

الجـمهــوريـــة الجـــزائريـــة الـــديمـقراطيــة الشــعبيـــة

**REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE**

**Reply to the questionnaire of the UN Special Rapporteur on the independence of judges and lawyers concerning the judicial institutions responsible for the management of the body of magistrates**

**1- Concerning the 1st question:**

**The magistrate is responsible only in front of the Superior Council of Magistracy, in the manner in which he carries out his mission. This principle is enshrined in Article 167 of the Constitution.**

The Superior Council of Magistracy is an independent constitutional institution competent, in its ordinary formation and under the presidency of the President of the Republic, to manage the professional career of the magistrates notably the nomination, the permanent appointment, the promotion and the transfer.

The Council is also competent in its disciplinary component under the chairmanship of the first President of the Supreme Court to rule on disciplinary proceedings against the magistrates including suspension or revocation.

**Legal basis of the Superior Council of Magistracy:**

The Superior Council of Magistracy is governed by the provisions of the Algerian Constitution, notably its articles 173, 174, 175, 176, as well as the organic law n° 04-11 of September 6th, 2004 on the statute of magistrature, and the organic law n° 04-12 of September 6th, 2004 fixing the composition, the functioning and the attributions of the Superior Council of Magistracy.

**2- Concerning the 2nd question:**

**A) Composition of the Superior Council of Magistracy**:

The Superior Council of Magistracy is chaired by the President of the Republic, it is composed of nineteen (19) members, with a majority of magistrates elected by their peers, a number of ten (10) magistrates, as well as two (2) magistrates in their quality of the first President of the Supreme Court and the Attorney general at the Supreme Court.

The Council also includes Six (6) personalities chosen by the President of the Republic outside the body of the judiciary, because of their competence.

**B) Terms of appointment of the members of the Superior Council of Magistracy:**

Presidential Decree No. 04-429 of December 26th, 2004 set the organization and procedures for the election of magistrates who are members of the Superior Council of Magistracy. The voting operation is carried out by secret ballot by their peers as follows:

- two (2) magistrates from the Supreme Court,

- two (2) magistrates from the Council of State,

- two (2) magistrates from the courts,

- two (2) magistrates from the administrative jurisdictions.

- two (2) magistrates from the tribunals of the judiciary.

**C) Term of office:**

The mandate of the members of the Superior Council of Magistracy is fixed at (4) years, It is not renewable. Every two (2) years, half of the elected and appointed members of the Superior Council of Magistracy are renewed by, following the same terms of their appointment.

**D) Human and financial resources:**

The Superior Council of Magistracy has administrative and financial autonomy. The credits necessary for its operation are entered in the general budget of the State. The secretary is a magistrate and an authorizing officer.

The Superior Council of Magistracy elects within it, a permanent office composed of four (4) members, it is notably competent of ensuring the preparation of the sessions of the Superior Council of Magistracy and submitting the proposals relating to the professional career of the magistrates as well as the organization of elections of members of the Superior Council of Magistracy.

**3- Concerning the 3rd question:**

**A) Recruitment of magistrates:**

The recruitment of magistrates is made by national competition, it is organized by the Superior School of the Judiciary, which is an independent public administrative institution, among the holders of the Baccalaureate and a Bachelor degree in law or an equivalent degree. Candidates admitted to the competition benefit from a basic training course of which the duration has passed, within the framework of the continuous program of the reform of justice, from three (3) years to four (4) years.

The training includes a theoretical component and another practical, knowing that the training program includes the teaching of ethics, foreign languages ​​and computing.

After ending their training successfully, the magistrates holding the diploma of the superior school of the judiciary are distributed among the courts according to their merit among the open positions and, following the deliberation of the Superior Council of Magistracy, are appointed by presidential decree and subject to a probation period of one (1) year, at the end of this period, their files are submitted to the Superior Council of Magistracy for their permanent appointments.

**B) Irremovability of magistrates:**

The right to stability is guaranteed for the judge after ten (10) years of effective service.

**C) Promotion of magistrates:**

The promotion of magistrates depends on the efforts provided qualitatively and quantitatively as well as their degree of diligence. Subject to their seniority, consideration is given essentially to the inclusion of judges on the list of aptitude, the assessment obtained by their direct supervisors, the assessment obtained during the in-service training and the scientific works carried out and the diplomas obtained. The judges' assessment gives rise to a note on which the list of qualifications is based. The magistrate is informed of his note.

The Superior Council of Magistracy is responsible for examining the files of the candidates for promotions in accordance with the above conditions, toting that the aptitude list is published at the level of the courts and any magistrate not included in this list is entitled to the appeal.

**D) Transfer of magistrates.**

The Superior Council of Magistracy is competent to deliberate and take decisions on the requests of transfer of the magistrates. It takes into account the requests of the persons concerned, their professional capacity, their seniority, their family situation and the health reasons of the magistrates, their spouses and their children.

**E) Disciplinary proceedings:**

The Superior Council of Magistracy rules on disciplinary proceedings against magistrates in accordance with the provisions and guarantees provided for by articles 21 to 33 of organic law n ° 04-12 of September 6th, 2004 determining the composition, functioning and powers of the Superior Council of Magistracy, with particular reference to:

- The First President of the Supreme Court chairs the disciplinary council.

- The designation, for each disciplinary file, of a rapporteur, among the magistrates members of the Superior Council of Magistracy, classified at least at the same rank as the magistrate object of the disciplinary action.

- Assign the rapporteur magistrate the powers to hear the magistrate concerned or the witnesses and to take any necessary action.

- The right of the magistrate to be assisted by a defender.

- The magistrate concerned is entitled, at least five (5) days before the hearing, to the communication of his disciplinary file.

- The decisions of the Council must be motivated.

- The Superior Council of Magistracy decisions can be appealed.