխության սահմանադրական-քաղաքական ուրվագիծը [*The Constitutional and Political Outline of Armenia's Velvet Revolution*]. [Webpage](#).

¹⁰¹Broers, Laurence & Ohanyan, Anna (Eds.). (2020). *Armenia's Velvet Revolution: Authoritarian Decline and Civil Resistance in a Multipolar World*. First edition. London: Bloomsbury Academic. ISBN: 9781788317177, pp.73-101.

¹⁰² *Ibid.*, pp. 73-101.

¹⁰³ *Ibid.*, pp. 73-101.

¹⁰⁴ Khalatyan, A. (2018). *supra* note.

The ruling Republican Party of Armenia (RPA) importantly morphed into a centralized means of regime consolidation, operating increasingly as a trade union for public officials and business elites; it lacked any authentic ideological commitment but operated essentially as a means for maintaining political loyalty and various patronage networks.¹⁰⁵ The judiciary was formally independent, but because it was strictly embedded in the overarching system of authoritarian capture, it remained capable of being interfered with by the executive. This level of subordination reflected the overall "Potemkin democracy" that was Armenia, where institutions were devoid of genuine democratic functionality, albeit appearing to be so.¹⁰⁶ The people who took to the streets blamed the former authorities for numerous illegalities, considering them illegitimate and corrupt, this was the core reason for their rejection of the regime. It can be assumed that both the people and the movement's leaders, by accusing the previous authorities of illegitimacy, were well aware that many of the laws, especially the Constitution, adopted during that era lacked democratic legitimacy. Despite this, the current government continues to operate under the very same Constitution and legal framework that it once strongly criticized.¹⁰⁷ The fusion between state bureaucracy and ruling political groups is not unique to Armenia. Even in long-standing democracies like the United States, bureaucratic politicization exists. However, in the U.S., this is mitigated by competitive party politics and electoral turnover. In contrast, Armenia's lack of political competition and unchangeable ruling elite resulted in a severe shortage of new, qualified personnel, and dangerous demotivation among civil servants, whose advancement was more tied to loyalty within the ruling party than to merit or professionalism.¹⁰⁸

Despite authoritarian constraints, Armenian civil society remained resilient, regularly mobilizing around key social and political grievances. Events such as the 2008 post-election protests and the 2015 "Electric Yerevan" movement¹⁰⁹, though not leading to

¹⁰⁵ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 73-101.

¹⁰⁶ *Ibid.*, pp. 1-25.

¹⁰⁷ Kanadyan, H. (2020). Ի՞նչ կատարվեց Հայաստանում 2018 թ. ապրիլ/մայիսին և դրան հաջորդող շրջանում. հեղափոխություն, թե՛ կիսահեղափոխություն [*What Happened in Armenia in April/May 2018 and the Following Period: Revolution or Semi-Revolution?*]. [Webpage](#).

¹⁰⁸ Khalatyan, A. (2018). *supra* note.

¹⁰⁹ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 101-119.

systemic change, helped cultivate a culture of civic resistance and strategic non-violence. Civil society actors, including youth activists, environmental activists, and watchdog NGOs, developed forms of organization and disruptive protest engagement that would be ultimately useful as part of the Velvet Revolution.¹¹⁰ The limited nature of political competition and the illusion of power transfer weakened the opposition's role, which was mostly reduced to overseeing the government, a task nearly impossible due to its small parliamentary presence and limited media or financial resources. The same applied to active civil groups, who, despite some self-organization, lacked real access to mechanisms of civic oversight over the state. Until recently, those institutional opportunities remained severely limited.¹¹¹

The government repeatedly resorted to coercive measures , as illustrated by the deadly repression of the 2008 protests, once it made its reliance on repression stark to highlight the tenuousness of its political legitimacy. Certainly, coerced political action may only be effective in producing results inside a regime for so long. By 2018, a combination of internal military professionalization and external constraints, such as digital transparency and international attention, reduced the regime's willingness to deploy force.¹¹²

Simultaneously, civil society had grown more confident and networked, drawing on historical traditions of grassroots organizing dating back to the Soviet and even pre-Soviet periods. By the late 2010s, the civil society sector could be seen as more diverse, including formal NGOs, donor-funded programs, and informal activist and community groups. These networks later played a role in mass mobilizations, including the Velvet Revolution.¹¹³

In reality, many fundamental rights and freedoms existed only formally in Armenia before the Velvet Revolution. Although the Constitution and laws proclaimed those rights, in practice they were often non-existent. A deep chasm had formed between the written Constitution and lived reality.¹¹⁴ In sum, the pre-revolutionary judicial and political landscape in Armenia presents a paradox: institutional stability and entrenched

¹¹⁰ *Ibid.*, pp. 101-119.

¹¹¹ Khalatyan, A. (2018). *supra* note.

¹¹² Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 73-101.

¹¹³ *Ibid.*, pp. 1-25, 101-119.

¹¹⁴ Khalatyan, A. (2018). *supra* note.

authoritarianism were accompanied by deep systemic illegitimacy. The judiciary operated as formal in a political order sustained by coercion, co-optation and nationalist rhetoric, and not popular legitimacy. But beneath this social capital hoarding, a civil society that was slowly maturing and a public that was politically engaged were starting points for the democratic rupture that would happen in 2018.

2.1.2. The Velvet Revolution: Genesis and Impact on Judicial Reform Demands

The Velvet Revolution of 2018 was a turning point in Armenia's post-Soviet history, prompted by the accumulated resentment against enduring corruption, stagnation in the democratic process, and entrenchment of elites. Initially peaceful and ineffective protests turned quickly into a large-scale uprising that overthrew Prime Minister Serzh Sargsyan from power and realigned the political order.¹¹⁵ Effectively, this unexpected and rapid political shift bucked the narrative of Armenia's political immobilism and redefined the parameters of civic agency in the context of post-Soviet hybrid regimes.¹¹⁶

In April 2018, a handful of parliamentarians led by Nikol Pashinyan and civil society actors initiated a nationwide civil disobedience campaign. Initially a few thousand, then tens of thousands, and eventually hundreds of thousands joined the protests to reject the ruling authorities. After two weeks of demonstrations, Serzh Sargsyan resigned as Prime Minister, and Pashinyan was elected to replace him. During the movement, Pashinyan declared that what was happening in Armenia was a 'popular, velvet, non-violent revolution.'¹¹⁷

The Velvet Revolution triggered a process of establishing a new legal-political reality, currently functioning through flows and ebbs. Such multi-layered change can be characterized as regime shift, a reshaping of the manner in which political power is exercised in the state through normative demands and rules that govern interaction between state and society.¹¹⁸ The Velvet Revolution draws on local precedents of civic resistance and protest culture spanning decades and has left Armenia with a significant legacy of activism in many spheres, dating back to the early 1990s.¹¹⁹ Activism drew on multiple forms of

¹¹⁵ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 119-141.

¹¹⁶ *Ibid.*, p. 231.

¹¹⁷ Kanadyan, H. (2020). *Supra* note.

¹¹⁸ Khalatyan, A. (2018). *supra* note.

¹¹⁹ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 51-73.

protest against electoral fraud, environmental devastation and social injustices. As protest in Armenia evolved, so did the repertoire of protest methods, and a politically engaged youth, trained and equipped a new generation of activists on creative, disciplined, and determined methods of challenging their political realities.¹²⁰

This protest culture had an important milestone with movements like "Electric Yerevan", which were issue-oriented yet represented unique moments and glimmers of wider anti-authoritarian consciousness.¹²¹ These experiences of activism shaped the disciplined, decentralized mobilization of the Velvet Revolution, framed and programmed through collective shared principles emphasizing unity, strategic design and non-violent discipline.¹²² Judging by the public statements of the new ruling political force and especially the current Prime Minister, Armenia was promised to undergo radical changes. These included transitioning from an oligarchic-monopolistic economy to an inclusive and competitive one, guaranteeing judicial independence and ensuring that elections become free and competitive.¹²³

The distinguishing feature of the Velvet Revolution was its opposition, or disconnection from known multinational discredited elites and oppositional narratives that are supported by foreign backdrop. The movement used domestic assumptions of democratic ideals and broad slogans like "Reject Serzh," to connect with society and reject the accusation of globalization narratives. The grass roots campaign engaged national symbols and identity - thus enhancing its legitimacy and mobilization power.¹²⁴

The regime's failure to meet its security promises, particularly in light of the 2016 Four-Day War and continued corruption, radically undermined its legitimacy.¹²⁵ Concurrently, expanded internet access and social media provided decentralized channels for organization and transparency that can give voice to new civic representatives while disintermediating or bypassing previous sanction or gatekeepers of power.¹²⁶

¹²⁰ *Ibid.*, pp. 51-73, 119-141.

¹²¹ *Ibid.*, pp. 119-141.

¹²² *Ibid.*, pp. 51-73, 119-141.

¹²³ Khalatyan, A. (2018). *supra* note.

¹²⁴ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 119-141, 51-73.

¹²⁵ *Ibid.*, p. 231.

¹²⁶ *Ibid.*, pp. 119-141.

These long-present traditions of protest and short-term tactical decisions opened the space for Nikol Pashinyan and his allies to launch change. Their commitment to legality and proceduralism represented a break from the previous revolutionary models and affirmed trust in institutions while identifying the need to reform those institutions.¹²⁷

Nevertheless, even though the revolution was democratic, the judiciary remained predominantly unaffected, and acted as a kind of 'authoritarian reserve' for the old regime, even if substantively different from its prior construct.¹²⁸ When procedural matters posed a new challenge, there were no mechanisms in the Constitution for resolving transitional conflict in line with norms. The balance of power was newly created and no longer electoral in terms of its 2017 results. The Constitution did not provide an effective remedy.¹²⁹ The partial rupture demonstrated the tension of reformers working within existing constitutionalism, which may effectively shield the judiciary, and therefore the actions of the constitutional court, in terms of resisting alignment with new order.¹³⁰

Judicial elites, insulated from political removal by formal independence and enabled by political networks, actively resisted the transition to justice, including in cases implicated former President Robert Kocharyan.¹³¹ The role of the judiciary as a battleground and bottleneck for democratic consolidation was emphasized by these dynamics in Armenia.

The revolution's reliance on horizontal, civic-driven mobilization also created a vacuum in formal party institutionalization. While it was effective at ousting the regime, the reliance on spontaneous forms of mobilization struggled to produce long-term policy coherence and stability of institutional changes.¹³² As a result, revolutionary amendments for a judicially independent, accountable, non-determined power has now equated to slogging through the mechanization of procedural politics and legal bureaucracy.

The revolution's desire for rapid change in the judiciary, from anti-corruption to simply new people in positions of power, has sometimes run against deliberate and legal caution. Rather

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*, pp. 231-253.

¹²⁹ Khalatyan, A. (2018). *supra* note.

¹³⁰ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 231-253.

¹³¹ *Ibid.*

¹³² *Ibid.*

than bold decisive moves, government leadership chose a more formal cautious course of law. The government did not deliver what some predicted was an exaggerated revolution, but sought systemic changes in gradual evolutionary and legal forms. Although radical actions like the blockade of court entrances and the siege of the National Assembly did occur, most reform attempts have relied on lawful procedures.¹³³ This gap has caused a lot of angst and highlights the need for continued citizen oversight and institutional creativity.¹³⁴ This raises a larger question: shouldn't any action undertaken during a revolution have legitimacy if it's legal? Blocking streets, trespassing onto public radio buildings may have been "illegal," but it was widely used as a source of legitimacy due to a wide-spread population's contempt for the previous regime. Likewise, if the current government were to take radical steps towards judicial reform, even if "illegal," it would be politically legitimate in regard to the revolution.¹³⁵ Yet instead of taking such steps, the post-revolutionary government preserved much of the old legal framework. The current status quo is largely founded on political agreements and not based on constitutional or legal stipulations. The paralysis of institutions and the lack of constitution-level tools have left us with the ability for the government to continue functioning, but not fully based on constitutional legitimacy. There have been even suggestions to abandon that altogether and create a 'Fourth Republic'.¹³⁶

Still, the revolution catalyzed meaningful shifts. Civil society became more assertive in demanding judicial accountability, and the government maintained a legalistic, procedural approach to reforms. However, without deep restructuring, the risk remains that judicial reform will remain symbolic rather than substantive.¹³⁷

Ultimately, any rebellion or revolution faces a choice between the old and the new. The resolution can take one of two paths: either loyalty to constitutionalism and political compromise, or forceful resolution through elite confrontation with one side emerging victorious. At such critical moments, state-mindedness among political leaders becomes

¹³³ Kanadyan, H. (2020). Supra note.

¹³⁴ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), supra note, pp. 231-253.

¹³⁵ Kanadyan, H. (2020). Supra note.

¹³⁶ Khalatyan, A. (2018). supra note.

¹³⁷ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), supra note, p. 119.

just as important as constitutional text.¹³⁸ The Velvet Revolution was the product of a long lineage of civic resistance,¹³⁹ a strategically executed campaign of non-violent defiance, and a democratic aspiration to rebuild state institutions from within.¹⁴⁰ Its impact on judicial reform reflects the broader tensions of post-revolutionary transition: the power of mass mobilization to initiate change, and the challenge of converting that change into lasting institutional transformation. While the legacy of the Velvet Revolution continues to inspire, the road to judicial reform remains contingent on continued civic engagement, institutional resilience, and the political will to dismantle authoritarian legacies. In sum, the post-2018 situation in Armenia reflects what might be called a semi-revolutionary path. While the rhetoric and mandate of revolution were present, most systemic changes have been cautious, selective, or stalled. The public may come to expect deeper transformations and if unmet, their voting behavior may shift in future elections. Whether future actions will align more with evolutionary governance or renewed revolutionary urgency remains to be seen.¹⁴¹

2.2. Judicial Reform and the Challenge of Judicial Selection

2.2.1. Judicial Reform History and Post-Revolution Developments

During the history of the Third Republic of Armenia, the starting point for the development of the judicial and legal system can be considered the year 1995, when the Constitution was adopted. The Constitution established the separation of powers into three branches: judicial, legislative, and executive and also created the Constitutional Court and the Council of Justice as the highest bodies within the judicial system.

In 1996, the President of the Republic of Armenia formed the first state commission tasked with coordinating judicial and legal reforms, initiating the process of developing the Concept Paper for the Judicial and Legal Reform Program. By 1997, the timetable for reforming the judicial and legal system of Armenia was prepared and approved. The decision envisioned the following:

¹³⁸ Khalatyan, A. (2018). *supra* note.

¹³⁹ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp. 51-73.

¹⁴⁰ *Ibid.*, pp.231-253.

¹⁴¹ Kanadyan, H. (2020). *Supra* note.

- a) by June 1998, in line with the judicial and legal reform program, to resolve the issues of providing buildings and logistical resources to courts, structural units of the Prosecutor's Office, and other law enforcement bodies;
- b) by December 1997, to submit proposals regarding the transfer of correctional institutions and pretrial detention centers under the jurisdiction of the Ministry of Justice.

In accordance with the program, in the following years, the main legal acts were adopted: the Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, the Laws on the Judicial System, on the Prosecutor's Office, on the Bar Association, the Law on the Execution of Judicial Acts (adopted as the Law on Compulsory Enforcement of Judicial Acts), the Law on the Status of Judges, among others.¹⁴² Although the 1995 Constitution was a historic milestone in establishing Armenia's judicial structure, it did not provide sufficient guarantees for either external or internal judicial independence. The President held significant influence over judicial formation and functioning by chairing the Council of Justice, whose members included prosecutors and executive officials.¹⁴³

Further efforts to strengthen the constitutional guarantees of judicial independence were undertaken in the scope of the Constitutional amendments adopted in 2005. They introduced significant changes to the regulations on the judiciary and were intended to reduce the President's role in court-related processes; the Ministry of Justice was deprived of its authority in the appointment process of judges; the Council of Justice was completely reformed, including a majority of judges elected by their peers, while the President and Parliament appointed legal scholars. This was a step toward strengthening institutional independence, though concerns about real autonomy remained.¹⁴⁴

Finally, a new constitutional referendum was held in Armenia on 6 December 2015, which led to the adoption of a comprehensive package of amendments to the Constitution also having a significant impact on the judicial system. The amendments in the field of judiciary were intended to further enhance the guarantees of judicial independence and impartiality,

¹⁴²Judicial and Legal System – Reforms. (2021). Դատաիրավական համակարգի բարեփոխումներ [Judicial and Legal System Reforms]. Reforms [website](#).

¹⁴³Petrosyan, G. (2022). *The Crisis of the Judicial System and Problems of Democratic Development in Armenia*. Heinrich Böll Stiftung – South Caucasus Region. [Website](#).

¹⁴⁴ *Ibid*.

inter alia, by reviewing the composition and election procedures of the Supreme Judicial Council (successor of the Council of Justice), increasing the role of the Parliament in the processes of formation of the judiciary, and strengthening guarantees of independence of the Constitutional court. Another important change was related to the mandate of the Supreme Judicial Council which was proclaimed as an independent state body entitled to guarantee the independence of courts and judges.¹⁴⁵

Judicial and legal reforms were mainly carried out within the framework of four strategic programs: the 2009-2011 Strategic Action Plan for Judicial and Legal Reforms; the 2012-2017 Strategic Program for Judicial and Legal Reforms; the 2019-2023 Judicial and Legal Reform Strategy and its corresponding Action Plan, which was adopted following the 2018 Velvet Revolution¹⁴⁶ and the current 2022-2026 Judicial and Legal Reform Strategy, which is presently in effect. Yet across these reform waves, the lack of genuine political will, particularly prior to the 2018 Velvet Revolution, remained a key obstacle to the implementation of judicial independence in practice. The revolution made judicial reform a flagship issue, with restoring public trust in the judiciary seen as vital to democratic consolidation. Public demand for vetting, accountability and judicial integrity surged in the post-revolution period.¹⁴⁷

After the revolution in 2018, Prime Minister Nikol Pashinyan addressed the first public call for judicial reform in August of the same year at a rally marking his first 100 days in office.¹⁴⁸ The judicial reform process began to pick up pace on May 20, 2019, just two days after former President Robert Kocharyan was released from custody¹⁴⁹, when Pashinyan made a public request for citizens to block entry to judicial buildings and to impede judges from entering the courts. This call was unprecedented, more than drawing the ire of domestic political actors, did garner some serious international attention. For example,

¹⁴⁵ *Ibid.*

¹⁴⁶ Judicial and Legal System – Reforms. (2021) Supra note, Reforms [website](#).

¹⁴⁷ Petrosyan, G. (2022). Supra note.

¹⁴⁸ Prime Minister Nikol Pashinyan's Speech. (2018). Վարչապետ Նիկոլ Փաշինյանի ելույթը պաշտոնավարման 100 օրվան նվիրված հանրահավաքին [*Prime Minister Nikol Pashinyan's Speech at the Rally Marking His First 100 Days in Office*]. [Website](#).

¹⁴⁹ Bulghadaryan, N. (2019). Ռոբերտ Քոչարյանն ազատ արձակվեց կալանքից [*Robert Kocharyan Was Released from Detention*]. Azatutyun.am (Radio Free Europe/Radio Liberty). [Website](#).

Freedom House's Director of Special Investigations Nate Schenkkan issued a critical response via social media at Pashinyan for his reckless commitment to the rule of law¹⁵⁰ and was joined by the Parliamentary Assembly of the Council of Europe (PACE) co-rapporteurs in concerns regarding escalating institutional tensions in Armenia on a statement January 31, 2020.¹⁵¹ In light of this context of controversy, the government moved ahead with their 2019 - 2023 judicial reform strategy which also made reference to the plan of judicial improvements with the understanding that raising judicial salaries and increasing the judiciary would enable reforms as a legitimate guarantee to judicial independence.

2.2.2. The 2019-2023 Judicial Reform Strategy: Vision and Implementation

The Judicial and Legal Reform Strategy (2019-2023)¹⁵² represented a significant undertaking by Armenia's post-revolution government to remake a historically politicized and untrustworthy judiciary into one that is independent, professional and accountable. After the Velvet Revolution of 2018, judicial reform was an immediate priority because public trust in the judiciary had been severely undermined by previous regimes of executive interference, structural corruption and entrenched clientelism.¹⁵³

The government's 2019 reform strategy flagged these issues well. The strategy's official justification noted that whereas systemic issues such as corruption and inefficiency resulted in the judiciary's lack of independence and ability to foster trust, those issues were accompanied by external political pressure. The new government stated that they committed to eliminate not just political interference, but also inefficiencies and susceptibility to personal or material interests, including bribery.¹⁵⁴

The strategy and working action plans: short term (2019-2020), long term (2021-2023) and a digital justice modernization plan, proposed a wide-ranging and ambitious plan including

¹⁵⁰Simonyan, O. (2021). *Judicial Reforms: From Revolutionary Promises to Strategic Promises*. [Website](#).

¹⁵¹ Parliamentary Assembly of the Council of Europe. (2020, January 31). *Armenia: PACE monitors express concern at the high level of tension between institutions*. [Website](#).

¹⁵²Strategy for Judicial and Legal Reforms In The Republic Of Armenia For 2018-2023 And The Action Plan. [Website](#).

¹⁵³Judicial and Legal System – Reforms. (2021) Supra note, Reforms [website](#).

¹⁵⁴ *Ibid*.

transitional justice, constitutional and electoral reform, anti-corruption institutional development, and the professionalization of legal institutions. It included the rule of law and independence of the judiciary, anti-corruption, building public confidence in legal institutions and modernization of the legal system, e-justice and structural systems change.¹⁵⁵

Among the declared priorities, the fight against systemic corruption in the judiciary was central. The strategy framed this as a necessary precondition for democratic consolidation and framed corruption as both a cause and effect of weak justice. In early monitoring assessments from the Human Rights Defender's office, they had previously highlighted this issue with a 2013 report on issues of structural dysfunctions and persistent violations of rights in court processes.¹⁵⁶

A unique aspect of the 2019 strategy was the prioritizing of transitional justice as a political and legal tool. Specifically, the strategy introduced a truth-seeking mechanism to document and research the mass violations of rights committed in the period between 1991 to 2018 which included cases of electoral fraud, post-election prosecution, forceful property appropriation, and the deaths of drafted conscripts who pass in non-combat situations. Institutional reforms, including permanent monitoring bodies to prevent recurrence, were also proposed as part of the transitional justice package.¹⁵⁷

In line with these goals, the government initiated the drafting of a law to establish a Fact-Finding Commission. This body would operate independently and include respected public figures representing various social groups. Its final report would offer an evaluative overview of past abuses and recommend appropriate reparative and institutional actions.¹⁵⁸ Despite these progressive intentions, the implementation of transitional justice mechanisms, especially judicial vetting, remained limited.

¹⁵⁵ 168.am. (2019). Կառավարությունը հրապարակել է “ՀՀ դատական և իրավական բարեփոխումների 2019-2023 թվականների ռազմավարությունը” [*The Government Has Published the “Strategy for Judicial and Legal Reforms of the Republic of Armenia for 2019–2023”*]. [Website](#).

¹⁵⁶ Judicial and Legal System – Reforms. (2021) Supra note, Reforms [website](#).

¹⁵⁷ 168.am. (2019). Supra note.

¹⁵⁸ *Ibid.*

Civil society actors had strongly advocated for vetting as a core reform mechanism. The National Assembly held public hearings in 2019 to consider transitional justice tools whereby the vetting option received wide attention. Civil society organizations proposed an extensive vetting mechanism involving legislative reform, constitutional reform, and the creation of institutions. The proposed vetting would apply to judges of the Constitutional Court, the Court of Cassation and members of the Supreme Judicial Council.¹⁵⁹

The key supplementary reform was the establishment of specialized anti-corruption courts. The Ministry of Justice created legislation where first-instance and appellate-level anti-corruption courts were established with strict eligibility requirements and integrity checks on candidates for judicial appointments. These courts would hear both criminal and civil cases associated with corruption and state interest. Additionally, they would receive enhanced oversight by the Corruption Prevention Commission.¹⁶⁰

The strategy also envisaged the establishment of three standing committees derived from the assembly of judges: the Ethics and Disciplinary Committee, the Training Committee, and the Judicial Performance Evaluation Committee. These committees were to be elected by secret ballot with both judicial and non-judicial members and were authorized to supervise whether a judge was acting ethically, in accordance with judge training standards, and performance standards.¹⁶¹

At the same time new laws were being passed, organizational changes were being adopted including actions such as the political dismissal of a number of Constitutional Court judges, and court judges as well, and their replacement, raises the question of how closely these actions followed the norms for judicial independence. The Venice Commission acknowledged the prerogative of the government of Armenia to enforce constitutional requirements and that the term replacement of judges was often desired however they would prefer to do it incrementally, but this left open the option to proceed transparently and equally as required.¹⁶²

¹⁵⁹ Judicial and Legal System – Reforms. (2021) Supra note, Reforms [website](#).

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² *Ibid.* 60.

From a structural perspective, the strategy will meet the goals of modernizing the justice sector through the use of electronic justice systems, digital databases and enhanced access to administrative services. In the context of e-justice, the specifics of electronic justice oriented initiatives included: creating digital archives, modernizing the method courts notify parties, and other parties, about matters, and developing a singular system for insolvency management and reporting. As a whole this was to create not only transparency but also efficiencies and improved public access.¹⁶³

Even with such an expansive reform agenda, the reform implementation fell short, according to the Helsinki Citizens' Assembly Vanadzor Office, which monitored the Stage 1 (2019–2020) implementation of the Action plan for reforming the system of state governance in Armenia. This action plan was to transform the government sector in Armenia, unfortunately only 23 percent of the intended actions were fully implemented, while 35 percent were not implemented at all. Of the remainder, some were partially and some were implemented ultimately acted redundantly or while not aligned to the Strategy itself.¹⁶⁴ More significant problems with reform activities included vague or declaratory language in the actual action plans, no clear legal targets and no new timelines due to COVID and Martial law would have supported efforts and activity, and citizen accountability was generally minimal. Reports also invariably lacked any credible rationale for un-implemented actions ; responsible agencies failed to consider what impact training or awareness-raising might have had, and the work of the Coordinating Council (specifically government agencies designated to oversee the implementation) was ultimately ineffective and completely non-transparent.¹⁶⁵

While the 2019-2023 Judicial and Legal Reform Strategy is certainly a very ambitious post-revolution attempt to restore the legitimacy of the judiciary in Armenia, it remains a strategy in response to the structural weakening of the judiciary and its limited institutional

¹⁶³ 168.am. (2019). Supra note.

¹⁶⁴ Helsinki Citizens' Assembly-Vanadzor. (2020). 2019-2020 թթ. գործողությունների իրականացման հաշվետվություն՝ ՀՀ դատական և իրավական բարեփոխումների 2019-2023 թվականների ռազմավարության շրջանակում [*Report on Implementation of 2019–2020 Actions within the Framework of the 2019–2023 Strategy of Judicial and Legal Reforms of the Republic of Armenia*]. [Website](#).

¹⁶⁵ *Ibid*.

authority, and an attempt to be embraced as a holistic reform with a focus on independence, transparency, and accountability. In contrast, the criticism that the Reform Strategy has been only partially enacted, and that the government is unwilling to institutionalize a full vetting mechanism, indicate an ongoing challenge to true reformist aspirations confronted by the political reality. The limited execution of action plans, vague policy targets, and weak oversight mechanisms further reveal structural obstacles that continue to impede transformative change. Still, the strategy laid a foundational framework for rethinking judicial governance, particularly regarding appointment procedures and institutional safeguards, where the role and functioning of the Supreme Judicial Council become especially significant.

2.2.3. The Supreme Judicial Council in the Post-Revolutionary Era

In the Armenian legal system, the important role of guarantor of the independence of the courts and the entire judicial branch was reserved for the RA Council of Justice until the recent constitutional amendments. After the adoption of the RA Constitution in 1995, the RA Council of Justice was formed and headed by the RA President. According to Article 94 of the Constitution, the guarantor of the independence of judicial bodies was the President of the Republic.¹⁶⁶ However, numerous problems that emerged during the Council of Justice's operation demonstrated that these organizational and legal foundations were not, in themselves, necessary or sufficient to guarantee the independence of that body, particularly its internal independence. This body must be independent of both the legislative, executive and even the judicial branch, since a truly independent and effectively functioning Judicial Council is the most important guarantee and prerequisite for an independent, impartial and accountable judicial system. Thus, as a result of the 2015 constitutional amendments,¹⁶⁷ article 173 of the Constitution provided for the establishment of a new constitutional body guaranteeing the independence of courts and judges, the Supreme Judicial Council (SJC).

¹⁶⁶Constitution of the Republic of Armenia, adopted on December 21, 1995.

¹⁶⁷Constitution of the Republic of Armenia] Adopted by referendum on December 6, 2015; entered into force on December 22, 2015. Official text.

The establishment of the Supreme Judicial Council, in fact, conceptually changed the role of the Judicial Council in ensuring the independence of the judicial branch in the Republic of Armenia and provided for a broader range of powers. This reflects that the idea of the Judicial Council, as a body implementing judicial administration with varying degrees of authority, had been known to the Republic of Armenia since the proclamation of the Third Republic and the formation of state bodies.

According to Article 174 of the Constitution, the SJC is composed of ten members, divided equally between judges elected by the General Assembly of Judges and legal professionals elected by the National Assembly. This composition is meant to create a structural balance between internal judicial self-governance and external public accountability. Judicial members need to have ten years of previous judicial experience, and they come from a variety of levels of the judiciary. The five non-judicial members need to be distinguished lawyers who have not had any previous service as a judge. Most importantly, the members of the court and the parliament are each elected to only a single five-year term without the possibility of being re-elected, in order to minimize entrenchment and to preserve the judicial council free of political influence and internal politics.

The chair of the Council rotates between members selected by judges and members selected by parliament to further formalize the principles of shared governance into the council. In addition, the Constitution provides the Judicial Code authority to outline more rules including but not limited to requirements for incompatibility and temporary suspension of judicial members' powers during the terms of their powers, thereby reinforcing both ethical and institutional safeguards.

While it's obvious that this design was intended to balance internal judicial self-governance with democratic accountability, concerns have emerged regarding its actual operation. According to the former SJC member, Grigor Bekmezyan, although the 5-5 model appears balanced, its effectiveness depends entirely on the independence and professionalism of its members. He pointed out that parliamentary appointees who have had prior political

affiliations, regardless of formal resignation, can still carry over political loyalties or agendas, undermining institutional neutrality.¹⁶⁸

Concerns remain about how this balance plays out in practice. Bekmezyan stressed that these two groups have very different institutional pressures. He noted that all judicial members are, at some level, concerned about their professional reputation and, especially, about possibly returning to the bench after their term, and therefore act more cautiously. In contrast, non-judicial members appointed by Parliament have no association with the judicial system, and thus have different reputational pressures, which can create disproportionate levels of influence over the Council's decisions.¹⁶⁹

Another former member of the SJC shared these concerns, but emphasized the power imbalance attributed to different interests. He argued that, in practice, the scholar members hold disproportionate weight during deliberative voting. Judges have been appointed to their position for many years and have to consider, almost always, whether their peers approve of their behaviour, whereas the legal scholars "have nothing to lose," making them more willing to push through decisions. In light of this, as a possible solution, he suggested an alternative model involving retired judges who have no career interests in the judiciary and can act independently and impartially.¹⁷⁰

The scope of authority assigned to the Supreme Judicial Council is defined in Article 175 of the Constitution, which grants the body broad powers over nearly all aspects of judicial careers and discipline. These include compiling candidate lists, making proposals for judicial appointments and promotions, nominating court presidents, and initiating or approving disciplinary and criminal proceedings involving judges. The SJC has authority to plan budgetary matters for the judiciary and in certain disciplinary matters, acts as a quasi-judicial body. It may also issue sub-legislative legal acts which underlines its regulatory function within the judiciary.

¹⁶⁸ Author's Zoom interview with Grigor Bekmezyan, former member of the SJC and current CEO of Bekmezyan Law Offices, May 2025. Conducted in Armenian; translated into English by the author. See Annex II, Interview Transcripts.

¹⁶⁹ *Ibid.*

¹⁷⁰ Author's Zoom interview with a current judge and former member of the SJC, May 2025. Conducted in Armenian; translated into English by the author. The interviewee requested anonymity. See Annex III, Interview Transcripts.

This design of the constitutional bodies represents an attempt to create a resilient institution that has monitoring authority over the judiciary, independently and transparently. However, the actual functioning of this body, especially with respect to a post-revolutionary transition, raises important questions about whether its structure is sufficient to achieve the ambitious outcomes outlined in law.

Upon election, Prime Minister Nikol Pashinyan and his newly organized government were faced with a Supreme Judicial Council (SJC) that was primarily made up of appointees from the previous regime. As a result, the revolutionary leadership and its supporters were very suspicious of the judiciary, which they viewed as a bastion of the unreformed pre-revolutionary elite.¹⁷¹

On May 20, 2019, Pashinyan delivered a landmark public speech in which he declared the judiciary illegitimate in the eyes of the people, attributing this crisis to its connection with the old corrupt regime. He explicitly stated that the judiciary lacked public trust and posed a threat to Armenia's stability and national security. He proposed that all judges undergo a vetting process and called for transitional justice mechanisms, including reforms at the level of the SJC.¹⁷² The following day, government supporters physically blocked access to court buildings across the country, including the SJC headquarters.

What this gesture conveyed was the degree of dissatisfaction the executive branch had in the judiciary and, more pointedly, the SJC, and an almost existential breach of trust between the branches of power.¹⁷³ Prime Minister Pashinyan believed that the ruling demonstrated the judiciary's endemic corruption, which provided more substantiation of structural reforms. The Prime Minister illustrated that these decisions not only undermined the power of a court, but also the foundations of democratic governance itself.¹⁷⁴ Under

¹⁷¹Prime Minister Nikol Pashinyan's Statement on the Judiciary System. (2019, May 20). [website](#); OC Media. (2019). Pashinyan instigates protests outside Armenian courts calling for transitional justice. OC Media [website](#) ; The Foreign Policy Council "Ukrainian Prism" . (2019). Armenia: Crisis within the government. [website](#).

¹⁷²*Ibid.*, Prime Minister Nikol Pashinyan's Statement.

¹⁷³ OC Media. (2019). Supra note.

¹⁷⁴ Prime Minister Nikol Pashinyan's Statement on the Judiciary System. (2019, May 20), Supra note; The Foreign Policy Council "Ukrainian Prism" . (2019), supra note.

these circumstances, the SJC became tangled in the public and political scrutiny as the constitutional body charged with overseeing judicial personnel and discipline.

In the immediate aftermath of these developments, Gagik Harutyunyan, Chairman of the SJC and a figure strongly associated with the former regime, tendered his resignation. On May 24, 2019, citing his discomfort with the direction of ongoing judicial developments, Harutyunyan formally stepped down, acknowledging the seriousness of the judiciary's legitimacy crisis.¹⁷⁵ While his resignation was publicized as a personal decision, the perception was that, at the urge of the government and the public, it became politically necessary.

The attempts to re-legitimize the Council led to the ultimate appointment of Karen Andreasyan, who was a former Minister of Justice and member of the ruling Civil Contract party, as the new Chairman of the SJC, in October 2022.¹⁷⁶ Andreasyan's prior political roles, including his close association with the executive, immediately raised concerns about the impartiality and independence of the SJC under his leadership.

As noted by a current judge interviewed for this study, the appointment on legal grounds saying that in other European systems, for instance in Germany, the Minister of Justice can perform judicial oversight functions without concern for constitutional violations. He argued that Andreasyan's appointment was formally consistent with Armenian law and did not in itself constitute a violation of impartiality. He acknowledged that from the perspective of an external observer, the overlap between Andreasyan's former executive role and his position within a body meant to supervise judges could raise valid concerns about institutional appearance and trust.¹⁷⁷

However, it was noted that the judiciary is a traditional and stability-oriented institution, where sudden political leadership shifts can have long-term institutional consequences.

¹⁷⁵*Ibid* The Foreign Policy Council “Ukrainian Prism” . (2019); Azatutyun.am. (2019, May 24). Գագիկ Հարությունյանը հրաժարական է տվել Բարձրագույն դատական խորհրդի նախագահի պաշտոնից [*Gagik Harutyunyan Resigns as President of the Supreme Judicial Council*], [website](#).

¹⁷⁶Armenpress. (2022). Karen Andreasyan elected President of the Supreme Judicial Council. [Website](#)

¹⁷⁷Author's Zoom interview with a current judge and former member of the SJC, May 2025. Conducted in Armenian; translated into English by the author. The interviewee requested anonymity. See Annex I, Interview Transcripts.

Appointments like this, in his view, have the potential to create institutional “zigzags” that unsettle the judiciary’s internal order and set back reform efforts by years.¹⁷⁸

The seriousness of these issues became a little more apparent following the resignation of SJC member Grigor Bekmezyan, which took place following Andreasyan's appointment. Bekmezyan later clarified that his decision was not directly linked to the Chair as an individual. Rather his resignation was based on fundamental structural or procedural changes he personally noted in the Council. Bekmezyan elaborated there was a clear reduction in the identification of deliberative dialogue and collegial dissent, with voting patterns increasingly appearing coordinated and uniform. The previous culture of deliberation and special opinions began to erode, leading him to the conclusion that the Council had lost its independence. Bekmezyan believed it was no longer functioning as a genuinely autonomous and pluralistic institution. With this realization, and change, he decided to resign since remaining would not be consistent with the values of independence and integrity that had initially motivated his service. Bekmezyan’s concerns did not go unnoticed. His resignation was interpreted broadly as reflecting the more serious dysfunction of the Council, and came at a time of growing criticism of the SJC’s institutional independence both domestically and internationally.¹⁷⁹ The U.S. State Department’s 2022 human rights report noted his departure, pointing to it as evidence of political pressure and internal imbalance in the judiciary. Significantly, even senior representatives in the government acknowledged that these concerns were serious and that the SJC’s credibility crisis needed to be considered as an institutional priority.¹⁸⁰

Though Andreasyan asserted that he had led the judiciary out of crisis, his sudden resignation less than a year later sparked discussions about the Council's institutional integrity and executive overreach.¹⁸¹

There were numerous factors surrounding Andreasyan's resignation including circulating rumors of coordinated dismissals of several high-level law enforcement and judicial

¹⁷⁸ Interview No. 3, see Annex III.

¹⁷⁹ Interview No. 2 with Grigor Bekmezyan, see Annex II.

¹⁸⁰ U.S. Department of State. (2022). 2022 Country Reports on Human Rights Practices: Armenia. [Website](#).

¹⁸¹ Avetisyan, S. (2024). The Minister of the Supreme Judicial Council has resigned - [website](#); The Armenian Report. (2024). PM Nikol Pashinyan Fires Senior Officials Over Justice System Failures. [Website](#).

officials, suggesting a broader political effort to recalibrate Armenia's justice sector. The Prime Minister, Nikol Pashinyan, has taken to social media to share his dissatisfaction that the judiciary and law enforcement have not delivered justice in a manner commensurate with the values of the revolution in 2018. The mass resignations by the heads of the Anti-Corruption Committee, Investigative Committee, State Revenue Committee are indicative of an executive branch restructuring process that was facilitated in an effort to restore credibility, but also raises the question of independence of these institutions.¹⁸²

Critically, issues concerning the politicization of the SJC were realized with the decision in *Suren Antonyan v. Armenia* in the European Court of Human Rights. The issue was whether the SJC could be deemed an independent and impartial tribunal under Article 6 of the European Convention on Human Rights. The ECHR examined the participation of Karen Andreyan in disciplinary proceedings against a judge despite Andreyan's very close personal and economic ties with the Minister of Justice who initiated the proceedings.¹⁸³

The ECHR determined that although the SJC formally met the structural criteria of an independent tribunal, any appearance of bias due to its Chair's refusal to recuse himself in consideration of his personal relationship with the Minister, was enough to impose a violation of the requirement of impartiality. The Court noted that the lack of procedural safeguards, such as public disclosure of conflicts and mechanisms for disqualification, compromised the Council's credibility in the eyes of the public and the broader judicial community.¹⁸⁴

The ruling highlighted the broader systemic weaknesses of the SJC. While the SJC was structured to combine non-judicial and judicial council members equally to balance independence and accountability, the ruling party's power to appoint parliamentary members allowed political forces to compromise the non-judicial section. The Court noted that the process for selecting non-judicial members lacked transparency and openness;

¹⁸² The Armenian Report. (2024), *ibid*.

¹⁸³ European Court of Human Rights (20140/23) - E.C.H.R. - Judgment (Merits and Just Satisfaction) in the case of 20140/23 SUREN ANTONYAN v. ARMENIA of 23 January 2025, see [here](#).

¹⁸⁴ *Ibid*

appointments were often made without competitive procedures or meaningful input from opposition forces or civil society.¹⁸⁵

The problem of executive dominance over judicial appointments was not limited to public perception. According to Freedom House's 2024 Nations in Transit report, Andreasyan's term was fraught with problematic disciplinary measures and at times, it seemed that judges known to be critical of the government or the SJC were targeted. The SJC's selective approach to applied measures negatively impacted public trust in the council as a neutral body.¹⁸⁶

Additionally, there was also another institutional crisis for the SJC. In June 2022, Ruben Vardazaryan, the former Chair of SJC, released a secret audio-recording of a conversation he had with acting-chair Gagik Jhangiryan. In this alleged conversation, Vardazaryan felt compelled to resign or face potential criminal charges for his actions. This conversation was claimed by Vardazaryan to have taken place in February 2021, and laid bare a concerning level of direct political interference in the country's highest judicial oversight body, which represented a serious assault on the SJC credibility. Although Jhangiryan eventually resigned for health reasons, the circumstances that surrounded his resignation also served to undermine the independence of the Council.¹⁸⁷ This revelation seemed problematic if not, at least, questionable for not only SJC council members' alleged internal governance transitions but also reflected serious conflicts within the judiciary governing body.¹⁸⁸

The repeated crises of leadership and trust in the SJC show that formal independence is not sufficient on its own. The SJC is guaranteed independence in the Constitution and is required to be balanced in structure, but it works within a political context and the political integrity of its members is crucial. In theory, the chair holds mainly administrative functions and does not possess a casting vote during disciplinary hearings, as highlighted in

¹⁸⁵ *Ibid.*

¹⁸⁶ Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report*. [Website](#).

¹⁸⁷ U.S. Department of State. (2022), *supra* note; Freedom House. (2023). *Armenia: Nations in Transit 2023 Country Report*, [website](#).

¹⁸⁸ Freedom House. (2023), *Ibid.*

the ECHR ruling.¹⁸⁹ In practice, however, the chair's position normally carries some symbolic and procedural weight on the authority of its internal dynamics and the perception of fairness.

The SJC's difficulties have also impacted its perceived legitimacy among judges. The disciplinary actions taken during Andreasyan's tenure, as well as the lack of procedural transparency, contributed to growing resistance in the judiciary. Numerous reports stated that judges who did raise concerns about the Council's independence faced greater scrutiny and were treated less favourably than those who stayed silent.¹⁹⁰ This atmosphere has created a credibility gap and the uncertainty has further eroded the Council's ability to earn respect as a neutral decision-maker.

Overall, the Supreme Judicial Council's post-revolution establishment in Armenia reveals complex relationships between institutional design, political expectations and systemic vulnerability. Established to protect judicial independence, the SJC has nonetheless found itself at stake in political contests that undermine its apparent independence and impartiality as an institution. Although there are strong constitutional provisions and international validation of its formal independence, repeated controversies surrounding the SJC's leadership, its appointment processes, and perceived bias have all undermined its ability to fulfill its foundational mandate. The experience of the SJC reveals that institutional design isn't equal legitimacy as legitimacy requires process transparency, independent leadership and a political culture that respects judicial independence. The following section will address disciplinary proceedings, vetting processes and judicial appointments and SJC's role in these processes.

2.2.4. Vetting in Armenia: A Contentious Path to Judicial Integrity

In the wake of Armenia's 2018 Velvet Revolution, "vetting" emerged as one of the most debated instruments of transitional justice, seen by reformers as a mechanism to cleanse the judiciary of corrupt and compromised actors while restoring its legitimacy. However, while the vetting discourse shaped much of the reform narrative in the immediate

¹⁸⁹Suren Antonyan v. Armenia, no. 20140/23, ECHR, *supra* note.

¹⁹⁰*Ibid.*; Freedom House. (2024), *supra* note.

post-revolutionary period, its implementation remained contentious and, ultimately, partial and substituted by procedural alternatives embedded in the revised Judicial Code.

Initial post-revolutionary calls for vetting were spurred by public outrage in May 2019 when a Yerevan court ordered the release of former President Robert Kocharyan, accused of involvement in the March 1, 2008, post-election violence that led to ten deaths. The decision was viewed by many, including Prime Minister Nikol Pashinyan, as evidence of the judiciary's lingering loyalty to the former regime. In response, Pashinyan called for “surgical interventions” in the judiciary and announced a vetting initiative that would review all judges in Armenia.¹⁹¹

Subsequently, on May 25, 2019, parliamentary hearings were held on the “Prospects for the Application of Transitional Justice Tools in Armenia,” where vetting was discussed as a possible mechanism to clean up the judiciary.¹⁹² Civil society actors advocated for the adoption of a special law “On Vetting,” constitutional amendments to enable its application, and the formation of an independent vetting body. The focus was to assess the integrity of existing judges and recruit a new generation of judicial candidates, especially for key institutions like the Constitutional Court, the Court of Cassation and the Supreme Judicial Council.¹⁹³

Despite strong public support (one poll found that 58% of the population supported vetting judges),¹⁹⁴ the proposal was first delayed, and then sidelined, for political and legal reasons. International consultations, particularly with the Council of Europe and the Venice Commission, advised caution. Critics warned against vetting being used as a political instrument and emphasized the necessity of constitutional safeguards to ensure impartiality and due process.¹⁹⁵ This resulted in a much more tempered approach: instead of adopting the recommended procedures for comprehensive vetting, the Government decided to adopt

¹⁹¹Tosunyan, G. (2022). Հեղափոխության մոռացված խոստումներն ու ձախողված բարեփոխումները [*The Forgotten Promises of the Revolution and Failed Reforms*], [website](#); Vasilyan, S. (2019). Completing Armenia's Revolution: Transitional Justice and Judicial Vetting, [website](#).

¹⁹²Judicial and Legal System – Reforms. (2021) Supra note, Reforms [website](#).

¹⁹³*Ibid.*

¹⁹⁴*Ibid.*

¹⁹⁵Petrosyan, G. (2022). Supra note.

amendments to existing legislation that would effectively achieve some limited objectives derived from integrity checks and disciplinary proceedings.

As stated by a current judge, even if there had been political will to implement vetting inspired by international examples, such as Albania¹⁹⁶, the Armenian constitutional framework posed clear legal obstacles. The Constitution enshrines the principle of judicial irremovability and does not recognize the creation of an external vetting commission. Thus, despite the calls of some civil society and government actors to create such a mechanism, it would be highly questionable for full vetting to occur without a prior constitutional amendment. Moreover, he stated that taking a radical approach that proposed blanket removal of judges would not be legally viable or practically plausible, as it lacked procedural guarantees and would undermine the essential functioning of the judiciary.¹⁹⁷

This shift materialized with the 2020 amendments to the Judicial Code¹⁹⁸ and the Law on the Constitutional Court. These amendments created a new framework for assessing judicial integrity based on three core pillars: property status (including the legality of income, and declarations of property and assets); professional competence and adherence to human rights standards.¹⁹⁹ The Corruption Prevention Commission (CPC) was given the authority to conduct integrity checks, request sensitive financial information and initiate disciplinary procedures based on assessed action and findings of judges' conduct.²⁰⁰ Although there was an opportunity for institutional accountability, the new process of assessment lacked the original goal: transformation through vetting.

The diluted version of vetting, described by some as "soft vetting"²⁰¹ did not meet with approval from all actors. Civil society experts, such as Hasmik Harutyunyan, from the

¹⁹⁶In 2014, when Albania was granted EU candidate status, the European Union set several conditions for the country, including a vetting process. Albania amended its constitution and adopted a law on vetting, creating a special body with constitutionally equivalent status to a court, as well as another body to review disputes related to the vetting of judges and prosecutors. The policy adopted was that all judges and prosecutors would be subject to vetting in three aspects: active vetting (income, expenses, assets, etc.), identification of links to organized crime, and a qualification check. See more: Venice Commission Opinion (CDL-AD(2016)009) on the revised draft constitutional amendments on the Judiciary (15 January 2016) of Albania.

¹⁹⁷ Interview No. 1, see Annex II.

¹⁹⁸Judicial Code of the Republic of Armenia, adopted on February 9, 2018. [Official text.](#)

¹⁹⁹ Judicial and Legal System – Reforms. (2021) Supra note, Reforms [website.](#)

²⁰⁰ *Ibid*; U.S. Department of State. (2022), supra note.

²⁰¹ Tosunyan, G. (2022), supra note.

NGO "Protection of Rights Without Borders", characterised the reform as being insufficient because it lacked the ability to retrospectively and systemically review every judge, including the ones who had been involved in human rights abuses or were part of the former regime.²⁰² There were systemic limitations in how the process was designed. Although the CPC conducted hundreds of integrity checks, its findings were often advisory and could be disregarded by appointing authorities.²⁰³ Critics also noted that referencing ECHR decisions in the criteria for triggering a disciplinary investigation was not appropriate, noting that ECHR decisions usually do not clearly attribute responsibility to individual judges and thus could not be consulted as a basis for sanctioning.²⁰⁴

The SJC was at the heart of this new structure. As the constitutionally required protector of judicial independence, the SJC was responsible for adjudicating disciplinary cases brought against judges under the new code. However, as noted before, the changes to the SJC's powers also raised some concern. A 2021 amendment reduced the threshold for initiating disciplinary proceedings: whereas previously 7 of the 10 SJC members had to approve, now only 5 members were required.²⁰⁵ Opposition MPs and segments of the judiciary denounced this move as a threat to judicial independence and a means for the ruling Civil Contract party to consolidate control over the judicial apparatus.²⁰⁶ Nonetheless, the government defended these changes as necessary to prevent institutional inertia and address the legacy of “captured” institutions.²⁰⁷

The legal framework codified in Chapter 19 of the Judicial Code²⁰⁸ outlines the formal structure and processes of disciplinary liability for judges. Disciplinary liability can arise from violations of substantive or procedural law committed intentionally or with gross

²⁰²Viti, K. (2023). *Country Report – Armenia – 2015 Constitutional Reforms*. Stanford Law School, Law and Policy Lab, Policy Practicum: Redesigning the Venezuelan Judiciary (Teaching/Supervising Team: Diego Zambrano). [Website](#).

²⁰³Department of State. (2022), *supra* note.

²⁰⁴Viti, K. (2023). *Supra* note.

²⁰⁵Bedevyan, A. (2022). Դատական օրենսգրքում ՔՊ-ականների առաջարկած փոփոխությունները վերջնականապես ընդունվեցին [*The Amendments Proposed by Civil Contract Members to the Judicial Code Were Finally Adopted*]. “Ազատ Եվրոպա/Ազատություն” ռադիոկայան (Radio Free Europe/Radio Liberty), [website](#).

²⁰⁶*Ibid.*

²⁰⁷Freedom House. (2023), *supra* note.

²⁰⁸Judicial Code of the Republic of Armenia, adopted on February 9, 2018, Chapter 19.

negligence, or by violating judicial ethics and conduct. Notably, not every error in judicial reasoning is punished: the Code explicitly exempts judicial interpretations and evidentiary assessments from being grounds for punishment unless they cross the threshold of willful misconduct or gross dereliction of duty.

The process begins with reports or evidence gathered from various actors, including media reports, civil society complaints or findings from ECHR judgments. Proceedings may be initiated by several authorized bodies, the Ethics and Disciplinary Commission, the Authorized Body and the Corruption Prevention Commission, depending on the nature of the violation. When a case reaches the SJC, the judge in question receives procedural safeguards, including legal representation and the right to respond to the allegations. The SJC has the capacity to impose a wide range of sanctions, from warnings and reprimands to termination of judicial authority in cases of severe misconduct.²⁰⁹

This was a responsive accountability system rather than a preventative analysis, and it is dependent on documentation of the violations, unlike vetting, which is preventative and views situations holistically. Some legal scholars have suggested that this is a legalistic approach and similar to vetting without implementing it in its full transitional justice sense.²¹⁰ In this vein, then Minister of Justice Karen Andreasyan claimed that vetting had already “begun” through these tools,²¹¹ but many civil society actors disagreed, arguing that the government had squandered a rare opportunity to fundamentally restructure the judiciary.²¹² Former SJC member, likewise questioned the prudence of implementing a harsh vetting model. He noted that while, in principle, it is possible to create an independent commission including civil society and international representatives, doing so could provoke a collapse of judicial functionality. Based on the Albanian experience, he

²⁰⁹ *Ibid.*

²¹⁰ Petrosyan, G. (2022). *Supra note*; Tosunyan, G. (2022), *supra note*.

²¹¹ Helsinki Citizens’ Assembly–Vanadzor. (2021). *Դատական բարեփոխումների ընթացքը հետհեղափոխական և հետընտրական Հայաստանում: քննարկում [The Course of Judicial Reforms in Post-Revolutionary and Post-Electoral Armenia: Discussion]*. [Website](#).

²¹² Zargaryan, R. (2021). *Դատավորների նկատմամբ կարգապահական վարույթների հարուցումը քաղաքական հետապնդման դրսևորումներ չեն...Անդրեասյանն արձագանքում է GRECO-ին; [The Initiation of Disciplinary Proceedings Against Judges Is Not a Manifestation of Political Persecution...Andreasyan Responds to GRECO.]*. “Ազատ եվրոպա/Ազատություն” ռադիոկայան (Radio Free Europe/Radio Liberty), [website](#).

noted that mass dismissals caused considerable upheaval, courts were unable to function and were completely paralyzed. Instead, he advocated a slow and constitutionally feasible model that was more organic, identifying the financial audits and property disclosures conducted by the Corruption Prevention Commission as a "slow but real" vetting process.²¹³ Likewise, taking action to hold judges accountable for their conduct through disciplinary proceedings has also been viewed as lacking transparency, and in some cases, politically motivated.²¹⁴ One of the judges interviewed rejected the idea that disciplinary proceedings were targeting judges with a connection to the previous regime or dissenting voices. He warned not to assume that changes in personnel were politically motivated and explained that what he believed was occurring also was a generational change where older judges retired and were replaced by new professionals that had no positional link to previous political practices.²¹⁵

The question of constitutionality remained a recurring concern. Government officials, including former Minister Rustam Badasyan, argued that a full-scale Albanian-style vetting process would have required constitutional reform, which was both politically sensitive and legally complex.²¹⁶ Some argued back and insisted that there would be no problem constitutionalizing the vetting process, so long as the vetting processes at the very least would have independent commissions conduct vetting evaluations, to be followed up with the SJC making the final decisions.²¹⁷ However, in the absence of political consensus and amid recurring crises, including the war in Nagorno-Karabakh and the COVID-19 pandemic, momentum toward constitutional change faltered.²¹⁸

After these institutional changes, however, many questions remain about the effectiveness and legitimacy of Armenia's approach. Again, civil society organisations were largely unconvinced, pointing to their lack of comprehensive truth-seeking processes, and the government's failure to establish a fact-finding or truth commission, which was initially

²¹³ Interview No. 3, see Annex III.

²¹⁴ Broers, Laurence & Ohanyan, Anna (Eds.). (2020), *supra* note, pp.189-193.

²¹⁵ Interview No. 1, see Annex I.

²¹⁶ Tosunyan, G. (2022), *supra* note.

²¹⁷ Petrosyan, G. (2022). *Supra* note.

²¹⁸ Viti, K. (2023). *Supra* note; International Center for Transitional Justice | Armenia. [Website](#).

promised in the roadmap for judicial reform in Armenia.²¹⁹ Others also warned about selectivity bias, where disciplinary measures could be politicised to go after opposition-aligned judges while ignoring judges who were close to the ruling authorities.²²⁰ The GRECO report²²¹ has also raised concerns about the undue influence of the Ministry of Justice in disciplinary matters, warning of potential conflicts with principles of judicial independence.²²² Former SJC member Bekmezyan acknowledged concerns over amendments reducing the SJC disciplinary threshold from seven to five votes but argued that in practice, such numbers were only applied when attendance was low, and decisions still required a majority. Nevertheless, he recognized that the Constitutional Court later ruled the five-vote standard unconstitutional, especially in smaller councils. He also expressed skepticism about Albania's model, asserting that mass removals did not provide effective justice and created a vacuum that Armenia avoided wisely. However, he noted that while Armenia's reforms were not as radical to justify true justice, it was insufficient to rebuild public trust and appointments occasionally included individuals whose integrity was questioned.²²³

It is important to note, that the first sentence of Part 6 of Article 94 of Judicial Code regarding the adoption of decisions by the SJC to terminate a judge's powers on the grounds of a serious disciplinary violation, based on a regulation allowing such a decision to be adopted with five affirmative votes (i.e., half of the total number of SJC members) was found to be in contradiction with Article 49 (in conjunction with Article 75), Article 164(1), Articles 174(1)–(3), Article 175(1)(7) and (2) of the Constitution, by Decision No. ՍԴՈ-1780 of the Constitutional Court dated 22.04.25.²²⁴

²¹⁹ Helsinki Citizens' Assembly–Vanadzor. (2021). Supra note.

²²⁰ Zargaryan, R. (2021), supra note; Bedevyan, A. (2022), supra note.

²²¹ Zargaryan, R. (2021). GRECO-ն “մեծ հաշվով անբավարար” է գնահատում Հայաստանի իշխանություններին ներկայացված առաջարկությունների կատարումը [*GRECO Rates the Implementation of Its Recommendations to the Armenian Authorities as “Largely Unsatisfactory”*]. “Ազատ Եվրոպա/Ազատություն” ռադիոկայան (Radio Free Europe/Radio Liberty) [website](#).

²²² Zargaryan, R. (2021), supra note.

²²³ Interview No. 2 with Grigor Bekmezyan, see Annex II.

²²⁴ Constitutional Court of the Republic of Armenia. *Decision No. ՍԴՈ-1780 of the Constitutional Court dated 22.04.2025*. Original text in Armenian. [Website](#).

Armenia's struggles with vetting demonstrate the complex interplay between transitional justice, legal reform and political pragmatism. Although vetting as a concept sparked public and civil society support during the early post-revolutionary phase, its operationalization has been limited by legal-constitutional and geopolitical considerations. The government's use of disciplinary mechanisms within the Judicial Code represents a compromise, but it also brings into question the capacity of such instruments to fill the gap in integrity without triggering a constitutional crisis. However, whether such mechanisms are adequate to restore trust in the judiciary, break up well-established patronage networks, and fulfill the aspirations of the revolution is debatable and doubtful. The fate of overall judicial reform will very much hinge on the readiness of future governments to re-open the transitional justice agenda, establish genuinely independent vetting bodies, and engage in genuine dialogue with civil society and international partners on proper avenues for ensuring meaningful accountability and advancing democratic consolidation.

2.2.5. Between Reform and Reproduction: Judicial Appointment and Election after the Revolution

The judicial appointment and qualification system in Armenia has taken on a new form since the Velvet Revolution in 2018. Among the most important reforms was the modification of the systems governing the examination, appointment and promotion of judges, codified predominantly through amendments to the Judicial Code and the results of a series of decisions adopted by the SJC. These modifications aimed to increase transparency, efficiency, and accountability within the judiciary, while also addressing longstanding concerns over political interference, judicial competence, and public trust.

Prior to the 2021 and 2023 reforms, judicial appointments followed a structured process involving multiple steps. Candidates underwent a competitive written examination, an oral interview before the SJC, and, under the general procedure, mandatory professional training at the Justice Academy prior to appointment. This training applicable only to candidates under the general route was intended to consolidate theoretical legal knowledge with

practical judicial skills.²²⁵ The written and oral evaluations were meant to screen candidates' legal expertise, ethical standards, and suitability for judicial office.

The format of the written examination was initially governed by SJC Decision No. ԲԴԽ-34-Ո-91(BDKH-34-VO-91). Candidates were tested in their selected specialization: civil, criminal, or administrative law and were required to complete two legal tasks, each composed of five questions. These covered both substantive and procedural law. Although each task was evaluated for accuracy, it also evaluated the ability to engage in structured legal analysis, draw reasoned conclusions and articulate coherent legal arguments.²²⁶ All tasks were anonymized and evaluated by a commission chosen randomly from a pool of evaluators to protect the integrity and impartiality of the examination. Also, the examination tasks did not present any questions on recently adopted legislative amendments or the history of law, further focusing the examination on contemporary doctrinal and procedural law.

Though these safeguards were in place, there were serious issues that decreased public confidence in the written examination process. Documentation from the Protection of Rights Without Borders NGO (PRWB) reported that observers noted that additional, unopened versions of the examination tasks were never disclosed after the test commenced, raising concerns of pre-selection and manipulation of processes.²²⁷ Furthermore, there was a lack of transparency regarding the identity and qualifications of evaluators and no established standard for scoring the exam, which resulted in inconsistent and potentially arbitrary assessments.

In response to these criticisms and broader institutional reform goals, the SJC adopted Decision No. ԲԴԽ-73-Ո-175 (BDKH-73-VO-175) on 13 September 2021, substantially revising the format of the qualification examination. The new format shifted from open-ended legal tasks to a hybrid structure combining multiple-choice questions and

²²⁵ Judicial Code of the Republic of Armenia, adopted on February 9, 2018, Chapter 14.

²²⁶ Supreme Judicial Council of the Republic of Armenia. *Decision No. ԲԴԽ-34-Ո-91 (BDKH-34-VO-91) dated August 23, 2018*. Original text in Armenian. [Website](#).

²²⁷ Protection of Rights Without Borders NGO. (2020). *Դատավորների թեկնածուների ցուցակի համալրման որակավորման քննությունների դիտարկում [Observation of Qualification Examinations for Filling the List of Judicial Candidates]*. [Website](#).

practical legal analysis based on case scenarios. For civil law candidates, the examination included 50 questions on substantive law and 30 on procedural law, randomly selected from a secure database of 320 questions. For criminal specialization the ratio was 40/40. In both cases, the written examination consisted of legal problems that required written responses to case files that simulated real-world judicial tasks such as case file analysis and legal drafting.²²⁸ The purpose of the change was to provide consistency with the evaluation criteria and improve objectivity and remove concerns about discretion in evaluators' assessments. In all instances, the novelty of the multiple-choice questions brought concerns about the superficial assessment of legal reasoning and interpretative detail.

It is important to note that a former SJC member opposed moving to multiple choice questions because he believed they failed to reflect the complexities of judicial reasoning. He preferred the previous design where candidates drafted 'decisions' based on hypothetical scenarios, which he, in his opinion, captured a much broader view of a candidate's legal interpretation, argumentation and communication. He wanted the assessment to be a measure of true judicial reasoning and thinking, and not merely doctrinal recall.²²⁹

Conversely, another former SJC member, Bekmezyan welcomed the shift to standardization, because he felt it provided a more objective and more inclusive selection process. He indicated that the previous structure unintentionally advantaged candidates such as judicial assistants who were already familiar with preparing court decisions, but was disadvantageous for otherwise legitimate candidates who were unfamiliar with that process. The new format is likely to provide a more expanded and accurate view of legal reasoning, analytical ability, and impartiality, at least within the SJC. It likely helped reduce corruption risks associated with leaked tasks.²³⁰

Oral interviews were still a significant part of evaluating candidates. SJC decision No. ՔԴԽ-40-Ո-110 (BDKH-40-VO-110) outlined the structure and criteria of the interviews.

²²⁸Supreme Judicial Council of the Republic of Armenia. *Decision No. ՔԴԽ-73-Ո-175 (BDKH-73-VO-175) dated September 13, 2021*. Original text in Armenian. [Website](#).

²²⁹ Interview No. 3, see Annex III.

²³⁰ Interview No. 2 with Grigor Bekmezyan, see Annex II.

The oral assessments were supposed to evaluate candidates' professionalism, communication abilities, critical thinking skills, ethical judgment and psychological stability. The interviews included discussion of hypothetical legal and ethical dilemmas and were conducted with the participation of psychologists who assessed candidates' integrity and emotional intelligence.²³¹ Although the psychologists' conclusions were advisory, their involvement was regarded as a key component of the vetting process.

The Venice Commission reviewed the process for appointing judges in Armenia and raised a number of concerns. One of the primary criticisms was the absence of a formalized correlation between performance in the written examination and the outcome of the final appointment decision. The Commission noted that the SJC also has too much discretion by having a process which could allow it to favor certain candidates regardless of their examination performance. The Commission recommended that a cumulative scoring system be integrated that would incorporate both oral and written evaluation results into a single ranked outcome to ensure transparency and meritocracy.²³² The Commission commented that while the advantages of a psychological assessment were still debatable, the removal of any psychological assessment would still necessitate some type of substitute mechanism in order to protect the integrity of the selection process.

A landmark reform was introduced with the introduction of the special qualification procedure in 2023, under Article 110.1 of the Judicial Code, with the official adoption of SJC Decision No. ԲԴԽ-15-Ո-55 (BDKH-15-VO-55) on February 2, 2023. This special qualification procedure introduced an expedited, fast-track way to judicial appointment without the need for training at the Justice Academy. It was justified by the Ministry of Justice as a practical solution to staff shortages and case backlogs within the judiciary.²³³

²³¹Supreme Judicial Council of the Republic of Armenia. *Decision No. ԲԴԽ-40-Ո-110 (BDKH-40-VO-110) dated September 27, 2018*. Original text in Armenian. [Website](#).

²³²Venice Commission. (2019). *Opinion on the Amendments to the Judicial Code and Some Other Laws of Armenia* (Opinion No. 963/2019, CDL-AD(2019)024). European Commission for Democracy through Law, paras. 55-56.

²³³Muradyan, A. (2023). Դատավոր դառնալու ճանապարհը արագացվել է. Արդարադատության ակադեմիայում սովորելը պարտադիր չէ [*The Path to Becoming a Judge Has Been Accelerated: Studying at the Academy of Justice Is No Longer Mandatory*]. [Website](#).

Candidates under this route still underwent written and oral examinations, but with a substantially different structure.

The written examination under the special procedure included 60 multiple-choice questions and a reduced number of legal problems (originally 8, later revised to 4) covering civil and administrative law, procedural law, and judicial ethics. These were developed from a confidential database of 120 test questions and 16 problems.²³⁴ However, the composition of the evaluating commission was radically different; consisting of one representative of the SJC, one representative of the Judicial Department and one representative of the Ministry of Justice, no judges and no legal academics.²³⁵ This reconfiguration significantly diminished the influence of professional judicial evaluators and raised serious questions about institutional independence.

Significantly, the special procedure eliminated psychological testing altogether and excluded psychologists from the interview process. Civil society organizations viewed this change as detrimental, given that the Constitutional Court had previously ruled that psychological evaluations were necessary to identify qualities essential to judicial duties, such as integrity, responsibility, and impartiality.²³⁶

The process also introduced a narrower appeal window. Unlike the general procedure, which allowed 15 days for candidates to appeal examination results, the special procedure imposed a 5-day limit, based not on legislative amendment but on the SJC's interpretation of its own internal rules.²³⁷ In addition, monitoring organizations noted irregularities during interviews, such as instances in which candidates did not read the questions aloud so observers could not understand the context. In some cases, candidates continued working

²³⁴Supreme Judicial Council of the Republic of Armenia. *Decision No. ՔԴԽ-15-Ռ-55 (BDKH-15-VO-55) dated February 2, 2023*. Original text in Armenian. [Website](#).

²³⁵Protection of Rights Without Borders NGO. (2024, March 26). Զեկույց՝ Առաջին աստիճանի ընդհանուր իրավասության և մասնագիտացված դատարանների դատավորների թեկնածուների ցուցակի համալրման նպատակով հատուկ կարգով անցկացված որակավորման քննությունների վերբերյալ. Օրենսդրական կարգավորումներ և պրակտիկա [*Report: On the Qualification Examinations Conducted Under Special Procedure for Filling the List of Judicial Candidates for First Instance General Jurisdiction and Specialized Courts – Legislative Regulations and Practice*]. [Website](#).

²³⁶ *Ibid.*

²³⁷ *Ibid* 124.

after the examination had ended, identifying technical issues as the reason, a deviation which raised fairness concerns.²³⁸

Perhaps the most serious criticism concerned the integrity of the appointed candidates. Former SJC member Bekmezyan was concerned that the special qualification pathway had, in practice, been misused. He recalled that while he was still a Member of SJC, there were some individuals with close ties to SJC members such as their assistants who had been appointed as judges and had not completed both the full examination and necessarily compulsory training. For him, this was an indication that some, within the Council, would try to assert some sort of control over appointments, which is directly against the stated purpose of the reform: independence and a focus on merit.²³⁹

Additionally, investigative bodies found at least three individuals who were appointed through the special procedure had negative assessments from the Corruption Prevention Commission but were nevertheless approved. Specifically, in one high-profile case, the President of Armenia refused to sign the appointment decree because of the alleged political affiliations of the candidate, but the appointment went ahead regardless after the candidate's legal time limit expired.²⁴⁰ Media and civil society investigations indicated that several successful candidates were formerly employed politically sensitive or connected positions, only further heightening concerns about the politicization of appointments.

Even though the special qualification procedure was initially framed as temporary, it expanded its use in actual practice. In 2023, it had become the primary route of a judicial appointment; in total, there were seven examinations completed under this route while only two were conducted under the general procedure. Of the 28 individuals who passed the special examination, 24 were appointed judges by year's end.²⁴¹ The rapid institutionalization of this process effectively supplanted the general route and raised broader questions about the erosion of competitive, merit-based appointments.

²³⁸*Ibid.*

²³⁹Interview No. 2 with Grigor Bekmezyan, see Annex II.

²⁴⁰Protection of Rights Without Borders NGO. (2024, June 19). Արմատական և ձգձգվող քայլեր՝ շարունակական բարեփոխումների հույսով [*Radical and Delayed Steps: With Hope for Continuous Reforms*]. [Website](#).

²⁴¹*Ibid.*

In addition to procedural changes, there were also significant changes in eligibility requirements. Previously, candidates were required to be a minimum of 28 years old with a minimum of five years of legal experience, preferably in legal practice, such as defense, prosecution or academia. Reforms changed this to a minimum of 25 years old and reduced the experience to three years for those with a master's degree in law.²⁴² The Ministry of Justice described these changes as part of a generational shift to bring youth into the judiciary.²⁴³

Several experts saw these changes as reforms that would allow for a candidate pool with a broader base of applicants, especially since drawing candidates had been challenging given the rigidities of the eligibility criteria. According to one of the judges consulted during the research, the reforms were helpful in encouraging a younger generation of legal professionals to consider the judiciary, particularly a younger generation of legal professionals who were uncontaminated by the pre-revolutionary judiciary. He saw this as a way to promote independence and renewal. He recognized that the position of judge was also less attractive due to the burden of work, salary, and lack of institutional support.²⁴⁴

In contrast, one of the former SJC members criticized the reforms, arguing that it did not consider experience, and that very few judges over the age of 30 could act as judges without lots of life experience. He noted that young judges in their mid-20s or early 30s often lack the maturity to handle sensitive cases responsibly and risk issuing overly harsh judgments in an attempt to prove themselves. He suggested raising the minimum age to 30 and emphasized that legal knowledge must be complemented by personal growth and perspective.²⁴⁵

Bekmezyan took a more measured stance. While he personally may have preferred a higher age-limit, he supported the reform as a transitional measure intended to appoint individuals

²⁴²Iravaban.net. (2019). Դատավոր կարող է դառնալ 25 տարին լրացած և 3 տարվա մասնագիտական փորձառություն ունեցող անձը: Նոր նախագիծ՝ ԱՆ-ի կողմից [*A Person Who Is 25 Years Old and Has 3 Years of Professional Experience Can Become a Judge: New Draft by the Ministry of Justice*]. [Website](#).

²⁴³Badeyan, L. (2020). Նոր դատական համակարգ՝ երիտասարդ դատավորներով: լսումներ ԱԺ-ում [*A New Judicial System with Young Judges: Hearings in the National Assembly*]. [Website](#).

²⁴⁴ Interview No. 1, see Annex I.

²⁴⁵ Interview No. 3, see Annex III.

who had not yet become embedded in the previous system. However, he also pointed out that experience remained key and that the SJC needed to ensure through existing mechanisms that the SJC had a responsibility for ensuring that new appointees met an acceptable threshold of professional maturity.²⁴⁶

There was also considerable resistance from lawyers to these changes. Judge Arshak Vardanyan expressed his concerns about the low thresholds by observing that any person in their mid-20s did not possess enough professional and life experience to deal with difficult legal issues particularly within the criminal justice system, where the judge serves as the ultimate authority.²⁴⁷ For purposes of discussion, Vardanyan suggested the lower age be raised to 35 and five years of courtroom experience in prosecution or defense roles.

The Venice Commission also weighed in, stating that while it did not object to a lower threshold, the lowering of an age limit would also need to be matched with qualification requirements and clear assessment practices to adequately recognize the demands of a judicial office that young candidates could meet.²⁴⁸

Lastly, the reforms established more robust integrity criteria. Judges and their immediate relatives who reside in Armenia are now required to submit declarations for their property, income and interests. If the information in a declaration does not correspond with lawful income, the Corruption Prevention Commission has the authority to proceed with disciplinary proceedings. In addition, judges who are convicted of committing intentional crimes or serious disciplinary violations, may lose their pension benefits and other social guarantees.²⁴⁹

Concerning the future, some of the interviews noted complementary reforms to promote long term judicial independence. Bekmezyan recommended adopting a form of an "easier appointment track", for experienced legal professionals, who have practiced for decades

²⁴⁶ Interview No. 2 with Grigor Bekmezyan, see Annex II.

²⁴⁷ Arakelyan, E. (2019, November 1). Դատական օրենսգրքի փոփոխությունների նախագծում առկա են դատավորի անկախությունն ու անաչառությունը սահմանափակելու ռիսկեր. Արշակ Վարդանյան [*The Draft Amendments to the Judicial Code Contain Risks of Limiting Judicial Independence and Impartiality: Arshak Vardanyan*]. [Website](#).

²⁴⁸ Venice Commission. (2019), *supra* note, paras. 55-56.

²⁴⁹ Badeyan, L. (2020), *supra* note.

and already have established reputations. He thought that historical status and independence would make them less susceptible to corruption or political influence.²⁵⁰ Likewise, another former SJC member insisted that systematic changes were needed and which, in his view, should include allowing for plea-bargaining, a simplified/trial process and perhaps an option for alternative dispute resolution or by judicial registrars. He explained that simply adding judges will do very little to address systemic inefficiencies and that process innovations will help alleviate judicial case loads in relation to access to justice.²⁵¹

In conclusion, reforms to Armenia's judicial appointment and examination processes are complex and ongoing attempts to balance efficiency, accessibility, and integrity. While the standardization of testing processes, expanded eligibility and alternative avenues, such as a special qualification procedure, have improved administrative outputs, significant concerns remain about transparency, politicization and lasting independence from the institution. After studying the appointment processes and reviewing developments within the context of the reforms, the Venice Commission, civil society actors, and other professional associations, have repeatedly identified the need to build robust protections and meritocratic assessments. The sustainability and legitimacy of Armenia's judicial reforms will depend upon the degree to which the 2022-2026 Judicial and Legal Reform Strategy facilitates the reconciling of the conflicts described above. These developments in judicial appointment procedures underscore the critical role of institutional design in shaping judicial independence, an issue increasingly influenced by international collaboration..

2.2.6. International Collaboration and Its Impact on Judicial Reforms

Armenia's post-revolutionary judicial reform process has occurred under the close guidance and substantial support of international organizations. This collaboration has had a direct influence on the country's reform agenda, especially in areas of judicial selection, appointments, disciplinary systems and the role of the Supreme Judicial Council (SJC). The architecture and legitimacy of judicial governance in Armenia have emerged not only from domestic constitutional and political considerations but also from the strategic development

²⁵⁰ Interview No. 2 with Grigor Bekmezyan, see Annex II.

²⁵¹ Interview No. 3, see Annex III.

of partnerships with international actors that promote the rule of law, judicial independence and democratic accountability.

One of the earliest and most consistent contributors to Armenia's judicial reform has been the Council of Europe, including through its Venice Commission and Partnership for Good Governance (PGG) initiatives. The "Support to the Implementation of Judicial Reforms in Armenia" project, launched in 2019 and jointly funded by the European Union and the Council of Europe, served as a pivotal intervention at a time when post-revolutionary momentum required both technical and normative guidance. The objective of the project was to help secure judicial independence, efficiency and transparency, notably with regard to the proposed reforms of self-governing judicial bodies, such as the SJC and the General Assembly of Judges. International experts from various bodies provided the SJC input into the construction of the 2019-2023 Judicial and Legal Reform Strategy and Action Plan, assessed how Armenian reforms aligned with European standards, and supported procedural changes designed to increase public trust in judicial institutions.²⁵²

Through this cooperation, Armenia undertook reforms that strengthened the internal and external independence of the judiciary, restructured court management, and introduced innovations such as e-justice tools and alternative dispute resolution mechanisms. The Council of Europe also explicitly supported reforms to increase the professionalism and transparency of judicial appointments and disciplinary proceedings, including through the development of new procedural safeguards.²⁵³ The institutional partnerships that Armenia was able to create with European institutions encouraged, and allowed for proper alignment of Armenia's reform process with European norms surrounding the adoption of internationally accepted norms into the national perspective.²⁵⁴

²⁵²Pastinfo.am. (2019). Մեկնարկել է «Աջակցություն Հայաստանում դատական բարեփոխումների իրականացմանը» ծրագիրը [*The "Support to the Implementation of Judicial Reforms in Armenia" Program Has Been Launched*]. [Website](#).

²⁵³Council of Europe. (2019). *Partnership for Good Governance 2019-2021 (PGGII) Project: Implementation of Judicial Reforms in Armenia. Components 1 and 2*. [Website](#).

²⁵⁴Council of Europe. (2020). *Testimonials: Kristine Grigoryan, Deputy Minister of Justice of Armenia, and Ani Mkhitarian, Member of the Supreme Judicial Council, About... Comprehensive Judiciary Reform Launched in Armenia*. [Website](#).

The Venice Commission's involvement adds legal weight and legitimacy to the processes of lawmaking undertaken by Armenia. In its various opinions (CDL-AD(2019)024, CDL-AD(2020)016, CDL-AD(2022)002, CDL-AD(2022)044, CDL-AD(2024)031),²⁵⁵ the Commission considered and approved significant aspects of reform in terms of judicial governance. The Commission welcomed positive steps in the measures of judicial accountability and integrity, and any steps that enhance the transparency and merit-based nature of judicial appointments and evaluations. The Commission also offered significant critiques and recommendations, such as requiring that Armenia clarify the weight given to written examinations versus interviews in persons proposed for appointment by the SJC, in order to prevent arbitrary decision-making on the part of the SJC.²⁵⁶

The SJC's central role in disciplinary matters was also evaluated. The Commission found that the SJC, in its role as a judicial body, meets certain international standards, but it strongly suggested that there be an appellate structure for its disciplinary decisions, on the grounds that without any ability for judicial review from outside the SJC, the guarantees included in Article 6 of the European Convention on Human Rights were being compromised.²⁵⁷ This led to legislative developments introducing an internal appeal mechanism within the SJC, which, although not ideal, was accepted as a compromise under Armenia's current constitutional limitations.²⁵⁸

The Venice Commission further supported the reform of the judicial evaluation system, particularly emphasizing the need for a transparent and balanced structure that avoids overburdening first-instance judges and guards against judicial corporatism. The Commission noted that the results of the lay member involvement will, and should, enhance not undermine judicial independence, and recommend that the balance of ratios of lay to judicial member politicians be carefully recalibrated and accompanied by procedural safeguards.²⁵⁹ The result of the recommendations fed into the re-configuration of the judge

²⁵⁵ Opinions (country specific), Armenia: [Official page](#).

²⁵⁶ Venice Commission. (2019), *supra* note.

²⁵⁷ *Ibid.*

²⁵⁸ Venice Commission. (2022). *Opinion on the Draft Amendments to the Judicial Code of Armenia* (Opinion No. 1101/2022, CDL-AD(2022)044). European Commission for Democracy through Law.

²⁵⁹ Venice Commission. (2024). *Joint Opinion on the Draft Amendments to the Judicial Code of Armenia (Regarding Evaluation of Judges)* (CDL-AD(2024)031). European Commission for Democracy through Law.

evaluation system in Armenia, which is at the centre of promotion, disciplinary processes and institutional trust.

In addition to the support by the European Union institutions, the United Nations Development Programme (UNDP) was instrumental in operationalizing Armenia's judicial reforms over two phases. The first phase of the 2020-2021 "Bringing Justice Closer to People" introduced innovative technology in a merit-based, gender-responsive e-recruitment platform that provided integrated psychological testing in the judicial selection process. This platform was intended to professionalize judicial appointments and reduce political and personal influence in a historically personalistic system of appointments.²⁶⁰

UNDP support did not only include technology tools, but institutional strengthening which also included the strengthening of the SJC, Ministry of Justice and judicial bodies in relation to the reforms needed to implement appointment, evaluation processes and access to justice. These efforts were further expanded under the 2021-2022 Phase 2 project, which consolidated the use of psychological and ethical testing, trained professionals to oversee these evaluations, and supported the development of a national legal aid strategy. These measures were essential not only for improving institutional performance but also for embedding international human rights standards particularly gender equality and inclusivity within Armenia's justice sector.²⁶¹

Another key partner in the context of Armenia's reform agenda is the World Bank. The World Bank's Public Expenditure and Performance Review (PEPR) in 2023 provided an in-depth technical study of systemic issues in the judiciary. The report identified budgetary, human resource, and overall institutional constraints that would prevent serious judicial reform implementation. Significantly, it critiqued the limited authority of the SJC in budgetary planning and underlined how financial dependence compromises institutional autonomy. These findings directly relate to the reform of judicial appointments and

²⁶⁰United Nations Development Programme (UNDP). (2020). *Monitoring Action and Standard Progress Report: Support for Armenia's Justice and Rule of Law Reforms – Bringing Justice Closer to People (September-December 2020)*. [Website](#).

²⁶¹United Nations Development Programme (UNDP). (2021). *Project Document: Support to Armenia's Justice and Rule of Law Reforms - Phase 2 (Project No. 00121670-00128554)*. [Website](#).

performance systems, as under-resourced and overburdened institutions struggle to administer complex procedures like candidate vetting and disciplinary oversight.²⁶²

The PEPR also warned against superficial reforms that did not address the structural inefficiencies of the judiciary. The report called for the creation of unified systems or platforms for the purposes of ensuring adequate infrastructure, in addition to data-based case management. These recommendations were instrumental to Armenia's Strategy for Judicial and Legal Reform for the period 2022-2026, more so in the formulation of performance evaluation, recruitment procedures, and strategic human resource management within judicial institutions.²⁶³

In parallel, USAID's involvement has also targeted judicial selection and evaluation mechanisms. Since 2022, its Justice Sector Support Program has aided Armenia in reforming its judicial evaluation system by promoting objective, performance-based criteria and greater civil society engagement. USAID has worked closely with the SJC to redesign evaluation procedures, promote judicial independence, and facilitate communication strategies that bridge the judiciary and the public. These actions align with larger reform efforts focused on accountability, trust, and rights-based governance.²⁶⁴

Further, USAID has supported the establishment of legal standards which advance best international practices for judge selection and promotion, with a focus on institutional transparency and public legitimacy. These have included amending ethics and disciplinary systems and supporting people-centered justice through inclusive legal systems and improved communication with the public.²⁶⁵

Collectively, the mass influence of these international entities, Council of Europe, European Union, UNDP, World Bank, USAID, has firmly embedded itself into the legal and institutional reform processes in Armenia. The interactions with the partners have focused

²⁶²World Bank. (2023). *Supporting Judicial Reforms in Armenia: A Forward Look – Public Expenditure and Performance Review of the Judiciary in Armenia*. Governance Global Practice - Public Sector and Institutions, Europe and Central Asia. [Website](#).

²⁶³ *Ibid*.

²⁶⁴Margaryan, M. (2024). Իրավական ոլորտում բարելավումների առանցքային նպատակներից է դատական համակարգի շարունակական կատարելագործումը [*One of the Key Objectives of Legal Reforms Is the Continuous Improvement of the Judiciary*]. [Website](#).

²⁶⁵ *Ibid*.

on different dimensions of reform, from budget planning and digitalization, to psychological testing and normative alignment with European practices. What emerges from this coordinated effort is not only the external validation of Armenia's reform trajectory but also the institutional embedding of practices that directly affect judicial appointments, evaluations, and the governance of the SJC.

Importantly, this international engagement also reflected the broader geopolitical and normative aspirations of post-revolutionary Armenia. This reform agenda was not simply technocratic, but resonantly symbolic of the democratic nature of the Velvet Revolution in 2018. Thus, in reality, international collaboration provided both a tangible resource, as well as a legitimating frame for consolidating the empowerment of Armenia's transition toward a more accountable and human-rights compliant judiciary.

Nonetheless, some gaps persist, especially with regard to the consistent and sustainable operationalization of reforms. For example, although now available in principle, there are still process ambiguities and capacity constraints, including potential politicization of various levels of the SJC's decision-making, with regard to merit-based appointment mechanisms. The Venice Commission, UNDP, and World Bank have all identified concerns regarding the discretionary nature of oral interviews and the lack of transparency with the scoring process, which, at times, may compromise otherwise sound selection mechanisms.²⁶⁶

As Armenia proceeds to the new stage of judicial transformation, the ongoing involvement of the international community will be required in backing current guarantees for the rule of law and codifying a commitment to respect human rights standards throughout all levels of the judicial process. The design of appointment procedures, performance evaluations, and disciplinary accountability frameworks will increasingly intersect with the broader human rights landscape, a transition that will be explored in detail in the following chapter, which addresses the human rights implications of these reforms.

²⁶⁶Venice Commission. (2019), *supra* note; United Nations Development Programme (UNDP). (2020), *supra* note, World Bank. (2023), *supra* note.

CHAPTER III. HUMAN RIGHTS DISCOURSE IN ARMENIA'S POST-REVOLUTIONARY JUDICIAL REFORM TRAJECTORY

3.1. The Imperative for Reform and the Ongoing Challenge of Public Trust

3.1.1. Accessibility, Transparency and Public Trust in the Judiciary

The journey of judicial reform in Armenia, following the 2018 Velvet Revolution, signifies a determined effort to restructure a legacy of corruption and political influence and to establish a justice system founded on integrity, efficiency and public trust.²⁶⁷ A key goal of this initiative has been to develop public access to the courts, improve efficiency and affordability of justice, and create an inclusive system. The analysis will evaluate how institutional reforms have tried to influence these aspects, and assess their impact on public trust and transparency with a mix of national and international reports.

The need for thorough judicial reform arose from a deeply rooted public distrust in the judiciary, an institution widely seen as lacking independence and impartiality.²⁶⁸ Information from the 2019 Caucasus Barometer survey revealed that only 3% of the Armenian population fully trusted the judiciary, while 47% expressed complete or significant distrust.²⁶⁹ In response, successive Judicial and Legal Reform Strategies, including the 2019-2023 strategy and its 2022-2026 successor, explicitly targeted an increase in public confidence and the strengthening of judicial independence.²⁷⁰

However, numerous reports continued to emphasize ongoing problems such as the history of corruption, political influence and a lack of genuine independence, suggesting that reforms were finding it difficult to overcome systemic issues.²⁷¹ The Freedom House report observed that even though reforms were a primary focus, the judiciary's composition did

²⁶⁷U.S. Department of State. (2023). 2023 Country Reports on Human Rights Practices: Armenia. [Website](#); U.S. Department of State. (2022). 2022 Country Reports on Human Rights Practices: Armenia. [Website](#); Freedom House, Country Reports: *Armenia*. [Website](#).

²⁶⁸*Ibid*; U.S. Department of State. (2019). 2019 Country Reports on Human Rights Practices: Armenia. [Website](#).

²⁶⁹ Viti, K. (2023). *Supra note*.

²⁷⁰U.S. Department of State. (2019), *supra note*; Freedom House, Country Reports: *Armenia*. [Website](#); World Bank. (2023), *supra note*.

²⁷¹ U.S. Department of State. (2023), *supra note*; Freedom House, *ibid*; BTI 2024 Armenia Country Report. (2024), [website](#).

not markedly change after the revolution, with some judges reportedly maintaining loyalty to former authorities.²⁷² This disconnect between public expectation and institutional response was noted by a judge interviewed for this study. According to him, public dissatisfaction stems from the widespread expectation that, following the revolution, representatives of the previous regime would be punished for their crimes. Some members of the public had hoped this would occur swiftly and without regard for legal formalities. In contrast, the political leadership prioritized adherence to the law, insisting that accountability be ensured only through independent judicial processes based on legal grounds and evidence. The authorities were also aware that Armenia, as a member of the Council of Europe and a signatory to the European Convention on Human Rights, was obligated to conduct such processes within that legal framework.²⁷³

SJC is a key institution in the judicial system of Armenia and concerned with judicial governance, appointments, and disciplinary matters.²⁷⁴ However, the SJC has itself been subject to scrutiny regarding its independence and transparent operations. The appointment of Karen Andreasyan, a former justice minister and ruling party member, as head of the SJC in 2022 provoked questions about political neutrality and potential executive influence.²⁷⁵ Reports also pointed to internal pressure on judges from superiors, including the SJC and the selective use of disciplinary proceedings.²⁷⁶

A significant area of dispute was the initial absence of an external appeal mechanism for SJC disciplinary decisions. The Venice Commission highlighted this gap in the dismissal process in its opinion and stated to consider the development of an appeal process, perhaps at the constitutional level.²⁷⁷ In the case of *Suren Antonyan v. Armenia*, the ECHR acknowledged the SJC as a "tribunal" for the purposes of Article 6, but also acknowledged

²⁷² Freedom House. (2020). *Armenia: Nations in Transit 2020 Country Report*, [website](#).

²⁷³ Interview No. 1, see Annex I.

²⁷⁴ U.S. Department of State. (2023), *supra* note; Viti, K. (2023). *Supra* note; World Bank. (2023), *supra* note; Venice Commission. (2019), *supra* note.

²⁷⁵ Freedom House. (2023). *Armenia: Nations in Transit 2023 Country Report*, [website](#), Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report*. [Website](#), Freedom House. (2023). *Armenia: Freedom in the World 2023 Country Report*, [website](#).

²⁷⁶ U.S. Department of State. (2019), *supra* note; U.S. Department of State. (2022), *supra* note; U.S. Department of State. (2023), *supra* note.

²⁷⁷ Venice Commission. (2019), *supra* note.

recommendations of an appeal mechanism provided repeatedly by bodies of the Council of Europe.²⁷⁸ Subsequent reforms aimed to resolve this by introducing an internal SJC appeal mechanism, establishing first and second instance panels within the SJC. The Venice Commission framed an internal appeal as an "acceptable compromise" in its opinion, given the constitutional constraints for an external appeal mechanism.²⁷⁹ Despite this, as already have been noted, the same ECHR judgment found a violation of Article 6 §1 due to a lack of impartiality concerning SJC Chair Karen Andriasyan in Mr. Antonyan's specific case, emphasizing that structural reforms must be matched by impartial application.²⁸⁰ The authority of the Minister of Justice to initiate disciplinary proceedings also remained a concern, with the Venice Commission suggesting it should be phased out.²⁸¹

Efforts to improve judicial integrity were mainly focused on vetting, appointment process and evaluation of judges. The repeated need for vetting was emphasized consistently, but in practice initial integrity checks were often restricted to candidates or those seeking promotion, not all sitting judges.²⁸² The questionable nature of certain judicial appointments, such as Mnatsakan Martirosyan's case, where he came under scrutiny for politically motivated decisions and reportedly had negative integrity checks further eroded confidence.²⁸³ To create better appointments the UNDP promoted merit-based e-recruitment systems that included psychological tests.²⁸⁴ The Venice Commission also called for clarification on the role of written tests relative to interviews in the recruitment process.²⁸⁵

There has also been criticism of the current system for regularly evaluating the performance of judges. In spite of the extremely low levels of public trust, the Venice Commission noted that the Performance Evaluation Commission (PEC)-run system was ineffective and gave the impression of judicial cronyism. Nearly all judges were given consistently very positive

²⁷⁸ Suren Antonyan v. Armenia, no. 20140/23, ECHR, *supra* note.

²⁷⁹ Venice Commission. (2022). *Opinion on the Draft Amendments to the Judicial Code of Armenia* (Opinion No. 1101/2022, CDL-AD(2022)044). European Commission for Democracy through Law.

²⁸⁰ Suren Antonyan v. Armenia, no. 20140/23, ECHR, *supra* note.

²⁸¹ Venice Commission. (2022), *supra* note.

²⁸² U.S. Department of State. (2020-2023), *supra* note; BTI 2024 Armenia Country Report. (2024).

²⁸³ *Ibid*; Freedom House. (2024), Nations in Transit 2024 Country Report, *supra* note.

²⁸⁴ United Nations Development Programme (UNDP). (2020), *supra* note; United Nations Development Programme (UNDP). (2021). *Project No. 00121670-00128554*. *Supra* note.

²⁸⁵ Venice Commission. (2019), *supra* note.

evaluations. Recommendations included ensuring that the PEC has a balanced judicial majority, and that its decisions could be appealed to another external tribunal.²⁸⁶ In addition, as discussed in Chapter II, the NGO Protection of Rights Without Borders, criticized a special procedure for appointing judges, which allowed for appointments to be made without the mandatory study at the Academy of Justice, alleging that it was a way to appoint politically-connected individuals.²⁸⁷

As discussed further in the following section, the court system's growing caseload, combined with chronic underfunding and limited institutional capacity, has strained the judiciary's ability to deliver timely and effective justice. These structural deficiencies not only impede access to justice but also affect public trust, regardless of formal reforms aimed at judicial integrity and independence.²⁸⁸

Beyond efficiency, the quality of judicial acts has been called into question. Issues with the reasoning of decisions, especially at the Court of Cassation, were identified, with judgments often depending on generic phrases.²⁸⁹ Reports also showed that lower courts frequently failed to follow precedents set by higher courts or the ECHR.²⁹⁰ Judges have been routinely dismissing defendants' claims that testimony was coerced or obtained under duress. This is a continuing concern. Experts have also criticised the transparency of SJC decisions and disciplinary procedures.²⁹¹ International partners, such as the European Union, have always stressed the need for an independent, efficient, and trustworthy judiciary to help Armenia's democratic institutions.²⁹²

As part of the reforms, anti-corruption initiatives, including the creation of the Corruption Prevention Commission (CPC), the Anti-Corruption Committee (ACC), and special Anti-Corruption Courts have been significant. The Law on Confiscation of Property of

²⁸⁶ Venice Commission. (2024), *supra* note.

²⁸⁷ Freedom House. (2025). *Armenia: Freedom in the World 2025 Country Report*, [website](#).

²⁸⁸ World Bank. (2023), *supra* note; Melis, E., & Harutyunyan, N. (2023). The 5 biggest challenges to reforming Armenia's justice system. World Bank Blogs [website](#).

²⁸⁹ Petrosyan, G. (2022), *supra* note.

²⁹⁰ U.S. Department of State. (2020, 2021), *supra* note.

²⁹¹ U.S. Department of State. (2019-2023), *supra* note.

²⁹² EEAS Press Team. (2024). Armenia: Joint Press Statement after EU-Armenia Partnership Committee. [website](#).

Illicit Origin was also passed.²⁹³ While these actions indicate institutional commitment, their effect on public trust has been constrained by reports of selective application of laws and a perception that high-level corruption often remains unpunished. Public opinion polls showed ongoing skepticism about the level of corruption within the judiciary.²⁹⁴

There have been countless legislative and institutional changes, often with immense international support and influence. However, change is an evolutionary process and is rife with complexities. As mentioned previously, it is complex to achieve reformed objectives due to systemic limitations such as consistent underfunding, long-standing historical political influences, and resistance to change within the judiciary itself. While official mechanisms for accountability and integrity exist, their implementation has not yet resulted in true judicial independence or significant public trust in practice. A justice system that is genuinely accessible, effective, and trusted by the public will take time and requires sustained, comprehensive efforts in implementation, resources, transparency, and political will.

3.1.2. Legal Aid, Case Backlogs and Barriers to Accessing Justice

The practical realization of access to justice in Armenia is shaped by several interrelated challenges: the availability and effectiveness of legal aid, persistent case backlogs and delays, and structural barriers arising from chronic understaffing and limited resources. While high-level institutional reforms may seek to ensure judicial independence and integrity, these practical constraints directly affect individuals' ability to engage with the legal system, obtain timely decisions, and enforce their rights. Ultimately, such obstacles lie at the heart of the broader issue of public trust and the perceived legitimacy of the justice system. These challenges strike at the core of the right to a fair trial and equal access to justice.

A strong state guaranteed legal aid system is a fundamental means by which to ensure equitable access to justice particularly for vulnerable and marginalized groups. The UNDP played a catalytic role through its "Support to Armenia's Justice and Rule of Law Reforms"

²⁹³Viti, K. (2023). Supra note; BTI 2024 Armenia Country Report. (2024); Freedom House. (2020-2024). *Armenia: Nations in Transit, Country Report*.

²⁹⁴ *Ibid.*; Freedom House. (2025), supra note.

initiative.²⁹⁵ In its first phase the UNDP undertook a comprehensive review of Armenia's state guaranteed legal aid system, with a specific focus on the accessibility of services experienced by all women and women in vulnerable situations, including survivors of gender based violence, single mothers and so on.²⁹⁶ As a result of the review, UNDP made recommendations on reforming the legal aid system, including establishing a gender responsive legal aid framework and developing a pro bono legal aid model, as well as informing improvements to a concept paper prepared by the Ministry of Justice.²⁹⁷

The next phase of the project continued following the same trajectory to increase access to justice for disadvantaged groups, such as displaced populations.²⁹⁸ UNDP proposed structural reforms to legal aid financing and delivery, aided the Ministry of Justice to better the institutional capacities of the Public Defender's Office and the School of Advocates and to promote pro bono legal services. Moreover, a national awareness campaign of free legal aid services was created, which used targeted communications with underrepresented populations.²⁹⁹ Nevertheless, in 2022 the US Department of State reported that public defenders were often overloaded with cases, and public defenders specialized in areas such as trafficking in persons and domestic violence were not available.³⁰⁰ Outside of Yerevan there were also public defender shortages which could lead into the denial of the defendant's right to an attorney of their choice.³⁰¹ This suggests that while the initiatives sought to initiate a reform, the challenges to ensure appropriate, specialized and geographically available legal aid still loomed which affected the quality of legal representation, potentially impeding fundamentally fair judicial outcomes for many.

The most significant structural barrier to timely justice in Armenia has been the overwhelming caseload and the resultant case backlogs and delays. The World Bank's 2023 report, "Supporting Judicial Reforms in Armenia: A Forward Look," provides a stark

²⁹⁵United Nations Development Programme (UNDP). (2020), *supra* note; United Nations Development Programme (UNDP). (2021). *Project No. 00121670-00128554*. *Supra* note.

²⁹⁶ United Nations Development Programme (UNDP). (2020), *supra* note.

²⁹⁷ *Ibid.*

²⁹⁸United Nations Development Programme (UNDP). (2021). *Project No. 00121670-00128554*. *Supra* note.

²⁹⁹ *Ibid.*

³⁰⁰ U.S. Department of State. (2022), *supra* note.

³⁰¹ *Ibid.*, U.S. Department of State. (2019), *supra* note.

picture of this crisis.³⁰² From 2017 to 2021, Armenian courts experienced a staggering 43% increase in incoming cases, reaching over 292,000 cases in 2021, with courts of first instance handling the vast majority (91%). This explosion in caseloads, particularly in civil cases concerning contractual obligations and orders for payment, was attributed to procedural reforms and external shocks like COVID-19.³⁰³ Despite an increase in total case dispositions, the pending stock of cases and delays grew, signaling deep-seated inefficiencies in case management and putting timely and efficient judicial service delivery at risk.³⁰⁴ Few courts managed to achieve favorable clearance rates, placing the judiciary at risk of significant backlogs for the foreseeable future.³⁰⁵ This severe overload of judicial dockets at all levels, due to a lack of judges, was identified as one of the judiciary's most significant problems.³⁰⁶ Other major contributing factors cited were a high level of appeals due to a lack of trust in the judiciary and prosecutors' tactical approach to appealing acquittals and lower sentences.³⁰⁷ Human rights lawyers noted that some judges used the severely overloaded dockets to pressure rival interest groups by taking medical leave, leaving colleagues with an insurmountable caseload.³⁰⁸ The US Department of State's reports also highlighted that administrative courts, while having relatively more internal independence, were understaffed and faced long backlogs.³⁰⁹ Another report similarly noted that the Armenian judicial system operates in crisis mode, struggling with its approach.³¹⁰ "Delayed justice is justice denied" said one expert emphasising that going to court could not be deemed effective if, even if they prevailed, the length of the process caused more harm to the individual than the original issue.³¹¹

According to the World Bank's "Forward Look", systemic challenges to reducing the backlog included gaps in efficiency and effectiveness, lack of a national plan for backlog reduction despite increasing backlogs and ongoing court delays; long processing times

³⁰² World Bank. (2023), *supra* note; Melis, E., & Harutyunyan, N. (2023), *supra* note.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ World Bank. (2023), *ibid.*; U.S. Department of State. (2023), *supra* note.

³⁰⁶ U.S. Department of State. (2022), *supra* note.

³⁰⁷ *Ibid.*

³⁰⁸ U.S. Department of State. (2022), *supra* note; U.S. Department of State. (2023), *supra* note.

³⁰⁹ U.S. Department of State. (2019-2021), *supra* note.

³¹⁰ BTI 2024 Armenia Country Report. (2024), *supra* note.

³¹¹ U.S. Department of State. (2021), *supra* note.

hampering access to justice and public faith; minimal use of useful fast-track (simplified, expedited, orders for payment) procedures; procedural bottlenecks with stakeholders not leaning into tracking and eliminating inefficiencies.³¹² The absence of electronic case tracking, reliance on manual data collection, limited disaggregation of statistics in some instances, and a case management system that failed to facilitate statistical reports hindered effective supervision and management of the judicial unwanted workload which in turn has required SJC and courts to supervise and manage the workload through manual processes.³¹³ Suggestions within the report focused on the specifics included better collection and tracking of data, adopting planned processes for backlog reduction that are in line with the guidelines set by the European Commission for the Efficiency of Justice (CEPEJ), review SJC timeframe to substantive feasibility of court procedures, reform simplified and expedited procedures, and to gain insight into procedural obstacles, establish working groups of judges and attorneys.³¹⁴ Freedom House noted that measures were being undertaken to ease judges' overload and decrease bureaucratic burdens. However, the pervasive issue of pretrial detention as a means of punishment continued, with opposition politicians, activists, and lawyers complaining that despite the adoption of alternative methods of restraint since 2021, such as house arrest, pretrial detention remained the most prevalent practice against opposition figures.³¹⁵

These delays and backlogs are in turn the result of chronically understaffed and poorly resourced courts. The World Bank's Forward Look report stressed that compared to CEPEJ countries, the judicial system in Armenia is severely under-resourced both in terms of justice system spending as a proportion of GDP or a per capita basis.³¹⁶ Courts, particularly the first instance courts, received less funding than requested for their budgets but were able to absorb their funding despite spending it all on salaries.³¹⁷ Salaries completely dominated budgets, leaving no room for innovation, investments, repairs, or much-needed information technology upgrades. Despite being legally empowered to request budgets for

³¹² World Bank. (2023), *supra* note.

³¹³ World Bank. (2023), *supra* note; Melis, E., & Harutyunyan, N. (2023), *supra* note.

³¹⁴ *Ibid.*

³¹⁵ Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report*, *supra* note.

³¹⁶ World Bank. (2023), *supra* note.

³¹⁷ *Ibid.*

the court, the SJC had very limited influence on the final budget approval by the National Assembly, which was habitually limited by the more restrictive demands of the Government. Further, a deficit in skills of the court staff and Judicial Department to effectively plan and prepare budgets weakened the potential for strategic management of the courts and access to justice.³¹⁸

Regarding human resources, the World Bank noted that while judicial salaries were relatively high and vacancy levels low, Armenia's levels of judicial and assistant judge staffing were well below European norms, resulting in overburdened judges and high stress. In 2021, the judiciary employed more than 2,500 staff members, but there were only about 260 judges. The authors of the report suggested that the low judge population control ratio was minimally suggestive of more staff being needed, but also suggestive of the lack of various procedural filters which burden judges with small claims.³¹⁹ Also, of concern was the inability to attract and retain qualified staff, despite competitive wage increases. In fact, the working conditions made it difficult to attract applicants because of poor physical infrastructure and a complex ICT structure.³²⁰ Furthermore, only 15% of students who successfully graduated from their program selected to seek a career in the judiciary.³²¹ Other reports on Armenia's 2015 Constitutional Reforms also noted that the availability of human, financial and professional resources was limited, especially in the Ministry of Justice. This limited funding and multitude of budget staff allocation perceived failure of judicial reform efforts by some civil society experts.³²² This lack of resources was identified as an area where the international community's continued support was valuable, though criticism was leveled at this support for being overly formal and not sufficiently invested in the quality or tangible change within the Armenian judiciary.³²³

It was also noted that the court infrastructure in Armenia urgently needs rehabilitation to pave the way for a modern and independent judiciary. Among the problems noted were lack of maintenance and working courthouses that were overburdened, creating dangerous

³¹⁸ *Ibid.*

³¹⁹ *Ibid.*

³²⁰ Melis, E., & Harutyunyan, N. (2023), *supra* note.

³²¹ *Ibid.*

³²² Viti, K. (2023). *Supra* note.

³²³ *Ibid.*

working conditions that impeded timely service delivery.³²⁴ The ICT environment was viewed as too complicated and too fragmented, with seven separate systems servicing the main business processes, which resulted in either duplicative efforts or gaps. These systems run on servers located in eighteen server rooms which do not meet basic standards for data centres, including lack of a back-up location for disaster recovery and a failure to have security policies in place to secure sensitive data.³²⁵

Given the preceding analysis, it can be concluded that access to justice in Armenia is effectively blocked by combinations of insufficient legal aid for vulnerable people, severe case delays due to ever-increasing caseloads, and structural challenges arising from chronic underfunding, understaffing, and lack of appropriate infrastructure. Although many attempts have been made to reform the justice system, the analyses produced by the UNDP and the World Bank, along with the disturbing human rights reports, all report a legal system under immense pressure. These practical barriers deprive citizens of timely and effective redress, and importantly, undermine public trust in the justice system at every level. To address these real problems, there is more than legislative reform necessary; what is required is the political will to sustain a continuous commitment to real resources, both human and material, while also providing training and capacity development. In short, without such comprehensive and adequately resourced interventions, the promise of a truly accessible and efficient justice system will remain elusive.

3.2. Fair Trial Guarantees and the Rule of Law

3.2.1. Judicial Independence and Political Interference

The efficacy of judicial reforms in Armenia in improving fair trial guarantees and the rule of law depends critically on the degree of judicial independence attained and the level of political interference removed. After 2018, and as a result of numerous legislative and institutional actions aimed at advancing an independent judiciary, substantial evidence from a variety of international observers, human rights organizations, and domestic actors indicates that judicial independence remains tenuous, under continual pressure, and reliance

³²⁴ World Bank. (2023), *supra* note.

³²⁵ World Bank. (2023), *supra* note; Melis, E., & Harutyunyan, N. (2023), *supra* note.

upon a firm guarantee of rights and due process is significantly compromised. The SJC, the nature of judicial appointments, disciplinary provisions, and the surrounding political environment all play a considerable role in the exercising of that pressure.

A serving judge interviewed for this research said that there has been an unprecedented level of judicial independence since 2018 in Armenia's history. He emphasized that Armenia inherited a Soviet-style judiciary without independence as an institution, and that there were political control structures that passed muster before the Velvet Revolution and were dismantled after. His view of the evidence to support this position is the way politically sensitive cases involving persons formerly in power have been handled since then, particularly the number of cases which resulted in dismissals and acquittals, as evidence that the courts are not automatically following political decision or directive.³²⁶

The inherent right to a fair trial, as established in international human rights covenants, assumes the existence of an independent judiciary capable of resolving disputes without interference or pressure. A current judge and former SJC member offered a tempered assessment, stating that the judiciary is much more independent now. Having served as a judge for over twenty years, they noted that compared to ten or twenty years ago, the level of independence has clearly increased. They noted that after the revolution, the pace of progress toward judicial independence accelerated. In their view, the judiciary today is significantly more independent from other branches of government, even in the context of political developments and public demonstrations, and is now clearly more independent from both the legislative and executive branches.³²⁷ However, reports from the US Department of State have continued to suggest otherwise, stating that although the law provided for an independent judiciary, it was not viewed as independent or impartial due to its history of corruption and political influence, resistance to reform, and high-profile scandals.³²⁸ Similar assessments were made in the reports from the previous years, all highlighting that the judiciary did not generally exhibit independence and impartiality, with popular distrust remaining strong.³²⁹ Freedom House, in its annual reports from 2019

³²⁶ Interview No. 1, see Annex I.

³²⁷ Interview No. 3, see Annex III.

³²⁸ U.S. Department of State. (2023), *supra* note.

³²⁹ U.S. Department of State. (2019-2022), *supra* note.

through 2024, consistently asserted that Armenian courts face systemic political influence and that judicial institutions are undermined by corruption. These reports frequently noted unconfirmed attempts by the government and elements of the former regime to influence judges, creating an environment where judicial autonomy was perceived to be under threat.³³⁰ The BTI Transformation Index took this a step further, stating that checks and balances and separation of powers have not worked effectively, and in the case of Armenia, the judiciary, which is still not fully reformed, appears to be de facto completely dependent on the executive while using opposition interests, in a "murky way," to demonstrate independence from the government.³³¹

Some from within the judiciary reject these critiques, asserting that the opinions of certain organizations are heavily influenced by media outlets in Armenia, many of which are believed to be owned and funded by representatives of the former regime. According to one judge interviewed for this study, such media efforts are primarily aimed at fostering negative perceptions of the judiciary. The judge emphasized that assessments of the judiciary should be contextualized; while Armenia's system may not measure up to that of the U.S., U.K., or France, it has progressed significantly. In their view, the shift from an authoritarian past to a present in which judges make decisions they believe are correct marks a substantial improvement.³³² According to Grigor Bekmezyan, a former member of the SJC, judicial independence had improved somewhat since the revolution; this was a positive development. However, he cautioned against characterizing the judiciary as truly independent. While he noted that systemic dependence, such as centralized control previously attributed to the Court of Cassation or the Office of the President is no longer generally felt, he emphasized that judges are still not entirely free from the influence of various actors.³³³

The SJC has been a central point of concern for its vulnerability to political influence and limited effectiveness to safeguard judicial autonomy. Reports noted that key institutions were not providing the judiciary with sufficient budgetary, human resources and technology

³³⁰ Freedom House, Country Reports: *Armenia*. [Website](#).

³³¹ BTI 2024 Armenia Country Report. (2024).

³³² Interview No. 1, see Annex I.

³³³ Interview No. 2 with Grigor Bekmezyan, see Annex II.

support, and that the legal framework needed improvements to meet European standards in regards to the integrity of governing judicial institutions.³³⁴ Human rights lawyers reported cooperation between the Ministry of Justice and the SJC on disciplinary proceedings, which was seen as further undermining the independence of the judiciary from the executive branch.³³⁵ The appointment process and composition of the SJC have drawn particular scrutiny. Former SJC member, Grigor Bekmezyan emphasized the SJC's role in enabling true independence, noting that *de jure* independence has always existed, as the law clearly states that judges are independent and that all legal guarantees for judicial independence are in place. However, he argued that *de facto* independence requires a *de facto* independent SJC, since the SJC is the primary guarantor of judicial independence. He explained that any proceedings against a judge cannot exert real pressure unless the SJC allows it and that if the SJC is truly independent and protects judges, then judges will be independent from bodies seeking to pressure them.³³⁶

However, as previously discussed, the appointment of Karen Andreasyan, a former justice minister and member of the ruling party, to the SJC in October 2022 and then its head was assessed as a politically motivated act and a potential threat to the independence of the institution. This followed an earlier incident in June 2022 where the SJC Chairman, Ruben Vardazaryan, who had been suspended on charges of obstruction of justice, leaked a recording implying he was pressured by acting SJC chairman Gagik Jhangiryan to resign in exchange for not facing criminal charges, adding to the scandal and angst surrounding these events.³³⁷ The Chairman's decision in November 2024, at the Prime Minister's request, to resign along with five other senior officials, was flagged by experts as a violation of constitutional principles and a move that undermines judicial independence.³³⁸

The issue of judges facing disciplinary proceedings has been particularly contentious, with critics saying the threat is used as a weapon to extract concessions rather than as a measure

³³⁴ World Bank. (2023), *supra* note; U.S. Department of State. (2023), *supra* note.

³³⁵ *Ibid.*

³³⁶ Interview No. 2 with Grigor Bekmezyan, see Annex II.

³³⁷ U.S. Department of State. (2023), *supra* note; Freedom House. (2023). *Armenia: Nations in Transit 2023 Country Report*, [website](#), Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report. Website, Freedom House. (2023). *Armenia: Freedom in the World 2023 Country Report*, [website](#).*

³³⁸ Freedom House. (2025), *supra* note.

of accountability according to the law. The US Department of State underscored ongoing media reports on selective use of disciplinary action against “undesirable” judges, and on the lack of transparency of the Ministry of Justice’s decision to refer cases to the SJC.³³⁹ In June 2023, the European Association of Judges expressed “serious concern” over the SJC’s “abuse of disciplinary procedures as a tool to silence judges publicly expressing themselves”. An Armenian human rights organization "Protection of Rights without Borders" questioned the commencement, justification, and result of the disciplinary proceedings by the SJC as well as the disproportionality, unclear nature, and a delay that resulted in the termination of such cases.³⁴⁰

Human rights lawyers reported that some independent judges came under pressure from within the system, including from the SJC, not to issue decisions based on the merits, threats to their reputation or careers, and selective sanctioning of minor misdemeanors.³⁴¹ The SJC suspended multiple judges in 2023, which further raised concerns among rights advocates regarding possible political manipulation. SJC Chairman Andreasyan's term in office included contentious decisions regarding the appointment and dismissal of judges, with specific concerns around measures targeting judges not aligned with SJC's independence or affiliated with the previous administration, and alleged favoritism toward judges with dubious records of independence.³⁴² The Venice Commission acknowledged that the Minister of Justice’s power to initiate disciplinary proceedings was not per se inconsistent with European standards, but stated its preference for this power to be removed as soon as other mechanisms such as the Ethics and Disciplinary Commission demonstrate their effectiveness. The Commission also acknowledged the issue of a general public distrust in the judiciary and the belief that the disciplinary liability system was ineffective or far too protective of judges.³⁴³

The judicial appointment process and the vetting of judges have been central to reform efforts; yet, such processes have also been marred with charges of political interference and

³³⁹ U.S. Department of State. (2023), *supra* note.

³⁴⁰ *Ibid.*

³⁴¹ U.S. Department of State. (2021-2023), *supra* note.

³⁴² Freedom House. (2024). *Armenia: Freedom in the World 2024 Country Report*.

³⁴³ Venice Commission. (2022), *supra* note.

lack of thoroughness, thus influencing both perceived and actual independence of newly appointed as well as sitting judges. The civil society organizations repeatedly emphasized the necessity of the vetting process for all current judges, rather than limiting the process to candidates or those who want to be promoted. US Department of State reports also found that Corruption Prevention Commission integrity evaluations on judicial candidates were not made public, and the SJC itself supposedly often ignored such reports even in cases of political bias or unexplained wealth.³⁴⁴ The appointment of Judge Mnatsakan Martirosyan, publicly accused by independent experts of delivering politically motivated rulings, first as chairman of the First Instance Criminal Court in January 2023 and his earlier contentious SJC-backed nomination to the Specialized Anti-Corruption Court in November 2022 in spite of a negatively assessed integrity check,³⁴⁵ demonstrated these problems. Subsequently, the SJC took Martirosyan off the Anti-Corruption Court list on the basis of his resignation, but only after massive public outcry and the resignation of a high-profile SJC member, Grigor Bekmezyan, citing the absence of institutional independence.³⁴⁶

Additionally, in one of the reports, Freedom House mentioned Prime Minister Pashinyan's suggestion in 2019 to vet judges to remove politically biased and corrupt members, a move the Venice Commission labeled "objectionable," leading Armenia to refrain from such radical changes at the time.³⁴⁷ Another report highlighted that the Corruption Prevention Commission could not review officials from before 2017, limiting its effectiveness in ousting officials loyal to the pre-Revolution regime.³⁴⁸ The same report noted that the invasive nature of financial investigations by the Anti-Corruption Commission might raise due process and privacy concerns.³⁴⁹ UNDP's efforts to introduce merit-based electronic recruitment systems with psychological testing for judges³⁵⁰ aimed to introduce objectivity, but the systemic challenge of political will and resource constraints remained. The NGO

³⁴⁴ U.S. Department of State. (2019-2023), *supra* note.

³⁴⁵ U.S. Department of State. (2022), *supra* note; BTI 2024 Armenia Country Report. (2024); Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report*.

³⁴⁶ U.S. Department of State. (2023), *supra* note; Grigor Bekmezyan, *Resignation Announcement (original text in Armenian)*, Facebook (10 October 2022). [Website](#).

³⁴⁷ Freedom House. (2020). *Armenia: Nations in Transit 2020 Country Report*. [Website](#).

³⁴⁸ Viti, K. (2023). *Supra* note.

³⁴⁹ *Ibid*.

³⁵⁰ United Nations Development Programme (UNDP). (2020), *supra* note; United Nations Development Programme (UNDP). (2021). *Project No. 00121670-00128554*. *Supra* note.

Protection of Rights Without Borders criticized the use of a special procedure for appointing judges that bypassed study at the Academy of Justice, allegedly to install judges with political connections.³⁵¹

The overall political situation has had a pronounced effect on the judiciary's capability to operate independently. Prime Minister Pashinyan's May 2019 call for supporters to blockade the court, in response to a court decision to free former president Robert Kocharyan, has been decried by critics as an attempt to intimidate the judiciary.³⁵² The later trial of Kocharyan turned into a fundamental issue of judicial controversy, with the judges presiding over the case being harassed.³⁵³ Reports documented political confrontations within the judiciary and among government branches, such as 2019 government pressure for Constitutional Court Chairman Hrayr Tovmasyan's resignation and the 2021 indictment and suspension of SJC Chairman Ruben Vartazaryan amid tensions with the Prime Minister, demonstrating that struggles for judicial leadership continued notwithstanding reforms.³⁵⁴ Civil society actors strongly criticized the government, arguing that it failed to deliver meaningful judicial reform or implement a comprehensive vetting process by lacking human, financial and professional resources and above all, political will for structural reform, with reforms being merely formal.³⁵⁵ This perception was upheld by the BTI Transformation Index which registered the virtual one-man show of the prime minister affecting parliamentary proceedings and fostering executive hegemony, while recording minimal advancement in the rigorous vetting of judges and contentious appointments. The report further indicated instances of active governmental interference within the judiciary.³⁵⁶ The consequences of compromised judicial independence extend directly to fair trial rights, as examined in the following section.

3.2.2. Impacts on Fair Trial Rights and Broader Human Rights Protections

³⁵¹ Freedom House. (2025), *supra* note.

³⁵² U.S. Department of State. (2019), *supra* note; Freedom House. (2020), *Armenia: Nations in Transit*, *supra* note.

³⁵³ Freedom House. (2020, 2021). *Armenia: Freedom in the World 2020, 2021 Country Reports*.

³⁵⁴ Viti, K. (2023). *Supra* note.

³⁵⁵ *Ibid.*

³⁵⁶ BTI 2024 Armenia Country Report. (2024).

The judicial reforms in Armenia were designed to radically change the justice system, to increase fairness, impartiality and consistency in law and to enhance the security of human rights. The assessment that has been developed using international jurisprudence, the work of domestic and foreign human rights sector watchdogs and international organizations show a mixed and at times alarming trajectory of the impact of judicial reforms. There have been procedural and institutional improvements, but there are significant gaps that remain, and new risks have emerged that together raise questions as to how much of the reforms have meaningfully improved fair trial rights and the protection of human rights of the public.

A key standard for assessing reform impacts ultimately revolves around the trial procedural consistency and fairness. The US Department of State in its reports across multiple years finds an issue with judicial enforcement of fair and public trial, even while the constitution and laws provide for that right.³⁵⁷ A recurring and troubling matter has been the court's treatment of evidence, particularly allegations of coerced testimony. NGOs and human rights observers consistently reported to be ignored by judges, defendants would claim that a statement was coerced through physical abuse and expressed concerns over courts' reliance on evidence that defendants claimed had been obtained through duress, particularly when 'evidence' was the basis for a conviction.³⁵⁸ Such practices violate the right to a fair trial, as coerced testimony is inadmissible under international human rights standards and undermines judicial integrity. The Freedom House in its reports similarly noted that judges reportedly feel pressure to work with prosecutors to convict defendants, leading to extremely low acquittal rates, a situation that undermines the presumption of innocence and the right to a robust defense.³⁵⁹

The defendants' ability to present their case and challenge the prosecution has also been a major area of weakness. Multiple reports revealed that defendants and their lawyers had insufficient ability to challenge government witnesses or evidence from police, while courts would generally receive prosecution materials routinely.³⁶⁰ Judges were often unwilling to

³⁵⁷U.S. Department of State. (2019-2023), *supra* note.

³⁵⁸ *Ibid.*

³⁵⁹ Freedom House, Country Reports: *Armenia*. [Website](#).

³⁶⁰ U.S. Department of State. (2019, 2022), *supra* note.

challenge police experts, undermining a defendant's ability to mount a credible defense. Judicial control over witness lists, combined with the determination of witness relevance, further restricted the ability of the accused to defend themselves. This imbalance, where the prosecution had a superior position in the criminal justice system, was an issue raised on multiple occasions by lawyers and human rights observers.³⁶¹ Such a situation, by its very nature, undermines equality of arms, a necessary component of fairness in a trial.

There have also been concerns raised about the consistency and impartiality of judicial decision-making. Human rights lawyers noted that court rulings in cases with similar circumstances had become unpredictable and that rulings in certain well-known corruption cases seemed to be driven by political motives.³⁶² Public trust and legal certainty are undermined by this unpredictability and apparent political motivation. There has been no specific regime change between the current situation and the pre-Revolution government in terms of judicial practice, according to the Stanford Law School report, which cited civil society experts to highlight frustrations with the lack of systemic reform. The report suggested that changes were frequently "petty" or "formal" rather than substantive.³⁶³ The report also highlighted the views of Mr. Yeghishe Kirakosyan³⁶⁴, who pointed to Armenia's "weird grab bag" legal system, an inheritance from the Soviet Union edited with German and French features, as a source of difficulty, alongside a lack of robust legal education to shape on-the-ground actors to make reforms work effectively.³⁶⁵ The absence of a coherent legal culture and sufficient professional training has certainly had consequences for the consistency and overall quality of judicial outputs. The issue of inconsistent judicial practice was highlighted in relation to the Court of Cassation, where decisions at the admissibility stage often gave generic sentences and did not have substantial reasoning, leading to contradictions within its own case law in its role of unity of law application. The Constitutional Court itself had criticized the arbitrary practice by the Court of Cassation.³⁶⁶

³⁶¹ *Ibid.*

³⁶² U.S. Department of State. (2021-2023), *supra* note.

³⁶³ Viti, K. (2023). *Supra* note.

³⁶⁴ At the time, the Armenian Representative to the European Court of Human Rights and Deputy Chairman of the Constitutional Reforms Council.

³⁶⁵ *Ibid.*

³⁶⁶ Petrosyan, G. (2022), *supra* note.

The domestic human rights watchdogs have been prominent critics and important observers of the reform process. For example, the NGO Protection of Rights Without Borders reported on the troubling practices of judicial disciplinary liability and the use of special procedures for judicial appointments to bypass standard training for judges potentially affecting judicial quality and independence.³⁶⁷ Additionally, the BTI Transformation Index "Armenia Country Report 2024" stated that the Armenian judicial system operates in crisis mode, struggling with its approach to reform, and that the Strategy and Action Plan of Judicial and Legal Reforms (2019 - 2023) had not been properly implemented.³⁶⁸ Civil society organizations always pointed out that the failure to vet for integrity with all sitting judges compromised judicial integrity and credibility.³⁶⁹ They also pointed out that the integrity review processes were insufficient because they were not comprehensive and did not apply to sitting judges, prosecutors, or investigators.³⁷⁰ The civil society experts believed that the government had "completely failed" at judicial reform and vetting due to a lack of resources and, critically, a lack of political will for systemic change, with reforms being merely formal since 1995. They attributed much of this to a lingering Soviet culture hindering genuine democratic progress.³⁷¹

In the larger human rights narrative, these judicial failings are consequential. Human Rights Watch addresses the ill-treatment by law enforcement and infringement of freedom of assembly as human rights issues in its World Report 2023.³⁷² The BTI Transformation Index specifically discussed excessive police force used against demonstrators and journalists in its annual report, as well as the burgeoning number of criminal cases as a result of new legislation criminalizing "grave insults" of officials.³⁷³ A weak or undermined judiciary cannot properly scrutinize such abuses and cannot provide victims an effective remedy. Freedom House highlighted watchdog alarms about an increase in violence against

³⁶⁷ U.S. Department of State. (2023), *supra* note; Freedom House. (2025), *supra* note.

³⁶⁸ BTI 2024 Armenia Country Report. (2024).

³⁶⁹ U.S. Department of State. (2019-2023), *supra* note.

³⁷⁰ *Ibid.*

³⁷¹ Viti, K. (2023). *Supra* note.

³⁷² Human Rights Watch. (2023). Armenia: Events of 2022. [Website](#).

³⁷³ BTI 2024 Armenia Country Report. (2024), *supra* note.

citizens by police and other law enforcement agencies, including against lawyers at police stations, and physical and mental abuse against detainees.³⁷⁴

There are significant remaining gaps and risks to human rights in the post-reform landscape. The main risk relates to the incomplete nature of the reform and ongoing threats to judicial independence. In a situation where the judiciary is not, and does not appear to be, fully independent and impartial, the threat of politically-motivated prosecutions, and unfair trials will always be substantial, and concerns about impunity by state actors who violate human rights will encompass the entire legal profession. The ongoing use of selective disciplinary processes and appointments based on loyalty, loyalties which may not be to the rule of law, create a chilling effect on judges, particularly in terms of their willingness to make independent decisions in certain cases, thereby further undermining human rights. The evident under-resourcing of the judiciary and criminal justice system leads to extreme backlogs and overworked judges.³⁷⁵ These challenges will bear serious implications for an individual's right to trial in a reasonable timeframe, and may even compromise the quality of justice they receive.

Additionally, the lack of comprehensive and consistently applied vetting processes allows judges who have questionable integrity or records of enabling human rights violations to remain on bench, continuing a cycle of mistrust and injustice. Additionally, the shortfalls in legal aid for vulnerable groups result in disparate access to fair trial rights and therefore a two-tiered justice system.³⁷⁶ The issues of proper implementation of anti-corruption mechanisms in the judiciary and the wider public sector remain a concern, since corruption by its very nature negates the rule of law and equitable processes.³⁷⁷ The slow pace of the implementation of the judicial reform plan for 2019-2023, with only 32% of the planned

³⁷⁴ Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report*, supra note.

³⁷⁵ World Bank. (2023), supra note; Melis, E., & Harutyunyan, N. (2023), supra note.

³⁷⁶ U.S. Department of State. (2022), supra note; United Nations Development Programme (UNDP). (2020), supra note; United Nations Development Programme (UNDP). (2021). *Project No. 00121670-00128554*. Supra note.

³⁷⁷ Freedom House. (2024). *Armenia: Nations in Transit 2024 Country Report*, supra note; Freedom House. (2025), supra note.

measures being carried out on time midway through 2022 reflects the absence of consistent momentum, jeopardizing the overall reform agenda.³⁷⁸

Although the reform process in the Armenian judiciary has introduced certain structural changes and set commendable objectives in the direction of enhancing trials fairness, impartiality and consistency, its practical effect has remained limited and inconsistent. The fair trial rights continue to be compromised by chronic problems such as political interference, lack of judicial independence, procedural irregularities and widespread systemic inefficiencies. The ECHR jurisprudence, though not always directly focused on the newest reforms, highlights ongoing systemic vulnerabilities. Domestic and international human rights watchdogs consistently point to a significant gap between reform rhetoric and the reality of human rights protection within the justice system. Post-reform risks include the entrenchment of formalistic rather than substantive changes, continued political vulnerability among judges, the perpetuation of impunity for both past and ongoing abuses due to a compromised judiciary, and loss of public trust as a result of limited visible progress in justice delivery. To achieve a justice system that actually implements fair trial rights and protects fundamental human rights requires both legislative amendments and a profound cultural transformation within the judiciary, enduring political commitment to its independence, adequate resourcing and ongoing oversight by civil society and international stakeholders. Ultimately, without genuine independence, accountability and trust, the judiciary cannot serve as a meaningful guarantor of human rights in post-revolutionary Armenia.

CHAPTER IV. COMPARATIVE ANALYSIS OF JUDICIAL REFORMS IN POST-REVOLUTIONARY AND TRANSITIONAL COUNTRIES

4.1. Country Experiences in Judicial Appointments after Political or Systemic Transitions

Across the post-Soviet space and Eastern Europe, states that experienced a political upheaval or revolutionary transition faced a common imperative to reconstruct judicial

³⁷⁸ Freedom House. (2024). *Armenia: Freedom in the World 2024 Country Report*, supra note.

systems that had been historically subordinated to political power. While there is some variation among the reforms pursued by each state based on geographic and historical circumstance, more wide-reaching processes associated with European integration, international diffusion of norms and institutional borrowing had a powerful impact on the design of judicial reform and its rhetoric. Although each state's experiences differ, Georgia, Ukraine, Slovakia, Czech Republic and Armenia confronted tensions as they balanced legacies of legal culture and political interests with standard external references of judicial governance. Understanding these developments requires moving beyond surface-level classifications of success or failure and analyzing how reforms were negotiated given the complexities of structural legacies and evolving democratic expectations.

4.1.1. Georgia: Appointment Reform without Rotation of Judicial Power

The 2003 Rose Revolution in Georgia marked a crucial point in the post-Soviet development of the country, initiated by mass protests against corrupt parliamentary elections and led by Mikheil Saakashvili and a coalition of reformist leaders. The peaceful uprising forced President Eduard Shevardnadze to resign and brought in a new political elite that, at least rhetorically, promised to support democratic reform and Euro-Atlantic integration.³⁷⁹ The revolution was based on a widespread demand for accountable governance, rule of law and a real break from entrenched corruption. With considerable support from Western partners, the new government launched an ambitious reform agenda, including in the judiciary, which had been damaged by decades of governmental opacity, politicized action and elite patronage, contributing to the collapse of any public trust in the judicial process. Though the reforms that followed were promising at the outset, they would ultimately fail to achieve the deep institutional independence that was sought.

Yet, the structural conditions inherited from the pre-revolution years, in which formal institutions often disguised informal control, continued to exist in the shadows. Even dedicated to external architecture for Western style judicial models prior to 2003, Georgia's judiciary including a constitutional court and a High Council of Justice lacked level of

³⁷⁹Mkrtchyan, N. (2018). Վրացական “Վարդերի հեղափոխությունից” մինչև հայկական “Թավշյա հեղափոխություն”. համեմատական վերլուծություն [From Georgia's “Rose Revolution” to Armenia's “Velvet Revolution”: A Comparative Analysis]. [Website](#).

independence. Judges were often subservient to executive power and faced dismissal or transfer at the whim of political actors.³⁸⁰ Even with post-revolution changes that improved efficiency and reduced low-level corruption, this opened the door for a new form of elite control: now patronage networks and selective justice became embedded in judicial governance.³⁸¹ This deepened under the Georgian Dream. In 2025, MPs from the ruling party not only proposed legislation to abolish the requirement to conduct a competitive selection for non-judge members of the High Council of Justice, they passed the legislation that freshly empowered MPs to appoint directly and overtly made the capacity of legislative oversight an expression of one-party dominance.³⁸²

Initially intended as a self-governing authority meant to protect the judiciary from political meddling, the HCoJ became the centralized means through which unofficial influence and corporatism could flourish instead. The council's control over both the appointment and promotion of judges represented a continuous cycle of elite continuity. Although legislative amendments introduced between 2013 and 2021 promised increased accountability and transparency, these reforms were largely superficial. The third and fourth waves of reform even rolled back critical safeguards by abolishing term limits for members and removing restrictions on appointments from court leadership, thereby deepening the centralization of power within the council.³⁸³

Despite the post-revolution promise of cleansing the judiciary from Shevardnadze-era cronyism, the reformed appointment system did not establish mechanisms for internal rotation or foster pluralism. Instead, the judiciary came to be dominated by a cohesive group of so-called “clan judges,” a term used by domestic civil society and international observers to describe an informal network of powerful judges who exert disproportionate

³⁸⁰Dobbins, M. (2014). The Post-Rose Revolution Reforms as a Case of Misguided Policy Transfer and Accidental Democratisation. *Europe-Asia Studies*, 66(5), pp. 759-774.

³⁸¹Priya, L. (2025). State Capture and Patronage in Post-Rose Revolution Georgia: A Quiet Obstacle to Reform - Corruption In Caucasus, [website](#).

³⁸²GD Parliament Moves to Abolish Competition for Appointment of HCoJ Members. (2025). Civil Georgia [website](#).

³⁸³*Ibid.*

influence over appointments, career progression and internal governance.³⁸⁴ Judges regarded as a part of this group often experience accelerated advancement in their careers while those who are dissidents or outside this network face stagnation or marginalization. The Venice Commission has highlighted that this corporatism and the lack of transparency and contestability in terms of appointments undermine public trust and obstruct judicial independence.³⁸⁵

Non-competitive judicial appointments, while formally a rare practice, have been an abstraction in practice and demonstrate the system's distortions. Between 2017 and 2020, seventy-eight judges were appointed non-competitively. These appointments may have been made without clear criteria, publicly-justified, or transparent and enabled the Council to shield its favorite candidates from scrutiny. Georgian law details a formal multi-step process for the appointment of regular judges, including public announcement of vacancies, written applications, interviews of candidates and evaluation based on points, yet the process remains vulnerable to manipulation. Integrity is allegedly one of the criteria used to evaluate candidates, but the assessment of integrity is done outside of the scoring system, against no clear criteria on integrity or subject to appeal. In practice this means the HCoJ could justify decisions around a vague evaluative framework concerning character and excluding a candidate without any reasoning. Even when the formal process is adhered to, the ultimate appointment is dependent on a vote of two-thirds of the HCoJ, where informal relationships among powerful members largely dictate outcomes.³⁸⁶

The Conference of Judges, which is primarily responsible for electing judicial members to the HCoJ, has failed to develop rules of internal accountability or rotation. In practice, there is no real debate and nominees are elected routinely without opposition or genuine contestation. At several recent conferences, the number of candidates exactly matched the number of vacancies and almost all nominees received near-unanimous support, often without being questioned or required to present their views. These proceedings reveal the

³⁸⁴ Transparency International Geo. (2021). The High Council of Justice Continues Taking Damaging Steps for the Judiciary. [Website](#).; Transparency International Geo. (2023). Who are the new non-judge members of the High Council of Justice, and what are their connections? [Website](#).

³⁸⁵ Coalition for an Independent and Transparent Judiciary. (2023). 10 Years of Judicial Reforms: Challenges and Perspectives. [Website](#).

³⁸⁶ *Ibid.*

deep informal hierarchies within the judiciary, where decisions appear predetermined and dissent is either discouraged or structurally excluded. The rules for the composition and decision-making of the HCoJ further reinforce this dynamic. With nine of its fifteen members being judges and the decision-making requiring only a two-thirds majority to take an action, the Council can make important decisions with only one non-judge supporting its decision, significantly neutralizing civil representatives.³⁸⁷ Although, reform required an appointment of non-judge members by consensus in Parliament, these seats are commonly vacant due to political polarization further concentrating power with judge-members.³⁸⁸ While attempts to increase transparency through anonymous voting and expanded nominations in the Conference of Judges have been suggested, the structural power asymmetries have not changed. Legal enhancements allowing council members to hold consecutive terms and previous limitations on administrative-placed judges from holding council positions, have solidified cycles of elite reproduction rather than enabling turnover and institutional renewal.³⁸⁹

The consolidation of a judicial elite has drawn sustained criticism from a number of international and local actors. The Venice Commission, OSCE/ODIHR and the European Commission have stressed the necessity for comprehensive structural reform. They have even gone as far as to suggest extraordinary vetting and asset declarations for the top judicial officials,³⁹⁰ all of which were soundly rejected by both the ruling Georgian Dream Party and the judiciary itself. In March 2024, the Supreme Court and the Conference of Judges released public statements denouncing vetting as unconstitutional and a danger to judicial independence. These statements were followed by the election of candidates closely affiliated with the dominant judicial group to key positions in the HCoJ. This further consolidated control and deepened public skepticism about the seriousness of reform.³⁹¹

³⁸⁷*Ibid.*

³⁸⁸ Transparency International Geo. (2023), *supra* note.

³⁸⁹ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note.

³⁹⁰ Judicial Conference Condemns “Vetting”, Elects Two to HCoJ. (2024). Civil Georgia [website](#); Commentary around Vetting, Judiciary. (2024). Civil Georgia [website](#).

³⁹¹*Ibid.*

The selection of non-judge HCoJ members for 2023 revealed the ongoing long-term alignment of the judicial elite with the governing party. It is important to note that some of the non-judge HCoJ members had professional or personal ties to sanctioned judges as well as influential members of the judiciary, which raises concerns about their independence.³⁹² Some of the nominating organizations were shown to be disqualified and not eligible under the law to nominate candidates, yet their candidates were selected. This was a good reminder of compliance performance as well as the real lack of outside oversight. Recent legislative attempts to eliminate competition for parliamentary appointments to the HCoJ is yet another step backward. In early 2025, a ruling party proposal included amendments that allow small groups of MPs to nominate candidates to the council, avoiding any mandated competition.³⁹³ Not only does this development and others undermine prior reforms in the area but consolidates the ruling party's capacity to assemble a judiciary filled with its loyal affiliates. Observers of this activity fear that political patronage will be formally legitimized in the judiciary under the guise of these proposed changes and that independence will cease to exist.

Although Georgia's post-Rose Revolution judiciary reform program captured international approval at first, especially in the areas of anti-corruption actions and administrative efficiency, its unraveling trajectory confirms the fragile nature of institutional reform without sustainable structural protections. Reforms to appointment processes although have demonstrated commitment to the right process, but have not guaranteed transparency, competition or merit-based advancement. Instead, the lack of rotation, the absence of open deliberation and the dominance of a small group of elite actors within the HCoJ and Conference of Judges have transformed Georgia's judiciary into a monolithic, insular system resistant to external influence or internal dissent.³⁹⁴

The outcome is a judiciary that is independent in name, but in reality shaped by internal and political dependencies. The concentration of power among a few entrenched actors creates an HCoJ that functions as a mechanism of state capture, rather than an instrument of

³⁹² Transparency International Geo. (2023), *supra* note.

³⁹³ GD Parliament Moves to Abolish Competition for Appointment of HCoJ Members. (2025), *supra* note.

³⁹⁴ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note; Transparency International Geo. (2021), *supra* note.

judicial independence. The continued international censure and the delay of Georgia's EU aspirations, has been driven in large part by the failure to introduce real rotation, meritocracy and pluralism in judicial appointments. The absence of these features in judicial appointments and the continued lack of public confidence in the judiciary, risks the recovery process and alignment of Georgia's judiciary with European standards of justice and accountability.

4.1.2. Ukraine: Post-Maidan Judicial Reform and Resistance

The Euromaidan Revolution of 2013-2014, often referred to as the Revolution of Dignity, was a turning point in Ukraine's modern history. It was motivated by widespread public demands for accountability, justice and rule of law and not simply by a geopolitical or nationalistic justification.³⁹⁵ In fact, the protests that unseated President Yanukovich uncovered the deeply dysfunctional and politicized nature of Ukraine's judiciary, as courts participated to suppress the peaceful demonstrators.³⁹⁶ Following the uprising, there was virtually no public trust in the judiciary and civil society became engaged in levels unseen before, advancing demands for structural reform and accountability before the law.³⁹⁷ In this environment, there was the political and societal momentum to begin extensive judicial reform to disengage from the old regime and begin a process of restoring the credibility and legitimacy of Ukraine's justice sector.³⁹⁸

Ukraine's post-Maidan judicial reform effort is arguably the most ambitious and contentious institutional transformation among the post-revolutionary states in Eastern Europe. This effort has been characterized by extreme experimentation with legislation and institutions, extensive domestic and international engagement and resistance from powerful institutions. While the effort aimed to change judicial governance and the appointment of judicial officials, it is difficult to assess its overall impact. Structural change has been accompanied

³⁹⁵Popova, M., Beers, D. J. (2020). Judicial reform after the Euromaidan: Ukraine's rule-of-law breakthrough that wasn't. *The Journal of Post-Soviet Democratization*, [website](#).

³⁹⁶Barchuk, N., Kuzyshyn, J., Zhernakov, M. (2024). *Reforming Justice in Ukraine: Milestones, Challenges, and Strategic Priorities*. Stefan Batory Foundation. [Website](#).

³⁹⁷Nizhnikau, R., Moshes, A. (2016). Three years after Euromaidan: Is Ukraine still on the reform track? FIIA Briefing Paper 208, [website](#); Lashyn, S., Leshchyshyn, A., Popova, M. (2023). Civil society as an informal institution in Ukraine's judicial reform process. *German Law Journal*, 24, pp. 1488-1502; doi:[10.1017/glj.2023.87](https://doi.org/10.1017/glj.2023.87)

³⁹⁸ Zhernakov, M. (2017). *Judicial Reform in Ukraine: Mission Possible?* Policy Report. [Website](#).

by elements of innovation that emphasize internationalized vetting and civil society responsibility while informal political influence, institutional stagnation and distrust in the judiciary remained.

The Euromaidan uprisings evidenced citizens' strong commitment to rule of law, established through an independent judiciary. While public discourse during the revolution tended to focus on the issue of European integration and the rejection of authoritarianism.³⁹⁹ This demand was echoed by a surge in civil society mobilization, with grassroots and professional organizations such as the Reanimation Package of Reforms (RPR), the DEJURE Foundation and the Centre for Policy and Legal Reform becoming central actors in judicial reform advocacy.⁴⁰⁰ The immediate response of the post-revolutionary government under President Poroshenko was to initiate a legislative overhaul. The April 2014 Law on the Restoration of Trust in the Judiciary sought to sever ties with the Yanukovych regime by dismissing court presidents and the leadership of the High Qualification Commission of Judges (HQCJ) and High Council of Justice (HCJ), who were seen as instruments of political pressure. However, this measure had limited effect since, as on the same day the law came into force most of the presidents of courts were re-elected in their position by their peers, implying a tradition of group loyalty instead of autonomy or self-governance.⁴⁰¹

The 2015 Law on Ensuring the Right to a Fair Trial initiated ongoing reforms; shortly thereafter, amendments to the 2016 Constitution and the Law on the Judiciary and the Status of Judges, followed by the 2017 Law on the Constitutional Court. These reforms eliminated the President's power to create or liquidate courts, transferred appointment powers from the Rada to the President (on HCJ recommendation) and created a new Supreme Court with cassation chambers and a Grand Chamber tasked with harmonizing judicial practice.⁴⁰² At the time, judges were subjected to qualification assessments, which

³⁹⁹ Popova, M., Beers, D. J. (2020), *supra* note.

⁴⁰⁰ Lashyn, S., Leshchyshyn, A., Popova, M. (2023), *supra* note.

⁴⁰¹ Zhernakov, M. (2017), *supra* note.

⁴⁰² Popova, M., Beers, D. J. (2020), *supra* note; Assessment of the 2014–2018 Judicial Reform in Ukraine and its Compliance with the Standards and Recommendations of the Council of Europe, (2019). Prepared for the Council of Europe by Bachmaier Winter, L. , [website](#).

was a different process from a disciplinary one and related to issues of integrity or past conduct. Although relatively broad in scope, this process had vague standards, limited right of appeal and was challenged with accusations of politicization particularly when chairing outcomes seemed tied to political loyalty rather than merit.⁴⁰³

The creation of the Public Integrity Council (PIC) in 2016 to assist the HQCJ marked a turning point in terms of civil society involvement. Composed of representatives from NGOs, academia and media, the PIC was mandated to issue advisory opinions on the integrity and ethics of judicial candidates. However, although it held de facto veto power that the HQCJ could only override by a qualified majority, its limited access to information, lack of procedural safeguards and reputational risks to judges weakened its credibility.⁴⁰⁴ Additionally, the PIC's role in the evaluation process became emblematic of broader tensions between formal procedures and informal political influence. While civil society was overtly attempting to block certain controversial nominees such as Bohdan Lviv, a number of controversial candidates were passed and informal power networks were still operating with impunity, which revealed the shortcomings of internationalized oversight mechanisms.⁴⁰⁵

The establishment of the High Anti-Corruption Court (HACC) demonstrates yet another set of contradictions in Ukraine's reform model. In 2018, under pressure from international partners, the HACC was to be the court tasked with adjudicating high-profile corruption cases and representing international best practice. The creation of an ad hoc selection commission involving both Ukrainians and international representatives, which provide genuine veto powers over appointments to high courts and judges in the High Anti-Corruption Court, effectively institutionalized an international venture to a domestic process.⁴⁰⁶ However, the eventual compromise allowing Ukrainian nationals to serve as

⁴⁰³OSCE Office for Democratic Institutions and Human Rights. (2017). Opinion on the Law of Ukraine on the Judiciary and the Status of Judges. Opinion-Nr.: JUD-UKR/298/2017 [RJU/AT]. [Website](#).

⁴⁰⁴*Ibid.*

⁴⁰⁵Fedoriv, I., Melnyk, Y. (2024). "Maidan judges" may remain in the system. Why is judicial reform stagnating?, [website](#).

⁴⁰⁶Popova, M., Beers, D.J. (2020), *supra* note; Nekoliak, A. (2022). "Shaming" the Court: Ukraine's Constitutional Court and the Politics of Constitutional Law in the Post-Euromaidan Era. *Review of Central and East European Law*, 47(3-4), 298-321. <https://doi.org/10.1163/15730352-bja10069>

international experts under foreign endorsement raised concerns about the potential for indirect domestic capture of the process.⁴⁰⁷ Similarly, while the new Supreme Court was formed in a competitive environment, most of the new members to its chambers were retained judges from the previous court system or previous appellate judges. Only a minority of them were selected from the academic or non-judicial environment which diluted hopes of fulfilling the promise of real renewal.⁴⁰⁸ Reports that the Poroshenko regime's engagement in judicial governance meant replacing the old and loyal with new and loyal reinforced doubts about whether any replacement was taking place, as there were informal links to the executive despite being structurally insulated.⁴⁰⁹

Reforms have also been unsuccessful at the disciplinary level. Despite being charged with dealing with complaints and sanctions against judges, the independence and effectiveness of the HCJ has been gravely called into question. Between 2014 and 2017, there were over 17,000 complaints submitted, yet extremely few complaints resulted in sanctions delivered by the HCJ. Although the HCJ's disciplinary powers were restored in 2023, there were still major challenges, such as the tendency to dismiss complaints on procedural grounds and delays in high-profile cases. The enduring problem of impunity and deliberate procedural manipulation is exemplified by the case of former Supreme Court President Kniazev, who was dismissed from his position for secondary misconduct rather than accepting a bribe.⁴¹⁰

Widespread mistrust of the judiciary worsened the problem. Despite institutional and legislative improvements, Ukrainian courts continue to enjoy one of the lowest levels of trust in the world. According to a survey conducted in 2023, only 16% of participants had faith in the judiciary and 63% of them said that judicial corruption was the primary cause of their mistrust.⁴¹¹ The judiciary itself shared this lack of confidence: according to a 2015 survey, only 10% of judges thought the court was independent and nearly half felt political pressure remained as high as during the Yanukovich era.⁴¹² Some informal practices have

⁴⁰⁷Popova, M., Beers, D. J. (2020), *ibid*.

⁴⁰⁸Assessment of the 2014–2018 Judicial Reform in Ukraine and its Compliance with the Standards and Recommendations of the Council of Europe, (2019), *supra* note.

⁴⁰⁹Popova, M., Beers, D. J. (2020), *supra* note.

⁴¹⁰ Barchuk, N., Kuzyshyn, J., Zhernakov, M. (2024), *supra* note.

⁴¹¹ *Ibid*.

⁴¹² Popova, M., Beers, D. J. (2020), *supra* note.

remained following the formal reform. Nearly all judges still conflated "telephone law" with the hierarchy of respect to court chairs. Investigative reports, along with testimony from whistleblowers, have confirmed executive interference with individual cases and executive instruction to judges through political intermediaries.⁴¹³ For example, prank calls to judges by individuals impersonating presidential aides elicited deferential responses, indicating that judicial actors still perceive political influence as the norm. These dynamics undermine the rule of law and reinforce the perception that reforms were largely superficial. Although Ukraine's judicial reform was shaped by international standards and donor influence, it remains vulnerable to domestic political sabotage. Civil society's consultative role has proven critical in pressuring elites and keeping reform on the public agenda, yet it has often been sidelined in moments of political contestation.⁴¹⁴

Taken together, these points suggest that Ukraine's post-Maidan judicial reform represents the clash between the institutional modernization of the judiciary and the embedded informal political power. While internationalized vetting mechanisms, civil society involvement and legislative changes have resulted in some significant changes de jure, there remains much unreformed in terms of the substance of judicial independence. A lack of political will, meaningful safeguards in the processes of evaluation and disciplinary processes are crucial. Additionally, cultural change within the judiciary is necessary. Without these factors, reforms will at best yield only partial and reversible outcomes. Ukraine's experience illustrated the limits of external leverage and civil society mobilization in the face of systemic resistance and highlights the complex path toward genuine judicial transformation in transitional contexts.

4.1.3. Slovakia and Czech Republic: Contrasting Paths under a Shared Legal Legacy

The different paths of judicial reform in Slovakia and the Czech Republic are an interesting example of post-communist legal development. Both countries share a common legal history and political transition, following the dissolution of Czechoslovakia, but Slovakia and the Czech Republic adopted quite different models of judicial governance. Slovakia adopted the judicial council Euro-model with considerable self-governance mechanisms for

⁴¹³ *Ibid.*

⁴¹⁴ Nekoliak, A. (2022), *supra* note.

the judiciary, whereas the Czech Republic retained a ministerial model, governed by the Ministry of Justice. The differences in choices relied upon different domestic political calculations and institutional path dependencies, but crucially, different responses to Europeanization pressures.⁴¹⁵

Slovakia is an excellent illustration of how the EU has promoted judicial councils as a mechanism to guarantee judicial independence. The Judicial Council of the Slovak Republic (JCSR) was established in 2001 through a constitutional amendment and further developed by the Act on the Judicial Council in 2002.⁴¹⁶ In Slovakia, the motivation for creating distance between the judiciary and executive was heightened by the legacy of the authoritarianism of Prime Minister Vladimír Mečiar, whose government was extremely intervening in judicial appointments and court presidents.⁴¹⁷ The European Commission and the Council of Europe exerted considerable influence during Slovakia's accession process. The 1997 report by a group of experts from the European Commission and Slovakia's Ministry of the Interior explicitly criticized the lack of self-governance in the judiciary and highlighted its full dependence on the executive, particularly the Ministry of Justice.⁴¹⁸ Specific recommendations for the creation of a judicial council were the result of this pressure. Even though the Commission lacked binding legal authority, it used its political influence through monitoring reports, bilateral negotiations and accession conditions. These mechanisms acted as normative pressure, inducing reform through a transnational discourse on the rule of law, circulated via policy networks and epistemic communities.⁴¹⁹ Thus, Slovakia's institutional shift was not merely voluntary but a rational adaptation to EU accession incentives.

The establishment of the JCSR aimed to address these imbalances. It was designed to oversee all critical phases of a judge's career, including selection, appointment, promotion

⁴¹⁵Castillo-Ortiz P. (2019). The politics of implementation of the judicial council model in Europe. *European Political Science Review*, pp. 503-520; 11(4):503-520. doi:10.1017/S1755773919000298

⁴¹⁶ Farkašová, S. (2022). The constitutional reform of the Judicial Council in the Slovak Republic from the European comparative context. *Juridical Tribune*, 12(2). DOI: 10.24818/TBJ/2022/12/2.01

⁴¹⁷ Farkašová, S. (2022), *supra* note, pp. 162-172.

⁴¹⁸ *Ibid.*

⁴¹⁹ Castillo-Ortiz P. (2019), *supra* note, pp. 503-520.

and disciplinary responsibility.⁴²⁰ The Council included judicial and political nominees to balance legitimacy and independence.⁴²¹ However, the JCSR lacked legitimacy from the start, both internally and externally. In its early terms, the Council had judges form a supermajority and critics viewed this as judicial corporatism and undermining the intended balance of the model.⁴²² This imbalance provided powerful gains to an enclosed judicial elite, mostly during the presidency of Štefan Harabin, who used the Council to punish judges that disagreed with him and reward either friends, allies or party members through disciplinary procedures and financial benefits.⁴²³ Under Harabin, the Council's operations became increasingly opaque and unaccountable, with meetings moved to inaccessible locations and voting conducted in secret, effectively shutting out civil society and journalists.⁴²⁴

Even though the JCSR is, in a formal sense, fully independent and has significant competences, its functioning in practice demonstrates an alarming contradiction. Rather than serving as a safeguard against executive interference it turned into a centre of internal clientelism and concentrated power. Due to widespread allegations of corruption, selective disciplinary measures and an atmosphere of impunity among elite judges, public trust in Slovakia's judiciary remained among the lowest in Europe, despite praise from European institutions for its formal compliance with independence standards.⁴²⁵ The gap between formal structures and public perceptions highlights the limitations of institutional transplants that avoid interacting with deeply ingrained political and bureaucratic cultures.

The Czech Republic, on the other hand, continued to use a Ministry of Justice model of judicial governance, which included limited institutional innovation after 1993 and a significant role for court presidents. This continuity resulted from a deliberate political choice to preserve the First Czechoslovak Republic's institutional heritage. Czech reformers framed judicial stability as a defence against populist capture and politicisation, placing a

⁴²⁰ Čuroš, P. (2021). Panopticon of the Slovak judiciary - Continuity of power centers and mental dependence. *German Law Journal*, 22, pp. 1247–1281. Cambridge University Press; doi:10.1017/glj.2021.62

⁴²¹ Farkašová, S. (2022), *supra* note.

⁴²² *Ibid.*

⁴²³ Kosař, David, (2016), *supra* note.

⁴²⁴ *Ibid.*

⁴²⁵ Čuroš, P. (2021), *supra* note.

higher priority on legal continuity than rupture.⁴²⁶ Political opposition, constitutional limitations and internal judicial opposition all contributed to the failure of attempts to create a judicial council in accordance with European standards.⁴²⁷

The Czech judiciary also drew its traditions from the Germanic legal system. In fact, many Czech legal elites viewed an Italian-style judicial council as foreign and inconsistent with their legal culture.⁴²⁸ Attempts to implement a judicial council, such as the proposal by Minister Otakar Motejl in 2000, failed in Parliament due to concerns of judicial corporatism, a lack of consensus among the judges and a fear that it would create an unaccountable and separate elite in the judiciary.⁴²⁹ Resistance also stemmed from the political necessity of amending the Constitution, which lacked sufficient support even within Motejl's own party. Judges themselves, particularly court presidents who stood to lose influence, opposed the reform. As Bobek and Kosař noted, if the model had been framed as a choice between the German/Austrian model and the Italian one, rather than the German model versus a so-called European standard, Czech lawmakers might have reacted differently.⁴³⁰

The Czech system features a professional career judiciary with ministerial oversight, where judges are appointed by the President of the Republic based upon the Minister of Justice's recommendations and in coordination with court presidents.⁴³¹ Court presidents hold significant influence over promotions, discipline and assignments. Their institutional knowledge and long tenure often outlast ministers, allowing them to resist political shifts.⁴³²

Despite lacking a judicial council, the Czech judiciary has achieved comparatively high levels of perceived independence. Surveys show that a majority of the population and legal professionals view the judiciary as independent and Czech courts rank favorably in the European Court of Human Rights compliance and efficiency of proceedings. The

⁴²⁶ Kosař, David, (2016), *supra* note.

⁴²⁷ Castillo-Ortiz P. (2019), *supra* note, pp. 503-520.

⁴²⁸ *Ibid.*

⁴²⁹ Kosař, David, (2016), *supra* note.

⁴³⁰ Castillo-Ortiz P. (2019), *supra* note, pp. 503-520.

⁴³¹ Pouperová, O. (2024). An Introduction to the Czech Legal System and Legal Resources Online - GlobaLex. [Website](#).

⁴³² Democracy Reporting International. *Czechia*. The Judiciary Hub. [Website](#).

decentralized and informal structural organization of judicial governance, combined with oversight and pressure from advisory bodies such as judicial boards and selection committees, has created a measure of self-regulation and protection against political interference, even if sometimes the processes were unclear.⁴³³ This result raises doubts about whether judicial councils are the sole or even best way to develop judicial independence. The Czech case suggests that a ministerial model, even with parallel centralized authority in the Czech Ministry of Justice, seems sustainable when embedded in a stable bureaucratic culture and tempered by informal mechanisms of accountability. Further, the Czech judiciary has demonstrated a greater willingness to accept public scrutiny and has shown less tolerance for internal abuses than Slovakia through the JCSR, which has at times protected internal misconduct on the basis of independence.⁴³⁴

The contrast between Slovakia and the Czech Republic also emphasizes the selective application of Europeanization. This highlights how differing EU engagement led to varied outcomes in judicial independence, despite similar starting points. While the EU exerted pressure on Slovakia to adopt the judicial council model, they tolerated the Czech Republic's adoption of the ministerial model, likely due to the higher initial level of perceived judicial independence and less political turmoil in the Czech Republic.⁴³⁵ That inconsistency serves as an example of deeper dysfunctions in EU rule of law promotion where the actual process favors the formal processes of compliance rather than deep 'substantive' changes. In fact, in Slovakia, EU pressure helped codify an inadequate model that provided impunity for elites but did not provide any real accountability.⁴³⁶ Ultimately both systems legitimized court presidents as the *de facto* principal in the judiciary, even if one with a missing formal structure. In Slovakia, the JCSR's intended check on executive authority was captured by a few powerful judges who manipulated disciplinary mechanisms for personal and political purposes. In the Czech Republic court presidents controlled personnel decisions under upheld management prerogative as influenced by court presidents decision making, securing the legal career path while recreating preferred

⁴³³ *Ibid.*

⁴³⁴ Kosař, David, (2016), *supra* note.

⁴³⁵ Castillo-Ortiz P. (2019), *supra* note, pp. 503-520.

⁴³⁶ Kosař, David, (2016), *supra* note.

internal hierarchy.⁴³⁷ This convergence of both systems demonstrates the inability of structural reform created without cultural and normative development within the judiciary that diverges from established internal hierarchies.

The comparative analysis of Slovakia and the Czech Republic demonstrates how institutional design alone cannot guarantee judicial independence and accountability. The Slovak case illustrates how the Euro-model of judicial councils, if it is implemented without appropriate safeguards and sincere political will, can be captured by judicial elites to lock in their informal networks of power. The Czech case shows that a ministerial system can result in stability and integrity if there is an unofficial system of checks and balances, transparency and the capacity to resist executive overreach, despite having a more conservative institutional framework.

These findings recommend that the international community exercise caution in continuing to advocate for judicial councils as a tool for post-authoritarian or transitional states. The transplant of Western institutional models to different legal cultures can have unforeseen consequences, especially in contexts where the internal logic of judicial governance is driven by bureaucratic inertia and legacy elites and where public trust is low. Thus, in order to achieve significant gains in judicial independence and accountability, reform initiatives must go beyond structural replication and involve a deeper engagement with local institutional cultures, incentives and informal power dynamics.

4.2. Comparative Reflections on Judicial Reforms in Transitional States

4.2.1. Common Patterns and Challenges

Judicial reform in transitional states is mostly dictated by public expectations of integrity and accountability following a time of political rupture. With a commitment to independence and transparency being used as a rhetorical tool, we examined the processes of judicial appointment and disciplinary governance in Armenia, Georgia, Ukraine, Slovakia and Czech Republic, to highlight the some of the major issues affecting judicial systems in these countries, most notably: elite continuity, anonymity in selection

⁴³⁷ *Ibid.*

mechanisms, the tensions between outside imposition of judicial independence and the realities faced from domestic politics.

A consistent barrier to transformative reform has been the continuing presence of entrenched elites in judicial institutions. Armenia's post-revolutionary efforts to renew the judiciary faced resistance within the Supreme Judicial Council (SJC), which though restructured with equality in judicial and parliamentary nominees, quickly became a site of political conflict. Early resignations and internal disagreements revealed issues of informal interference and disproportionate influence of non-judicial members.⁴³⁸ Similarly, the High Council of Justice (HCoJ) in Georgia followed a similar path. Following the Rose Revolution, the HCoJ was designed to protect the judiciary from political influence but quickly became dominated by a solid "clan of judges," gaining excessive influence over both appointments and promotions.⁴³⁹ As both Armenia and Georgia lacked rotational management or real competition, both countries ultimately repurposed institutional reforms as current elites maintained influence within new legal structures.

Ukraine's post-Maidan experience differs significantly in scope but reveals similar structural challenges. With a rich civil society participation dynamic and international backing, Ukraine established integrity institutions like the Public Integrity Council (PIC) and the High Anti-Corruption Court. These instigated a new set of expectations. However, the intended effects of the reforms were undermined by the PIC's limited authority, politically connected judges and unclear criteria.⁴⁴⁰ Armenia, similarly, did not have a full-scale integrity review, because of political and constitutional constraints and therefore chose to implement partial reforms that lacked systemic depth.⁴⁴¹ Both countries feared destabilizing the judiciary, so reforms were often more performative than innovative

Slovakia accepted the judicial council model under pressure from its EU accession. The Judicial Council of the Slovak Republic (JCSR) was established to supervise judicial appointments, promotions and disciplinary proceedings. However, the JCSR became a

⁴³⁸ See Section 2.2.3 of Chapter II for a detailed discussion of the internal challenges within the Supreme Judicial Council.

⁴³⁹ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note.

⁴⁴⁰ OSCE Office for Democratic Institutions and Human Rights. (2017), *supra* note.

⁴⁴¹ See Section 2.2.4 of Chapter II.

center for internal clientelism, where disciplinary proceedings served to silence dissent, rather than promote responsibility.⁴⁴² The same difficulties were faced by the SJC in Armenia when it was accused of political interference, lack of accountability through procedural transparency and disciplinary proceedings being selectively enforced.⁴⁴³ Although judicial councils may be designed to insulate the judiciary from political interference, in practice they can concentrate power among internal elites with insufficient accountability mechanisms.

Another cross-cutting issue is the lack of transparency in appointments and disciplinary processes. In Armenia, as noted, written and oral examinations were revised after the 2018 revolution largely to increase transparency but significant concerns still exist regarding subjective evaluation, not adopting standardized scoring and the politicization of fast-track appointments through special procedures.⁴⁴⁴ Georgia encountered similar issues and the HCoJ's criteria for evaluating judges' integrity were vague and non-appealable, by virtue of this, the HCoJ could make decisions behind closed doors.⁴⁴⁵ Ukraine's situation also reflected this tension: there were formal methodological procedures related to qualification assessments, yet outcomes were frequently connected to political loyalty as opposed to merit.⁴⁴⁶ The disciplinary processes similarly lacked impartiality and procedural safeguards. In Armenia, vague criteria and political interpretations limited enforcement,⁴⁴⁷ while Georgia and Slovakia used disciplinary processes to suppress dissent in the judiciary.⁴⁴⁸ These problems consistently weakened institutional legitimacy and accountability.

Ultimately, all five countries show varying degrees of institutional fragility and public mistrust. In Armenia, repeated crises within the SJC, the appointment of controversial members and limited follow-through on transitional justice measures has undermined public trust in the SJC and broader judiciary.⁴⁴⁹ In Georgia and Ukraine, civil society is still

⁴⁴² Kosař, David, (2016), *supra* note.

⁴⁴³ See Section 2.2.3 of Chapter II.

⁴⁴⁴ See Section 2.2.5 of Chapter II.

⁴⁴⁵ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note.

⁴⁴⁶ OSCE Office for Democratic Institutions and Human Rights. (2017), *supra* note.

⁴⁴⁷ See Section 2.2.4 of Chapter II.

⁴⁴⁸ Transparency International Geo. (2021), *supra* note; Kosař, David, (2016), *supra* note.

⁴⁴⁹ See Section 2.2.3 of Chapter II.

active but increasingly frustrated with repeated criticism of superficial reforms and recurring elite consolidation.⁴⁵⁰ Even in Slovakia's case, which was seen previously as a better performer in following the formal compliance steps of European standards, public trust in the judiciary ranks one of the lowest levels in the region.⁴⁵¹ Czechia is the only country with a more stable bureaucratic tradition and lower levels of political volatility, thus somewhat in a unique position in comparison to the rest. Relatively stronger public perceptions of judicial independence is still problematic due to lack of internal rotations and concentration of influence within court leadership.⁴⁵²

4.2.2. Institutional Differences in Judicial Reform Approaches

The design of judicial governance institutions shapes the credibility and durability of judicial reform. While Armenia adopted a hybrid judicial council model after the Velvet Revolution, the experiences of Georgia, Ukraine, Slovakia and Czech Republic offer a wide spectrum of institutional arrangements with differing implications for independence, accountability and resilience. The comparative outcomes indicate that the institutional form in itself does not dictate outcomes; rather it is the interplay of structure, political culture and accountability mechanisms that shapes reform outcomes.

Armenia's model of governance presently rests on the SJC, which is enshrined in the constitution and comprises five members chosen by Parliament and five members chosen by the General Assembly of Judges. Despite this balance, the SJC has faced growing criticism for politicized appointments, unclear integrity criteria and the use of special procedures that bypass open competition.⁴⁵³ These flaws show that judicial independence and pluralism are not always ensured by institutional symmetry.

Georgia and Ukraine implemented the Judicial Council with different paths. Georgia, as highlighted, has the HCoJ that is constitutionally independent and controls appointments, promotion and disciplinary processes. However, its internal operation has been captured by a small elite of “clan judges” who dominate appointments through non-competitive

⁴⁵⁰Commentary around Vetting, Judiciary. (2024), *supra* note; Barchuk, N., Kuzyshyn, J., Zhernakov, M. (2024), *supra* note.

⁴⁵¹ Čuroš, P. (2021), *supra* note.

⁴⁵² Democracy Reporting International. *Czechia*; *supra* note.

⁴⁵³ See Section 2.2.5 of Chapter II.

procedures and manipulate integrity assessments.⁴⁵⁴ Although procedural reforms were introduced after 2013, they failed to prevent the consolidation of internal power and non-transparent voting practices persist. The lack of real contestation in judge-elected council members has entrenched corporatism and undermined judicial accountability. Conversely, Ukraine underwent much more extensive structural changes after the 2014 Revolution of Dignity. The HCJ and HQCJ were redesigned to also encompass civil society oversight and external actors. The establishment of the PIC to assess integrity of the candidates, along with the inclusion of international officials in vetting processes, including the High Anti-Corruption Court indicated a commitment to improve legitimacy.⁴⁵⁵ Even with this internationalized governance model, problems remained. Political sabotage, procedural difficulties and the selective implementation of integrity assessments weakened the effectiveness and key bodies like the HCJ often did not take action to address misconducts.⁴⁵⁶

Slovakia is a cautionary example of formal compliance concealing internal capture. The JCSR was a mechanism to enhance independence through a measure of balance in appointments between judges and other state actors. In practice, however, we quickly saw judicial corporatism emerge.⁴⁵⁷ Again, this represents that a formal balance of powers, internally working to protect a democratic state, is vacant without safeguards of internal independence, transparency and accountability. In contrast with all the countries mentioned above, the Czech Republic did not follow the judicial council model and instead retained a ministerial process where the Ministry of Justice and court presidents are heavily involved in appointments. While the Czech model has been criticized for being too conservative, it has maintained comparatively high levels of public trust in the judiciary and a relatively reliable, rule-based appointment and oversight process.⁴⁵⁸ The example of the Czech Republic complicates the presumption that judicial councils are inherently more democratic or effective. Armenia, inspired by European best practices, developed a balanced council

⁴⁵⁴ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note.

⁴⁵⁵ Nekoliak, A. (2022), *supra* note.

⁴⁵⁶ Barchuk, N., Kuzyshyn, J., Zhernakov, M. (2024), *supra* note.

⁴⁵⁷ Kosař, David, (2016), *supra* note.

⁴⁵⁸ Democracy Reporting International. *Czechia*; *supra* note.

design model, but the experience of the Czech Republic suggests that adapted models can develop stronger sustainable independence when embedded in stable and established bureaucratic cultures.

Having introduced written and oral examinations, integrity checks and evaluations of performance in Armenia was an improvement.⁴⁵⁹ The provision of fast-track alternatives, including a special system of qualification, raised concerns that it would allow legitimate merit-based competition to be avoided. The SJC's internal controls sometimes lacked even the most basic, on paper, form of reason-giving, right to appeal and independent review, which resembled what existed in Georgia.⁴⁶⁰ In Ukraine, contrary, the procedures were more clearly defined and the assessed results were sometimes no worse for nominees with stronger political connections to the appointing authority, which still featured many problematic appointments across the board.⁴⁶¹ Slovakia's early appointment processes were dominated by loyalty rather than merit, while Czechia benefited from relatively predictable criteria and peer involvement. This comparison highlights that formal mechanisms are not enough and without clear safeguards, transparency and external checks, appointment systems can reproduce rather than challenge elite dominance.

Disciplinary frameworks represent another aspect of institutional differences. Unlike the centralized and often politicized disciplinary councils in Armenia, Georgia and Slovakia, the analysis has shown that Czechia's decentralized system, which relies on court presidents and internal oversight boards, has resulted in relatively more consistent and impartial disciplinary outcomes. This shows that decentralized systems, when backed by stable administrative cultures, can sometimes deliver more accountability than centralized councils inclined to internal capture.

4.2.3. Lessons for Armenia's Reform Development

Armenia's post-revolutionary judicial reform efforts were born out of a democratic transition that raised strong expectations for independence, accountability and the dismantling of systemic corruption. As the preceding comparative analysis has shown, the

⁴⁵⁹ See Section 2.2.5 of Chapter II.

⁴⁶⁰ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note.

⁴⁶¹ Fedoriv, I., Melnyk, Y. (2024), *supra* note.

experiences of Georgia, Ukraine, Slovakia and Czechia reveal that institutional design, while important, cannot substitute for political will, cultural alignment and procedural legitimacy. The path of reform in Armenia shows some positive progress but also exists in a fragile state. It is important to understand these regional contrasts to develop a lasting and contextual based judicial governance system.

A first lesson is that judicial governance models must be tailored to the domestic context. The SJC in Armenia was intended to shield appointments and discipline from political manipulation. While this makes sense from a comparative European perspective, in practice it was subject to some of the same challenges found elsewhere with regards to accountability. In the case of Slovakia's Judicial Council, which was established under considerable pressure from the EU, became a mechanism for elite consolidation due to weak safeguards.⁴⁶² There were also criticisms of the SJC with respect to politicized appointments and disciplinary powers, as well as the internal feuding.⁴⁶³ As has been seen in the Czech case, judicial independence can be sustained without a judicial council, provided that the surrounding administrative and legal culture is resistant to political interference.⁴⁶⁴ For Armenia, this does not imply abandoning the council model, but rather strengthening it through clearer appointment procedures, increased pluralism and strong safeguards against internal capture.

Another crucial area to consider is the availability of competitive and transparent selection procedures. By implementing written and oral exams, integrity checks and evaluation standards, Armenia has made some progress in this area since 2018.⁴⁶⁵ But there are also concerns related to the rapid procedures and inconsistent vetting methods. It is important to note, that the High Council of Justice in Georgia allowed non-competitive selections and used integrity criteria to justify decisions,⁴⁶⁶ while the reforms in Ukraine, although did include civil society and international partners, had difficulties ensuring that the standards were applied consistently.⁴⁶⁷ These examples illustrate that vague criteria, lack of

⁴⁶² Kosař, David, (2016), *supra* note.

⁴⁶³ See Section 2.2.3 of Chapter II.

⁴⁶⁴ Democracy Reporting International. *Czechia*; *supra* note.

⁴⁶⁵ See Section 2.2.5 of Chapter II.

⁴⁶⁶ Coalition for an Independent and Transparent Judiciary. (2023), *supra* note.

⁴⁶⁷ OSCE Office for Democratic Institutions and Human Rights. (2017), *supra* note.

accountability or political interference can undermine even detailed frameworks. Armenia should ensure that not only are its procedures formalized, but they are also reviewable, merit-based and free from informal influence.

The experience of presented countries underscores the importance of addressing elite continuity as a core aspect of judicial reform. The SJC in Armenia has encountered concentrated influence, limited institutional rotation and a series of resignations connected to internal power dynamics.⁴⁶⁸ Preventing corporatism requires ensuring regular turnover, inclusive nomination procedures and transparency in all stages of decision-making. Otherwise, judicial self-governance may turn into an insulated hierarchy, alienating both the public and reform-minded actors. That said, Armenia has not been without progress. Post-2018 reforms have introduced genuine improvements: standardized evaluation criteria, clearer bases for disciplinary action in the newly revised Judicial Code and increased space for judges to engage in public discussion about issues concerning them. Appointment and institutional design discussions were more transparent and even judicial actors have shown greater sensitivity to public legitimacy. These shifts represent a significant change from the pre-revolutionary period defined by ambiguity and impunity. However, as recent events demonstrated, public trust has been decreasing as a result of controversial appointments, delayed reform strategy implementation and internal tension within the SJC. The experiences of Georgia and Ukraine serve as a warning that if procedural safeguards are not institutionalised, early gains may be undone. Armenia needs to prioritize public engagement, ensure inclusive deliberation in appointments and discipline and reinforce accountability mechanisms that can be publicly scrutinized and legally challenged.

The proper execution of disciplinary procedures is particularly crucial. Although Armenia introduced procedural clarity through its Judicial Code, serious concerns persist around selective enforcement and lack of impartiality.⁴⁶⁹ The dangers of unclear recusal standards and conflicts of interest was also underlined. Comparative experience shows that disciplinary mechanisms are often the first to be politicized and the hardest to reform. Armenia's challenge is to design a system that enforces integrity while safeguarding against

⁴⁶⁸ See Section 2.2.3 of Chapter II.

⁴⁶⁹ See Section 2.2.4 of Chapter II.

misuse for political or internal control. In order for Armenia's reforms to endure, they must be continually reinforced and supported through institutional commitment. If only part of the Judicial and Legal Reform Strategy is implemented, as was the case from 2019-2023, it can lead to reform fatigue. A long-term vision must incorporate continuing investments in legal education, professionalism of judges, transparent promotion and evaluation and a larger cultural shift toward accountability. Independence should be guaranteed, not only in law, but also built into the daily functioning of the judiciary through performance, responsiveness and legitimacy.

The above discourse reveals many areas of concern, but also presents many opportunities, in regard to Armenia's reform journey. The shortcomings of judicial councils as noted in other jurisdictions show that without meaningful accountability, formal models are insufficient. However, the qualified successes in the areas of institutional pluralism and competitive appointments illustrate that there is a path forward for reform. The challenge now for Armenia is to build upon their reforms with clear procedures, sustained public trust and a judiciary that earns its legitimacy through independence, professionalism and fairness.

CONCLUSION

This thesis examined how judicial appointment mechanisms and the structure of judicial councils affect judicial independence in post-revolutionary and transitional contexts with Armenia as its primary case study. It asked whether the post-2018 reforms undertaken in Armenia produced a judiciary that is not only formally independent, but is also trusted, competent and institutionally strong. The findings suggest that while Armenia has made notable legal and structural changes since the Velvet Revolution, its path to a genuinely independent and publicly credible judiciary remains incomplete. The substantive reforms to judicial appointments and changes in judicial councils, though normatively aligned with international models, have created another set of challenges regarding professional maturity, institutional legitimacy and the distinction between judicial self-governance and democratic accountability.

One of the central themes of this thesis has been the transformation of Armenia's judicial appointment system, especially following amendments to the Judicial Code that lowered the age threshold and introduced multiple-choice testing as the core method of evaluation.⁴⁷⁰ These changes were aimed at increasing accessibility and depoliticizing appointments. However, evidence from interviews and the practical realities indicate that these changes prioritized accessibility at the expense of quality. Many of the appointees were not part of the former regime, but some lacked the experience or maturity level required of a judge. Some of the interviewees were concerned that the newly appointed judges, particularly those in their twenties and early thirties, were not sufficiently equipped to deal with the ethical and professional obligations of the bench.⁴⁷¹ The initial expectations that generational turnover would resolve entrenched problems, were tempered with the realization that achieving institutional continuity and judicial culture requires more than legal or technical change.

The move to standardized testing improved transparency; it removed drafting tasks that were subjectively made. But it also rejected candidates with longer legal careers like defense attorneys, academics or public interest lawyers who can show ethical and analytical competence but lack formal preparation for the exam format. Moreover, the introduction of an expedited, interview-based appointment route, used in some cases to bypass written exams, undermined the integrity of the system and gave rise to renewed concerns about favoritism and informal influence.⁴⁷² These findings suggest that in addition to being impartial and open, judicial appointments must also represent the independence, diversity, and skill required for the judiciary to be trusted by the public.

The Supreme Judicial Council (SJC), the organization responsible for judicial appointments, promotions and discipline was also important to this research. The SJC's composition, half judges, half appointed by Parliament, was intended to reduce corporatism, while introducing some degree of democratic oversight, however, the questions were raised as to whether it has achieved its stated purpose. Some viewed the

⁴⁷⁰ Supreme Judicial Council of the Republic of Armenia. *Decision No. ԲԴԽ-15-Ո-55 (BDKH-15-VO-55) dated February 2, 2023*. Original text in Armenian. [Website](#); Badeyan, L. (2020), *supra* note.

⁴⁷¹ See Annex I and Annex III.

⁴⁷² Interview No. 2 with Grigor Bekmezyan, see Annex II.

involvement of non-judges as a form of democratisation and a judgement against internal judicial protectionism. Conversely, it was also cautioned that parliamentary appointees tend to have political ties (or more recent ties to the executive) that compromise both real and apparent independence.⁴⁷³ The ECHR found in *Antonyan v. Armenia* concerning the appointment of a former Minister of Justice as Chair of the SJC that the appointment had violated the appearance of impartiality, illustrating the unnecessary risks associated with political encroachment on aspects of judicial governance.⁴⁷⁴

Looking at Armenia's experience in comparative perspective, it can be concluded that none of the models guarantee judicial independence by itself. In Georgia the High Council of Justice became a system of entrenched self-perpetuating elite at the expense of independence, highlighting how self-governance with no transparency or supervision can strengthen insider control; in Ukraine, internationally-driven vetting produced short-term legitimacy but also created backlash and instability; the scenario in Slovakia's council model, which provided council-based aspirations for independence, became meaningless due to non-accountability and inefficiency, when compared to the Czech Republic's Ministry-led model that maintained more independence through pragmatism and stability. Ultimately, these examples demonstrate that the success of judicial councils is largely situational and related to political context, legal traditions, and the integrity of those involved in the system.

The difficulty for Armenia has been creating a balance between internal legitimacy and external inspiration. Although the establishment of the SJC and the reform of appointment processes were important first steps, they have not been enough to create a competent and reliable judiciary. The absence of a structured, constitutionally grounded vetting process left many problematic legacies unaddressed. Attempts to compensate through disciplinary action were constrained by legal safeguards and often perceived as politicized.⁴⁷⁵ At the same time, chances to use targeted appointment tracks to bring seasoned, independent-minded legal professionals into the judiciary fell short. The importance of

⁴⁷³ Freedom House. (2024), *supra* note.

⁴⁷⁴ *Suren Antonyan v. Armenia*, no. 20140/23, ECHR, *supra* note.

⁴⁷⁵ U.S. Department of State. (2023), *supra* note.

recruiting experienced lawyers over 50 who have built careers outside of the judiciary and are less susceptible to pressure or patronage was also emphasized.⁴⁷⁶ Yet current procedures neither encourage such candidates nor offer them viable paths into judicial service.

This research leads to several policy-making recommendations. First and foremost, judicial appointment processes in transitional settings need to be thorough and multifaceted. Armenia should consider a model that incorporates peer review, ethical interviews, scenario-based evaluations, and written tests. Secondly, the criteria for eligibility must be re-balanced so that experienced legal practitioners, in particular, those well regarded in private practice or academia, can be selected for the bench based on competitive but context-aware methods. Thirdly, the composition of the SJC and its procedures must be reassessed. A new model, possibly one based on retired judges who do not have a future career interest, could reduce the political and internal biases. Fourth, strong accountability and transparency procedures must be in place alongside official guarantees of independence, both in the legal system and in the functioning of courts and judicial councils.

Further research is needed to assess the behavioural outcomes of these reforms. For instance, it's important to evaluate whether younger, recently appointed judges perform differently in politically sensitive cases. It's essential as well to examine the connection between the appointment process, such as competitive exams versus expedited processes and the degree of judicial independence or public trust. Additionally, the effectiveness of hybrid council models may increase when they are supplemented with external monitoring or civil society participation. Ongoing research that combines judicial behavior analysis with public perception data would be especially valuable in addressing these issues and informing future reforms.

The judiciary serves as both a political symbol and a legal institution in transitional circumstances. Courts in Armenia have historically been seen more as extensions of authority rather than safeguards of individual rights. Although there was a rare opportunity to change that perception during the Velvet Revolution, legal design by itself has not been

⁴⁷⁶ Interview No. 2 with Grigor Bekmezyan, see Annex II.

sufficient. This thesis has demonstrated that whether independence will be substantive or merely formal depends on the quality of appointments, the legitimacy of institutions such as the SJC and the judicial system's underlying legal culture. Who becomes a judge, under what conditions and with what vision of justice, remains the defining test of reforms.

Armenia's experience is neither a failure nor a finished success. It is a case of cautious progress, burdened by institutional memory and social expectation. To fulfill the promise of an independent judiciary, future reforms must move beyond procedural changes to a more cohesive vision of judicial legitimacy, one rooted in international best practices, as well as in the lived realities of law, politics and justice in post-authoritarian societies.

BIBLIOGRAPHY

- 168.am. (2019). Կառավարությունը հրապարակել է “ՀՀ դատական և իրավական բարեփոխումների 2019-2023 թվականների ռազմավարությունը” [The Government Has Published the “Strategy for Judicial and Legal Reforms of the Republic of Armenia for 2019–2023”]. Accessed: May 9, 2025, available at: [Website](#).
- Albers, P., Voermans, Wim., Councils for the Judiciary in EU Countries, Leiden/The Hague, European Commission for the Efficiency of Justice, 2008.
- Arakelyan, E. (2019). Դատական օրենսգրքի փոփոխությունների նախագծում առկա են դատավորի անկախությունն ու անաչառությունը սահմանափակելու ռիսկեր. Արշակ Վարդանյան [The Draft Amendments to the Judicial Code Contain Risks of Limiting Judicial Independence and Impartiality: Arshak Vardanyan]. Accessed: May 8, 2025, available at: [Website](#).
- Armenpress. (2022). Karen Andreasyan elected President of the Supreme Judicial Council. Accessed: May 2, 2025, available at: [Website](#)
- Assessment of the 2014–2018 Judicial Reform in Ukraine and its Compliance with the Standards and Recommendations of the Council of Europe, (2019). Prepared for the Council of Europe by Bachmaier Winter, L., accessed: June 2, 2025, available at: [website](#).
- Autheman V., S. Elena, Global Best Practices, (2004), JUDICIAL COUNCILS, Lessons Learned from Europe and Latin America, IFES Rule of Law Series.
- Avetisyan, S. (2024). The Minister of the Supreme Judicial Council has resigned - [website](#);
- Badeyan, L. (2020). Նոր դատական համակարգ՝ երիտասարդ դատավորներով՝ լսումներ ԱԺ-ում [A New Judicial System with Young Judges: Hearings in the National Assembly]. Accessed: May 12, 2025, available at: [Website](#).
- Bangalore Principles of Judicial Conduct. (2002). Value 1.
- Barak, Aharon. (2006). The Judge in a Democracy. Princeton University Press.
- Barchuk, N., Kuzyshyn, J., Zhernakov, M. (2024). Reforming Justice in Ukraine: Milestones, Challenges, and Strategic Priorities. Stefan Batory Foundation. [Website](#).
- Basic Principles on the Independence of the Judiciary, Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 1985, accessed June 10, 2025, available at: <https://www.-ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>:
- Bedevyan, A. (2022). Դատական օրենսգրքում ՔՊ-ականների առաջարկած փոփոխությունները վերջնականապես ընդունվեցին [The Amendments Proposed by Civil Contract Members to the Judicial Code Were Finally Adopted].

- “Ազատ Եվրոպա/Ազատություն” ռադիոկայան (Radio Free Europe/Radio Liberty), accessed: May 20, 2025, available at: [website](#).
- Bleeker, Mô, (2006) ed. Dealing with the Past and Transitional Justice: Creating Conditions for Peace, Human Rights and the Rule of Law. Bern: Political Affairs Division IV, Federal Department of Foreign Affairs FDFA.
- Bobek, M., & Kosař, D., (2014), Global Solutions, Local Damages: A Critical Study in Judicial Councils in Central and Eastern Europe, Brugges, German Law Journal, 15(7).
- Broers, Laurence & Ohanyan, Anna (Eds.). (2020). Armenia's Velvet Revolution: Authoritarian Decline and Civil Resistance in a Multipolar World. First edition. London: Bloomsbury Academic. ISBN: 9781788317177, pp.73-101.
- BTI 2024 Armenia Country Report. (2024), accessed: June 9, 2025, available at: [website](#).
- Bulghadaryan, N. (2019). Ռոբերտ Քոչարյանն ազատ արձակվեց կալանքից [Robert Kocharyan Was Released from Detention]. Azatutyun.am (Radio Free Europe/Radio Liberty). Accessed: April 28, 2025, available at: [Website](#).
- Bunjevac, (2017), From individual judge to judicial bureaucracy: the emergence of judicial councils and the changing nature of judicial accountability in court administration, Sydney UNSW Law Journal, Vol 40.2.
- Carothers, Thomas. (2006). Confronting the Weakest Link: Aiding Political Parties in New Democracies. Carnegie Endowment for International Peace.
- Castillo-Ortiz P. (2019). The politics of implementation of the judicial council model in Europe. European Political Science Review. pp. 503-520; 11(4). doi:10.1017/S1755773919000298
- Chesterman, Simon et al. (2005). Making States Work: State Failure and the Crisis of Governance. United Nations University Press.
- Coalition for an Independent and Transparent Judiciary. (2023). 10 Years of Judicial Reforms: Challenges and Perspectives. accessed: May 13, 2025, available: [Website](#).
- Commentary around Vetting, Judiciary. (2024). Accessed: June 2, 2025, available at: Civil Georgia [website](#).
- Constitution of the Republic of Armenia, adopted on December 21, 1995.
- Constitution of the Republic of Armenia] Adopted by referendum on December 6, 2015; entered into force on December 22, 2015. [Official text](#).
- Constitutional Court of the Republic of Armenia. Decision No. ՄԴՈ-1780 of the Constitutional Court dated 22.04.2025. Original text in Armenian. Accessed: June 12, 2025, available at :[Website](#).
- Council of Europe. (2019). Partnership for Good Governance 2019-2021 (PGGII) Project: Implementation of Judicial Reforms in Armenia. Components 1 and 2. Accessed: May 15, 2025, available at: [Website](#).

- Council of Europe. (2020). Testimonials: Kristine Grigoryan, Deputy Minister of Justice of Armenia, and Ani Mkhitarian, Member of the Supreme Judicial Council, About... Comprehensive Judiciary Reform Launched in Armenia. Accessed: May 28, 2025, available at: [Website](#).
- Čuroš, P. (2021). Panopticon of the Slovak judiciary - Continuity of power centers and mental dependence. *German Law Journal*, 22, pp. 1247–1281. Cambridge University Press; doi:10.1017/glj.2021.62
- David, Roman. (2011). *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*. Pennsylvania State University Press.
- Democracy Reporting International. Czechia. The Judiciary Hub. Accessed: June 12, 2025, available at: [Website](#).
- Dobbins, M. (2014). The Post-Rose Revolution Reforms as a Case of Misguided Policy Transfer and Accidental Democratisation. *Europe-Asia Studies*, 66(5), pp. 759-774.
- EEAS Press Team. (2024). Armenia: Joint Press Statement after EU-Armenia Partnership Committee. Accessed: May 22, 2025, available at: [website](#).
- ENCJ, Councils for the Judiciary Report 2010-2011, 1.4, Accessed: June 9, 2025, available: https://www.encj.eu/images/stories/pdf/workinggroups/report_project_team_councils_for_the_judiciary_2010_2011.pdf
- European Charter on the Statute for Judges, Strasbourg, 8 -10 July 1998, para. 1.3, Resolution of the ENCJ on “Self Governance for the Judiciary: Balancing Independence and Accountability” of May 2008.
- European Commission For Democracy Through Law (Venice Commission), Compilation of Venice commission opinions and reports concerning courts and judges 1, CDL-PI(2015)001, Strasbourg, 2015.
- European Court of Human Rights (20140/23) - E.C.H.R. - Judgment (Merits and Just Satisfaction) in the case of 20140/23 SUREN ANTONYAN v. ARMENIA of 23 January 2025, Accessed: June 15, 2025, available at: [website](#).
- Farkašová, S. (2022). The constitutional reform of the Judicial Council in the Slovak Republic from the European comparative context. *Juridical Tribune*, 12(2). DOI: 10.24818/TBJ/2022/12/2.01
- Fedoriv, I., Melnyk, Y. (2024). “Maidan judges” may remain in the system. Why is judicial reform stagnating?, accessed: June 4, 2025, available at: [website](#).
- Fiss, Owen M., (1993) “The Limits of Judicial Independence,” *University of Miami Inter-American Law Review* 25.
- Freedom House, Country Reports: Armenia. Accessed: June 15, 2025, available at: [Website](#)
- Freedom House. (2020). Armenia: Nations in Transit 2020 Country Report, [website](#).
- Freedom House. (2023). Armenia: Nations in Transit 2023 Country Report, [website](#).

- Freedom House. (2024). Armenia: Nations in Transit 2024 Country Report. [Website](#).
- Freedom House. (2025). Armenia: Freedom in the World 2025 Country Report, [website](#).
- Fukuyama, Francis. (2004). State-Building: Governance and World Order in the 21st Century. Cornell University Press.
- Garoupa, N. and Ginsburg, T., (2008), The Comparative Law and Economics of Judicial Councils, Berkeley, Berkeley Journal of International Law (BJIL).
- GD Parliament Moves to Abolish Competition for Appointment of HCoJ Members. (2025). Accessed: June 5, 2025, available at: Civil Georgia [website](#).
- Gibson, James L., and Gregory A. Caldeira. (2009); Citizens, Courts, and Confirmations: Positivity Theory and the Judgments of the American People. Princeton: Princeton University Press.
- Ginsburg, Tom, & Huq, Aziz Z. (2018). How to Save a Constitutional Democracy. University of Chicago Press.
- Ginsburg, Tom. (2003). Judicial Review in New Democracies: Constitutional Courts in Asian Cases. Cambridge University Press.
- Ginsburg, Tom. (2008). Courts and New Democracies: Recent Works. University of Chicago, Public Law Working Paper No. 231.
- Ginsburg, Tom; The Politics of Courts in Democratization: Four Moments in Asia (draft for presentation at the Constitutional Court of Korea, December 2009).
- Grigor Bekmezyan, Resignation Announcement (original text in Armenian), Facebook (10 October 2022). Accessed: June 9, 2025, available at: [Website](#).
- Guarnieri, C., & Pederzoli, P. (2002). The Power of Judges: A Comparative Study of Courts and Democracy. Oxford University Press.
- Helmke, Gretchen.(2002) “The Logic of Strategic Defection: Court–Executive Relations in Argentina Under Dictatorship and Democracy.” American Political Science Review 96, no. 2.
- Helsinki Citizens’ Assembly–Vanadzor. (2020). 2019-2020 թթ. գործողությունների իրականացման հաշվետվություն՝ ՀՀ դատական և իրավական բարեփոխումների 2019-2023 թվականների ռազմավարության շրջանակում [Report on Implementation of 2019–2020 Actions within the Framework of the 2019–2023 Strategy of Judicial and Legal Reforms of the Republic of Armenia]. Accessed: May 15, 2025, available at: [Website](#).
- Helsinki Citizens’ Assembly–Vanadzor. (2021). Դատական բարեփոխումների ընթացքը հետհեղափոխական և հետընտրական Հայաստանում․ քննարկում [The Course of Judicial Reforms in Post-Revolutionary and Post-Electoral Armenia: Discussion]. Accessed: May 8, 2025, available at: [Website](#).

- Human Rights Watch. (2023). Armenia: Events of 2022. Accessed: June 2, 2025, available at: [Website](#).
- International Center for Transitional Justice | Armenia. Accessed: April 23, 2025, available at: [Website](#).
- Iravaban.net. (2019). Դատավոր կարող է դառնալ 25 տարին լրացած և 3 տարվա մասնագիտական փորձառություն ունեցող անձը՝ նոր նախագիծ՝ ԱՆ-ի կողմից [A Person Who Is 25 Years Old and Has 3 Years of Professional Experience Can Become a Judge: New Draft by the Ministry of Justice]. Accessed: May 7, 2025, available at: [Website](#).
- Judicial and Legal System – Reforms. (2021). Դատաիրավական համակարգի բարեփոխումներ [Judicial and Legal System Reforms]. Reforms [website](#).
- Judicial Code of the Republic of Armenia, adopted on February 9, 2018. [Official text](#).
- Judicial Conference Condemns “Vetting”, Elects Two to HCoJ. (2024). Civil Georgia [website](#).
- Kanadyan, H. (2020). Ի՞նչ կատարվեց Հայաստանում 2018 թ. ապրիլ/մայիսին և դրան հաջորդող շրջանում. հեղափոխություն, թե՞ կիսահեղափոխություն [What Happened in Armenia in April/May 2018 and the Following Period: Revolution or Semi-Revolution?]. Accessed: April 12, 2025, available at: [Webpage](#).
- Khalatyan, A. (2018). Հայաստանի Թավշյա հեղափոխության սահմանադրական-քաղաքական ուրվագիծը [The Constitutional and Political Outline of Armenia’s Velvet Revolution]. Accessed: May 2, 2025, available at: [Webpage](#).
- Klug, Heinz. (2000). Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction. Cambridge University Press.
- Kosař, David, (2016), Perils of Judicial Self-Government in Transitional Societies: Holding the Least Accountable Branch to Account, Cambridge University Press.
- Lashyn, S., Leshchyshyn, A., Popova, M. (2023). Civil society as an informal institution in Ukraine’s judicial reform process. German Law Journal, 24, pp. 1488-1502; doi:[10.1017/glj.2023.87](#)
- Linz, Juan J., & Stepan, Alfred. (1996). Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe. Johns Hopkins University Press.
- Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).; The Federalist No. 78 (Alexander Hamilton).
- Margaryan, M. (2024). Իրավական ոլորտում բարեփոխումների առանցքային նպատակներից է դատական համակարգի շարունակական

- կատարելագործումը [One of the Key Objectives of Legal Reforms Is the Continuous Improvement of the Judiciary]. Accessed: May 22, 2025, available at: [Website](#).
- Melis, E., & Harutyunyan, N. (2023). The 5 biggest challenges to reforming Armenia's justice system. Accessed: June 1, 2025, available at: World Bank Blogs [website](#).
- Méndez, Juan E.; O'Donnell, Guillermo; & Pinheiro, Paulo Sérgio (Eds.). (1999). The (Un)Rule of Law and the Underprivileged in Latin America. University of Notre Dame Press.
- Mihr, Anja, and Chandra Lekha Sriram, (2015). Rule of Law, Security and Transitional Justice in Fragile and Conflict-Affected Societies. The Hague: Commission on Global Security, Justice & Governance.
- Mkrtchyan, N. (2018). Վրացական “Վարդերի հեղափոխությունից” մինչև հայկական “Թավշյա հեղափոխություն”. համեմատական վերլուծություն [From Georgia's “Rose Revolution” to Armenia's “Velvet Revolution”: A Comparative Analysis]. Accessed: May 29, 2025, available at: [Website](#).
- Muradyan, A. (2023). Դատավոր դառնալու ճանապարհը արագացվել է. Արդարադատության ակադեմիայում սովորելը պարտադիր չէ [The Path to Becoming a Judge Has Been Accelerated: Studying at the Academy of Justice Is No Longer Mandatory]. Accessed: April 12, 2025, available at: [Website](#).
- Nekoliak, A. (2022). “Shaming” the Court: Ukraine's Constitutional Court and the Politics of Constitutional Law in the Post-Euromaidan Era. Review of Central and East European Law, 47(3-4), 298-321. <https://doi.org/10.1163/15730352-bja10069>
- Nizhnikau, R., Moshes, A. (2016). Three years after Euromaidan: Is Ukraine still on the reform track? FIIA Briefing Paper 208, [website](#).
- OC Media. (2019). Pashinyan instigates protests outside Armenian courts calling for transitional justice. Accessed: April 12, 2025, available at: OC Media [website](#)
- O'Donnell, Guillermo. (1998). Horizontal Accountability in New Democracies. Journal of Democracy, 9(3)..
- Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE), Strasbourg, 21-23, November 2007, accessed: May 1, 2025, available at: <http://dcj.court.ge/uploads/Legislation/International-Acts/ENG-CCJE-opinion-10-2007.pdf>,
- OSCE Office for Democratic Institutions and Human Rights. (2017). Opinion on the Law of Ukraine on the Judiciary and the Status of Judges. Opinion-Nr.: JUD-UKR/298/2017 [RJU/AT]. Accessed: May 21, 2025, available at: [Website](#).
- Parliamentary Assembly of the Council of Europe. (2020, January 31). Armenia: PACE monitors express concern at the high level of tension between institutions. [Website](#).

- Pastinfo.am. (2019). Մեկնարկել է «Աջակցություն Հայաստանում դատական բարեփոխումների իրականացմանը» ծրագիրը [The "Support to the Implementation of Judicial Reforms in Armenia" Program Has Been Launched]. Accessed: May 12, 2025, available at: [Website](#).
- Peter M. Shane, (1998) Interbranch Accountability in State Government and the Constitutional Requirement of Judicial Independence, 61 LAW & CONTEMP. PROBS. 21, 30.; Geyh, Charles Gardner. (2006). Rescuing Judicial Accountability from the Realm of Political Rhetoric. Case Western Reserve Law Review, 56(4).
- Petrosyan, G. (2022). The Crisis of the Judicial System and Problems of Democratic Development in Armenia. Heinrich Böll Stiftung – South Caucasus Region. Accessed: May 4, 2025, available at: [Website](#).
- Popova, M., Beers, D. J. (2020). Judicial reform after the Euromaidan: Ukraine's rule-of-law breakthrough that wasn't. The Journal of Post-Soviet Democratization, accessed: June 3, 2025, available at: [website](#).
- Pouperová, O. (2024). An Introduction to the Czech Legal System and Legal Resources Online - GlobaLex. Accessed: June 3, 2025, available at: [Website](#).
- Prado, Mariana Mota, and Michael J. Trebilcock. (2009), Path Dependence, Development, and the Dynamics of Institutional Reform. University of Toronto Law Journal, Legal Studies Research Series No. 09-04.
- Preshova, I. Damjanovski, Z. Nechev, The Effectiveness of the 'European Model' of Judicial Independence in the Western Balkans: Judicial Councils as a Solution or a New Cause of Concern for Judicial Reforms, CLEER PAPERS 2017/1.
- Prime Minister Nikol Pashinyan's Speech. (2018). Վարչապետ Նիկոլ Փաշինյանի ելույթը պաշտոնավարման 100 օրվան նվիրված հանրահավաքին [Prime Minister Nikol Pashinyan's Speech at the Rally Marking His First 100 Days in Office]. Accessed: May 12, 2025, available at: [Website](#).
- Prime Minister Nikol Pashinyan's Statement on the Judiciary System. (2019, May 20). Accessed: May 12, 2025, available at: [website](#);
- Priya, L. (2025). State Capture and Patronage in Post-Rose Revolution Georgia: A Quiet Obstacle to Reform - Corruption In Caucasus, accessed: June 1, 2025, available at: [website](#).
- Protection of Rights Without Borders NGO. (2020). Դատավորների թեկնածուների ցուցակի համալրման որակավորման քննությունների դիտարկում [Observation of Qualification Examinations for Filling the List of Judicial Candidates]. Accessed: May 3, 2025, available at: [Website](#).
- Protection of Rights Without Borders NGO. (2024, June 19). Արմատական և ձգձգվող քայլեր՝ շարունակական բարեփոխումների հույսով [Radical and Delayed Steps: With Hope for Continuous Reforms]. Accessed: May 22, 2025, available at: [Website](#).

- Protection of Rights Without Borders NGO. (2024, March 26). Զեկույց՝ Առաջին ատյանի ընդհանուր իրավասության և մասնագիտացված դատարանների դատավորների թեկնածուների ցուցակի համալրման նպատակով հատուկ կարգով անցկացված որակավորման քննությունների վերբերյալ. Օրենսդրական կարգավորումներ և պրակտիկա [Report: On the Qualification Examinations Conducted Under Special Procedure for Filling the List of Judicial Candidates for First Instance General Jurisdiction and Specialized Courts – Legislative Regulations and Practice]. Accessed: May 12, 2025, available at [Website](#).
- Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, The Committee of Ministers of Council of Europe, 2010. Accessed: June 12, 2025, available at: <https://www.icj.org/wp-content/uploads/2014/06/CMRec201012E.pdf>
- Russell, Peter H., & O'Brien, David M. (Eds.). (2001). Judicial Independence in the Age of Democracy: Critical Perspectives from Around the World. University Press of Virginia.
- Simonyan, O. (2021). Judicial Reforms: From Revolutionary Promises to Strategic Promises. Accessed: May 12, 2025, available at: [Website](#).
- Stan, Lavinia (Ed.). (2009). Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past. Routledge.
- Strategy for Judicial and Legal Reforms In The Republic Of Armenia For 2018-2023 And The Action Plan. [Website](#).
- Stromseth, Jane; Wippman, David; & Brooks, Rosa. (2006). Can Might Make Rights? Building the Rule of Law After Military Interventions. Cambridge University Press.
- Supreme Judicial Council of the Republic of Armenia. Decision No. ԲԴԽ-15-Ո-55 (BDKH-15-VO-55) dated February 2, 2023. Original text in Armenian. [Website](#).
- Supreme Judicial Council of the Republic of Armenia. Decision No. ԲԴԽ-34-Ո-91 (BDKH-34-VO-91) dated August 23, 2018. Original text in Armenian. [Website](#).
- Supreme Judicial Council of the Republic of Armenia. Decision No. ԲԴԽ-40-Ո-110 (BDKH-40-VO-110) dated September 27, 2018. Original text in Armenian. [Website](#).
- Supreme Judicial Council of the Republic of Armenia. Decision No. ԲԴԽ-73-Ո-175 (BDKH-73-VO-175) dated September 13, 2021. Original text in Armenian. [Website](#).
- Teitel, Ruti G. (2000). Transitional Justice. Oxford University Press.
- The Armenian Report. (2024). PM Nikol Pashinyan Fires Senior Officials Over Justice System Failures. Accessed: June 3, 2025, available at: [Website](#).

- The Foreign Policy Council “Ukrainian Prism” . (2019); Azatutyun.am. (2019, May 24). Գագիկ Հարությունյանը հրաժարական է տվել Բարձրագույն դատական խորհրդի նախագահի պաշտոնից [Gagik Harutyunyan Resigns as President of the Supreme Judicial Council], [website](#).
- Tosunyan, G. (2022). Հեղափոխության մոռացված խոստումներն ու ձախողված բարեփոխումները [The Forgotten Promises of the Revolution and Failed Reforms], accessed: April 12, 2025, available at: [website](#);
- Transparency International Geo. (2021). The High Council of Justice Continues Taking Damaging Steps for the Judiciary. Accessed: June 5, 2025, available at: [Website](#).
- Transparency International Geo. (2023). Who are the new non-judge members of the High Council of Justice, and what are their connections? Accessed: June 5, 2025, available at: [Website](#).
- U.S. Department of State. (2019). 2019 Country Reports on Human Rights Practices: Armenia. Accessed: June 12, 2025, available at: [Website](#).
- U.S. Department of State. (2022). 2022 Country Reports on Human Rights Practices: Armenia. Accessed: June 12, 2025, available at: [Website](#) .
- U.S. Department of State. (2023). 2023 Country Reports on Human Rights Practices: Armenia. Accessed: June 12, 2025, available at: [Website](#).
- United Nations Development Programme (UNDP). (2020). Monitoring Action and Standard Progress Report: Support for Armenia's Justice and Rule of Law Reforms, Bringing Justice Closer to People (September-December 2020). Accessed: June 2, 2025, available at: [Website](#).
- United Nations Development Programme (UNDP). (2021). Project Document: Support to Armenia's Justice and Rule of Law Reforms - Phase 2 (Project No. 00121670-00128554). Accessed: June 2, 2025, available at: [Website](#).
- United Nations, Basic Principles on the Independence of the Judiciary (1985); The Bangalore Principles of Judicial Conduct (2002). Adopted by the Judicial Group on Strengthening Judicial Integrity, revised at The Hague. Available via UNODC, OHCHR.
- Vasilyan, S. (2019). Completing Armenia's Revolution: Transitional Justice and Judicial Vetting, [website](#).
- Venice Commission (Council of Europe). (2010). Report on the Independence of the Judicial System Part I: The Independence of Judges. CDL-AD(2010)004, pp.16-17.
- Venice Commission. (2007). Judicial Appointments (Opinion No. 403/2006, CDL-AD(2007)028-e). European Commission for Democracy through Law (Venice Commission).
- Venice Commission. (2007). Judicial Appointments (Opinion No. 403/2006, CDL-AD(2007)028-e). European Commission for Democracy through Law.

- Venice Commission. (2019). Opinion on the Amendments to the Judicial Code and Some Other Laws of Armenia (Opinion No. 963/2019, CDL-AD(2019)024). European Commission for Democracy through Law..
- Venice Commission. (2022). Opinion on the Draft Amendments to the Judicial Code of Armenia (Opinion No. 1101/2022, CDL-AD(2022)044). European Commission for Democracy through Law.
- Venice Commission. (2022). Opinion on the Draft Amendments to the Judicial Code of Armenia (Opinion No. 1101/2022, CDL-AD(2022)044). European Commission for Democracy through Law.
- Venice Commission. (2024). Joint Opinion on the Draft Amendments to the Judicial Code of Armenia (Regarding Evaluation of Judges) (CDL-AD(2024)031). European Commission for Democracy through Law.
- Viti, K. (2023). Country Report – Armenia – 2015 Constitutional Reforms. Stanford Law School, Law and Policy Lab, Policy Practicum: Redesigning the Venezuelan Judiciary (Teaching/Supervising Team: Diego Zambrano). Accessed: June 2, 2025, available at: [Website](#).
- Wojkowska, Ewa. (2006). Doing Justice: How informal justice systems can contribute. UNDP Oslo Governance Centre.
- World Bank, World Development Report 2011: Conflict, Security and Development, 2011.
- World Bank. (2023). Supporting Judicial Reforms in Armenia: A Forward Look – Public Expenditure and Performance Review of the Judiciary in Armenia. Governance Global Practice - Public Sector and Institutions, Europe and Central Asia. Accessed: June 4, 2025, available at: [Website](#).
- Zargaryan, R. (2021). GRECO-ն “մեծ հաշվով անբավարար” է գնահատում Հայաստանի իշխանություններին ներկայացված առաջարկությունների կատարումը [GRECO Rates the Implementation of Its Recommendations to the Armenian Authorities as “Largely Unsatisfactory”]. “Ազատ եվրոպա/Ազատություն” ռադիոկայան (Radio Free Europe/Radio Liberty), accessed: May 2, 2025, available at: [website](#).
- Zargaryan, R. (2021). Դատավորների նկատմամբ կարգապահական վարույթների հարուցումը քաղաքական հետապնդման դրսևորումներ չեն...Անդրեասյանն արձագանքում է GRECO-ին; [The Initiation of Disciplinary Proceedings Against Judges Is Not a Manifestation of Political Persecution...Andreasyan Responds to GRECO.]. “Ազատ եվրոպա/Ազատություն” ռադիոկայան (Radio Free Europe/Radio Liberty), accessed: May 12, 2025, available at [website](#).
- Zhernakov, M. (2017). Judicial Reform in Ukraine: Mission Possible? Policy Report. Accessed: June 3, 2025, available at: [Website](#).

ANNEXES

The following annexes include transcripts of three interviews conducted by the author as part of the research. All interviews were conducted in Armenian via Zoom in April and May 2025 and translated into English by the author. Interviewees who requested anonymity are not named.

ANNEX I

Interview No. 1

Position: Current Judge⁴⁷⁷

Date: April 2025

Format: Zoom Interview

Language: Conducted in Armenian; translated into English by the author

Q: What is your opinion on the independence of the judiciary before and after the revolution? Do you believe there has been a substantial change?

A: Absolutely. I believe that since 2018, the level of independence the judiciary enjoys is unprecedented in the history of Armenia. When Armenia gained independence, it inherited the Soviet judicial system, within which there could be no discussion of independence. After independence, the new authorities began reforming the judiciary in 1998-99, including appointing new judges. Unfortunately, those years also marked the beginning of an authoritarian and corrupt regime in Armenia. Under such conditions, the judiciary could not be considered independent or guided solely by law; this is confirmed by multiple judgments of the European Court of Human Rights (ECtHR) from that period.

The problem was that the judiciary was not independent from the political power; it executed all directives. For instance, if the authorities decided to prosecute someone (be it a political dissenter or an ordinary person), no one even considered the possibility that the court might acquit them. Most detention motions were granted, and there is substantial evidence suggesting widespread corruption.

⁴⁷⁷This interview was conducted for academic research purposes. The interviewee requested anonymity and consented to the use of their insights in anonymized form.

Then, in 2018, the Velvet Revolution occurred, and the judiciary formed under the previous authoritarian regime continued to operate. This led to a number of consequences. One of them was a significant, though perhaps not complete, reduction in corruption. Why? Because while corruption was tolerated in the previous era, it was no longer acceptable under the new government. Systemic corrupt mechanisms were thus disrupted.

On the other hand, the political control mechanisms over the judiciary were entirely dismantled. Evidence of this is seen in how courts handled politically sensitive cases involving former regime officials; many were dismissed or resulted in acquittals. This demonstrates that courts no longer acted as instruments of political direction.

Q: So you agree that Armenia currently has de facto judicial independence? Because there are criticisms that Armenia only enjoys de jure independence.

A: The opinions of certain organizations (e.g., NGOs) are shaped by the activities of media outlets operating in Armenia, most of which, a significant percentage, are owned and funded by representatives of the former regime. Their entire campaign is directed toward shaping negative perceptions of the judiciary, including within international organizations.

It's also important to consider the standards by which such assessments are made. Naturally, if one compares our judiciary to that of the U.S., U.K., or France, it will fall short. But things must be viewed in context: from the authoritarian past to the present, where judges now make decisions they believe are correct and this is accepted by the authorities, though not always by the public.

The public is very dissatisfied because their overwhelming expectation post-revolution was that representatives of the previous regime would be punished for their crimes. Some hoped this would happen quickly and without regard for legal "formalities." In contrast, the political leadership insisted on adhering to legality and ensuring accountability only through independent judicial processes, provided there are legal grounds and evidence. The authorities also understand that Armenia is a member of the Council of Europe and bound by the European Convention on Human Rights and accordingly, the processes in Armenia have evolved within that framework.

Q: Following the revolution, there was public discussion about the launch of a vetting process, which was later declared unconstitutional. Do you think Armenia missed an opportunity by not implementing a comprehensive, legally sound vetting process? Why or why not?

A: We must understand what we mean by "vetting." If we mean a process aimed at removing judges associated with the corrupt politics of the former regime, then we must acknowledge that such a process is not a well-established concept. We have the Albanian experience, which has been evaluated in different ways, but I don't think it was particularly effective as it took years and the outcomes were unclear.

After the revolution, inspired partly by the Albanian model, some Armenian NGOs promoted the idea of vetting and at one point, even some government officials supported trying it. But before criticizing the absence of vetting, we should remember that in Albania, the vetting started 25 years after the collapse of the communist regime. Expecting rapid vetting in Armenia is thus unrealistic. Moreover, the methods and assumptions proposed by some were problematic; they suggested that all current judges should go through a rapid process that would remove most of them and replace them with new ones.

This was neither practically nor legally feasible. We must ask: by what mechanism would this occur? What kind of commission would oversee it? How would the legal validity of such decisions be ensured? Armenia's Constitution clearly enshrines the principle of irremovability of judges and specifies the limited conditions under which a judge may be dismissed. It makes no mention of a vetting commission.

Therefore, even if we had wished to carry out vetting in that form, it would not have been possible. Instead, another process occurred: the application of disciplinary proceedings against judges who acted inappropriately or unlawfully, the only constitutionally grounded mechanism available for removing judges. Even that mechanism was not used arbitrarily; it was based on the Constitution and the Judicial Code, which specify that a judge may be held accountable for breaching ethical or professional standards.

According to statistics, out of approximately 100 disciplinary proceedings initiated by the Supreme Judicial Council (SJC), about half resulted in acquittals, while the rest led to

various sanctions. Only around ten judges were ultimately dismissed. This cannot be equated with a comprehensive vetting process. I do not share the view that disciplinary proceedings functioned as a tool of vetting.

A different logic applies: if a judge has consistently violated the law in the past, they are likely to continue doing so and thus become the subject of disciplinary action. That's the reality, and we must interpret it in light of available statistics. Meanwhile, a generational shift occurred in the judiciary: older judges retired, and new positions were created. As a result, many new judges entered the system, individuals not associated with the practices or values of the former regime.

The authorities tried to implement the post-revolution expectations within the boundaries of the law and European human rights standards. The courts, too, operate within those same parameters. Those who "lost" their positions during reforms try to portray the system as lawless or politically motivated, using that narrative as a defense tactic. Interestingly, many of their lawyers appear to focus more on public relations than legal arguments.

Q: So you deny that disciplinary proceedings were used to target dissenting judges or those connected to the former regime? And second, you mentioned that newly appointed judges had no ties to the previous regime but some argue that appointments were used to reward loyalty or install individuals with political connections to the current authorities.

A: On the first point, I disagree. This argument is inconsistent. The claim that judges who were disciplined in recent years were targeted for political reasons is completely unfounded, as there is no evidence to support it. Moreover, most of those judges specialized in civil law. What political involvement could they possibly have had? If this were politically motivated, wouldn't it have made more sense to target criminal law judges? The opposite actually occurred; a judge who once sentenced political figures, including a former prime minister, was later promoted. So where is the political persecution or targeting?

As for new judicial appointments, the fact that one or two out of a hundred appointees may have had ties to opposition parties does not justify generalizing that all were politically motivated. By that logic, one could argue that all other judges, having worked under the

former regime, were loyal to it, which is a flawed conclusion. Judges are appointed based on criteria set out in the law. Anyone who met those criteria and wished to become a judge had the opportunity. We should also remember that, for a long time, judicial vacancies outnumbered applicants; only in recent years did that trend reverse. My conclusion is that every qualified and willing candidate was appointed over these years.

Q: Regarding judicial appointments, the Judicial Code underwent reforms emphasizing professional values, including lowering the age requirement. Were these changes effective? Are further reforms needed to improve the judiciary?

A: I believe those legislative changes significantly relaxed the overly strict criteria that once governed judicial appointments. Lowering the minimum age, for instance, allowed more candidates to apply, sit for exams, and pursue judicial careers. One reason for these reforms was the lack of sufficient applicants for open positions. This change opened the door for younger legal professionals, many of whom had not previously been involved with or affected by issues within the old judiciary. I view this as a positive development that will allow competent lawyers to join the judiciary. However, it's also true that under current conditions with the workload, responsibility, salary, and benefits, the position is no longer as attractive as it once was.

Q: Is the role and composition of the Supreme Judicial Council (SJC) justified in the context of judicial reforms, particularly given the 50/50 model (half judges, half non-judges)? Does this model ensure judicial independence? Has the SJC remained within its constitutional mandate?

A: In my view, yes. Let's imagine the SJC were composed solely or mostly of judges. In that case, we would likely see what we observe with the Disciplinary Commission of the General Assembly of Judges, a body that, over the years, has initiated only about 10-15% of disciplinary cases. Why? Because the judiciary has been a closed, corporatist circle of 200–230 judges who all knew each other well and were interconnected.

Under such conditions, the election of SJC members by judges themselves often came with campaign promises that no judge would face disciplinary action. That's why it is justified and necessary for the SJC, the body responsible for maintaining the judiciary's

independence and accountability, not to be composed solely of judges. Including members appointed by Parliament brings democratic legitimacy to the institution.

When discussing judicial independence, we must remember: judges must be independent, but they cannot be independent from the law. If they begin defining their own standard of independence, including from the law, the consequences could be severe. For these reasons, I believe the 2015 constitutional framework is justified. The ECtHR reaffirmed this in its recent judgment in *Antonyan v. Armenia*, where it found that the SJC's structure and appointment procedures meet the standards of an independent and impartial tribunal.

Q: In recent years, the leadership and composition of the SJC changed several times, including the appointment of former Minister of Justice Karen Andreasyan as Chair. Given his previous role initiating disciplinary proceedings against judges, do you believe this contradicts the principle of legality or raises concerns about impartiality or political influence?

A: First, we must assess such appointments from a legal standpoint: were they consistent with the Constitution, the law, and legal principles? In my view, the answer is clearly yes. However, questions of appropriateness may still arise. Political factions in Parliament have the right to nominate candidates, and the ruling party likely considered various factors, including their responsibility to advance reforms and deliver results in the judiciary.

Post-facto, we can say that progress has indeed been made: long-debated legislative and structural reforms, such as reducing court overload, have been enacted under this leadership. As for Andreasyan's past role, consider that in Germany, the Minister of Justice can initiate disciplinary proceedings. I see no legal or constitutional problem with such a background, nor with a political faction nominating someone with that experience. It also does not violate international standards.

In the *Antonyan* case, the ECtHR addressed Andreasyan's connection to his previous role and found no issue with his subjective impartiality; that is, his actual personal bias was not in question. The Court did, however, acknowledge that from the perspective of an objective observer, his appointment might appear problematic. The finding of a violation was based on the appearance of impartiality, not its actual absence.

ANNEX II

Interview No. 2

Name: Grigor Bekmezyan

Position: Former Member of the Supreme Judicial Council; CEO of the Bekmezyan Law Offices⁴⁷⁸

Date: May 2025

Format: Zoom Interview

Language: Conducted in Armenian; translated into English by the author

Q: What is your opinion on judicial independence before and after the revolution? Do you believe there have been substantial improvements since the revolution?

A: I believe judicial independence has improved somewhat since the revolution, in a positive way. But to say that the judiciary is now truly independent, no, I wouldn't go that far. Perhaps the systemic dependence is no longer present. Previously, there were claims that the judiciary was under centralized control, for instance, from the Court of Cassation or the Office of the President. Now, such centralized control is generally no longer felt. In that regard, the judiciary is more independent. But we still cannot say judges are entirely free from influence by various actors.

Q: Some argue that judicial independence in Armenia exists more de jure than de facto. Do you agree?

A: De jure independence has always existed. The law clearly states that judges are independent. Legally, we have all the guarantees for judicial independence. But for de facto independence, we must first have a de facto independent Supreme Judicial Council (SJC), because the SJC is the primary guarantor of judicial independence. Any proceedings against a judge, criminal, administrative, disciplinary, or by the Corruption Prevention Commission cannot exert real pressure unless the SJC allows it. If the SJC is truly independent and protects judges, then judges will be independent from bodies seeking to pressure them.

⁴⁷⁸ This interview was conducted for academic research purposes and appears here with the interviewee's consent.

Q: Returning to the SJC's institutional structure, in Armenia, half of the members are elected by Parliament, and half by judges. Does this model ensure judicial independence from political interference?

A: In principle, I see no issue with the 5-judge, 5-legal scholar composition. When we began forming the SJC after the revolution, judicial reform had just begun. It was essential to disrupt the negative institutional unity among judges, their tendency to protect one another. If judges had been the majority in the SJC, disciplinary proceedings, even when objectively warranted, might not have resulted in sanctions. Judges are often inclined to protect one another subjectively, not objectively, especially given the deep personal, familial, and professional ties among them.

On the other hand, while some claim that legal scholars appointed by Parliament are under political influence, I disagree. Some appointees may feel moral obligations to those who nominated them, but institutionally, judges are more interdependent. Judges are appointed until retirement, work together for decades, and remain within the judicial community even after serving on the SJC. In contrast, scholar members are independent, they are not part of the judiciary or government. The concern arises only when political figures, even if they relinquish party affiliation, are appointed. Such individuals inherently carry political views and cannot possess the same independence as apolitical professionals.

So the issue is not the 5-5 composition, but rather ensuring that all members are professionals of integrity. If you look at past decisions, you'll see many instances where judges were spared disciplinary sanctions thanks to the votes of scholar members, because they voted as they saw fit, independently. During my time in the SJC, there was never a case where just the five scholar members alone imposed sanctions on a judge.

Q: Later, the law was amended so that five votes were enough for disciplinary sanctions. Was this legal in your opinion?

A: Previously, disciplinary sanctions required a majority but not less than six votes, and termination of judicial powers required at least seven. In practice, however, due to absences or unfilled seats, the SJC often couldn't act, it became paralyzed. The law was amended so that disciplinary measures could be imposed by a majority of participants, but not fewer

than five votes. So, in a full 10-member council, five votes would not suffice, you'd still need a majority of six.

I don't see an issue with this. What matters is that the members are professionals who apply the law objectively. However, the Constitutional Court later ruled that the five-vote standard was unconstitutional, claiming it undermined judicial independence, perhaps rightly so in the context of a 7-member council. But with 10 members, five votes would not be enough anyway. During my tenure, there was never a case where five judges or five scholars alone imposed sanctions.

Q: Some argue that disciplinary proceedings were used as a substitute for vetting in Armenia. Was proper vetting possible or was it truly unconstitutional? Also, what do you think of the Albanian example?

A: I've always supported soft vetting, not the harsh, categorical model used in Albania. We visited Albania and saw firsthand how removing more than 50% of judges at once didn't make justice more effective, it disrupted it. The shortage of judges led to delays and dysfunction. Even worse, some judges who should have been removed ended up staying. It showed that this wasn't the right model and fortunately, Armenia didn't go that route.

That said, our own reform process has also been ineffective. Yes, many reforms took place, but they didn't yield the desired results. Public trust in the judiciary wasn't restored. Some judicial decisions continued to be controversial or delayed excessively, which deepened public skepticism. While many judges were selected objectively, there were cases of appointments that raised public concern and people were named to the bench despite serious doubts about their integrity or impartiality.

Even the U.S. State Department has criticized the SJC and questioned its independence. If the very body responsible for vetting and judicial appointments is not beyond reproach, then its decisions on appointments, discipline, and transfers will always be questioned. This was particularly true in 2022-2023, when numerous controversial disciplinary decisions were made, raising doubts even from the perspective of an independent observer. What we needed was not mass removal or new appointments, but effective functioning of the judicial system and the Corruption Prevention Commission.

Q: After the revolution, the Judicial Code was amended to emphasize professional values. The minimum age for judicial appointment was lowered, and selection procedures were changed. Were these reforms effective?

A: These changes happened during my tenure, and I supported most of them. I had no major objection to lowering the age threshold. I would have preferred it remain higher, but there was a need to recruit judges unconnected to the previous regime. The idea was to appoint people who hadn't yet been absorbed into the system and could work fairly and independently. The key was to ensure they had some experience, at least four or five years, which the SJC was responsible for assessing.

Lowering the age threshold allowed a broader pool of candidates. But in 2023, another change allowed some candidates to be appointed by expedited procedure, without written exams or the usual six-month training. They were interviewed and appointed directly. This led to abuse, for example, an SJC member's assistant was appointed judge without adequate experience. This raises concerns that the SJC wanted control over judges and influence over judicial outcomes.

As for the testing system, prior to its introduction, the selection process involved a practical task wherein candidates were required to draft a judicial decision based on a given scenario. Under such conditions, judicial assistants often performed very well, as they were already accustomed to drafting judgments for sitting judges. In contrast, other candidates, despite possessing the legal knowledge and qualifications to serve as judges, typically lacked practical experience in drafting judicial acts and thus failed the exam.

In effect, the process implicitly required a specific career path: first work as a judicial assistant, then train in drafting judgments and only then sit for the exam to become a judge. The introduction of standardized written tests allowed for a more comprehensive evaluation of candidates' legal knowledge, reasoning and analytical skills, which could not be adequately assessed through judgment writing alone.

The tests were developed by highly qualified experts, making them more systematic and multidimensional. They prioritized the assessment of analytical thinking and reasoning capacity. The testing reform significantly broadened the pool of prospective candidates and

helped eliminate prior corruption-related concerns, for instance, allegations that candidates had advance access to the practical assignments. In my view, the shift to standardized testing made the judicial selection process more effective and equitable.

Q: Mr. Bekmezian, regarding your resignation from the SJC, was it connected to the change in chairperson or political developments?

A: My resignation wasn't tied to any individual. I've always believed the SJC is a collegial body, no individual, not even the Chair, can control its decisions. Under different Chairs, we had different views on cases, but when the SJC was independent, its members could make decisions aligned with justice and legality.

I was ready to continue. I didn't believe a change in Chair would affect the work of members. The Chair is an administrative role. But I started to sense that my view wasn't shared by the majority of members. I had serious concerns that votes were being cast as directed, not independently. After I left, most decisions were made unanimously or by an overwhelming majority, with very few special opinions. During my tenure, dissenting members would submit special opinions, these dissents are a hallmark of independence. Once I realized that the body was no longer what I believed it should be: independent, collegial, free from external influence, saw no reason to stay.

Q: In your opinion, what is currently the top priority for improving Armenia's judiciary? What reforms are most needed?

A: I've said this before, and I stand by it. We need to give experienced legal professionals over the age of 50, with at least 20-30 years of legal work, a pathway to become judges by simplified procedures. These individuals have built careers, earned good incomes, and accumulated professional reputations. They are less likely to be tempted by corruption. Their motivation would be integrity and legacy.

Right now, we have young judges with little experience making absurd rulings. There are even allegations that corruption persists. This shows the urgent need for a stronger system to vet judges' integrity. The state must genuinely want an independent judiciary and take real steps to achieve it.

ANNEX III

Interview No. 3

Position: Current Judge and a Former Member of the Supreme Judicial Council⁴⁷⁹

Date: May 2025

Format: Zoom Interview

Language: Conducted in Armenian; translated into English by the author

Q: In your opinion, is the current level of judicial independence in Armenia more established than it was prior to the revolution? How would you assess the actual state of judicial independence today?

A: To be honest, we are much more independent now. I've been a judge for over twenty years, and if we look back ten or twenty years, the level of independence has clearly increased. After the revolution, the pace of progress toward judicial independence accelerated. Today, the judiciary is significantly more independent from other branches of government, even amid political developments and public demonstrations. The judiciary is now clearly more independent from both the legislative and executive branches.

Q: To what extent has the institutional structure of the Supreme Judicial Council (SJC), with its 50/50 composition, half appointed by Parliament, half by judges, succeeded in insulating the judiciary from political influence and promoting judicial independence? Would it be better if judges held a majority?

A: I have my own view on this. I previously served as a member of the former Justice Council from 2009 to 2014. That body had thirteen members: nine judges and four legal scholars, two of whom were appointed by the National Assembly, two by the President. The Chair was the President of the Court of Cassation, who conducted meetings but had no voting rights. Even that model wasn't ideal. The judges' votes always carried decisive weight, and naturally, due to shared corporate interests, judges tended to show leniency toward fellow judges. Things usually happened as the judges wanted.

As for the current model, I don't fully support it either. If we set aside the recent Constitutional Court ruling, the law was amended so that only five members could

⁴⁷⁹*This interview was conducted for academic research purposes. The interviewee requested anonymity and consented to the use of their insights in anonymized form.*

terminate a judge's powers, previously, the Judicial Code required a two-thirds vote, i.e., participation of at least seven members. Now, five legal scholars appointed by Parliament can make such a decision without bearing any subsequent responsibility. Meanwhile, the five judge-members face reputational risks, social pressure and potential return to the judiciary, making them naturally inclined to favor judicial peers. Yet they often can't influence the final outcome since the five non-judicial votes are decisive. In my view, the best model would consist of retired judges, those who have reached the retirement age of 65 and were elected by their peers. These judges would have no conflict of interest or future career concerns and could make more impartial decisions. I believe that would be the ideal structure for the SJC.

Q: We are in a situation where a former Minister of Justice was appointed Chair of the SJC, and there is an ECtHR ruling related to this issue. Do you think this appointment harmed judicial independence?

A: Leaving aside individuals, I often compare the judiciary to a tortoise, it moves slowly and resists change. The judiciary is a traditionalist system that prefers continuity. In the Anglo-American systems, for instance, innovations are rare; everything moves on the strength of precedent and tradition.

Any zigzag within the judiciary has serious consequences. A misstep can set the system back ten years, requiring a decade to recover. That's why I believe any reforms or events must be approached with extreme caution to ensure the judiciary continues to function properly. Courts should not be dragged into political issues. Judges are the most defenseless public officials: when their rulings or actions are criticized, they have neither the right nor the means to respond. Other branches of government should assume the responsibility of defending the judiciary's reputation, by emphasizing mechanisms for appeals, for example.

Shocks to the judiciary, like a single ECtHR judgment can be very difficult to recover from. That's why all decisions must be taken carefully.

Q: Regarding the selection of judges, the Judicial Code underwent changes after the revolution, focusing on professional values and lowering the minimum age for judicial

appointments. Were these changes effective in selecting more transparent and merit-based judges?

A: I still believe that a judge should have both professional and life experience. I became a judge at 32 or 33, and I can say for sure that a decision I made at age 40, I would have seen differently at 32. Life experience shapes one's judgment. Among my current colleagues, the youngest judge is twenty years my junior and we often see the same legal issue from very different angles. They may be more up-to-date on ECHR rulings, but a judge's wisdom should also reflect maturity.

This is why I oppose judicial appointments at ages 25-28. A person that young might hand down a life sentence just to prove themselves. That's a deeply serious concern. I also oppose the change that introduced testing for judicial selection. Choosing judges through multiple-choice exams is, in my view, absurd. Previously, candidates were given case scenarios and asked to draft judicial decisions, allowing for evaluation of their reasoning, analysis, writing ability, and even grammar. That method provided a full picture of their preparedness and intellect.

In my view, the minimum age should be raised to at least 30. Also, judicial selection exams should be made more rigorous. Of course, this raises other issues: as professional standards go up, so do expectations for salary and working conditions. Otherwise, qualified candidates may prefer to stay in private practice, where they can earn more.

Q: There are criticisms that Armenia missed an opportunity for proper vetting. Do you believe vetting was necessary? And how well has the disciplinary system fulfilled its constitutional role?

A: Vetting is possible, but we must consider its consequences. In theory, there's no problem with establishing a state commission, even an independent one including international and civil society representatives to begin vetting judges. This might result in many dismissals. But we must understand the scale of collapse this could cause in our judicial system.

Take Albania, for example. I recall when the SJC delegation visited Albania, we were told that their judiciary is still struggling to recover from vetting. Many courts are

non-functional, and they can't even rebuild a functioning judiciary. Are we prepared to face such a situation?

I personally oppose harsh vetting. In 2020, when the Corruption Prevention Commission was created, a deep review of judges' financial situations was conducted, starting with the Constitutional Court and SJC members. I can personally attest to how many times I had to submit bank statements, property documents and explanations. Numerous disciplinary proceedings were launched based on financial disclosures. So in a way, this was a slow but real vetting process carried out by the state. Through declarations of property and regular financial audits, the state determined whether a judge could continue serving or not.

As for disciplinary proceedings, when I served on the former Justice Council, we hosted delegations from France and Belgium. Their representatives couldn't understand how a judge could face disciplinary action for a judicial decision. In their systems, discipline applies only to ethical violations or extreme cases, such as when a judge imposes a 15-year sentence where the law prescribes four, without any legal justification. I agree with this model: there must be serious shock from a decision to justify removal; otherwise, review mechanisms should be used.

Q: What lessons can be drawn from Armenia's experience with judicial reform? What would you propose to build a more stable and trusted judiciary?

A: We recently had a very insightful discussion with the SJC Chair. He made an excellent proposal: instead of increasing the number of judges to reduce caseload, we should implement new procedural tools: simplified proceedings, plea deals, reconciliatory procedures. We conducted a study on the U.S. model: only about 4% of criminal cases go to court. The rest are resolved pre-trial through settlement, damage compensation, plea bargaining or dropped charges. Armenia lacks such mechanisms. I believe we should focus on introducing such tools: electronic justice, mediation, coordinated procedures with the prosecutor rather than just appointing more judges. Because with more judges come more cases, and the problem remains unresolved.