K I N G D O M O F M O R O C C O

المجلس الوطني لحقوق الإنسان
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Conseil national des droits de l'Homme

The organic law on
The statute of judges

Contribution to public debate - N°2

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EXPLANATORY STATEMENT

1. Under Article 25, second paragraph, of Dahir (Royal Decree) No. 1-11-19 of Rabia I 25, 1432 A.H. (March 1, 2011) establishing the National Human Rights Council (CNDH), the latter contributes to "promoting democracy-building, by fostering broad-based social dialogue and developing any relevant tools and mechanisms to that end".
The CNDH, pursuant to Article 13 of the said Royal Decree, also examines the compatibility of "laws and regulations in force with the provisions of international human rights conventions and international humanitarian law which the Kingdom has ratified or to which it has acceded, as well as with the concluding observations and recommendations of UN treaty bodies on the reports submitted to them by the Government".
In accordance with Article 24 of the same Royal Decree, the CNDH is required to submit to the High Appreciation of His Majesty the King "proposals and issue specific or thematic reports on all matters that contribute to the optimal protection of human rights".

2. Aware of the impact of reinforcing judges' statutory safeguards on the protection of litigants' rights, and seeking to contribute through its memoranda to the process of drafting organic and ordinary laws, the CNDH attaches particular and legitimate importance to the statute of judges. This interest is further justified by the requirements of the "human rights approach" explicitly mentioned in the explanatory statement of the Royal Decree establishing the CNDH.

3. Recognizing that the National Dialogue on Justice Reform constitutes a historic opportunity to build, on a collaborative basis, the fundamental principles of public policies for reforming this strategic sector, the National Human Rights Council seeks to contribute to public debate on this reform through this memorandum about the organic law on the statute of judges. In this context and in accordance with its mission, the CNDH has developed and published several memoranda which successively focused on the High Council of the Judicial Power, the Constitutional Court, the objection of unconstitutionality and the Code of Military Justice.

4. The proposals put forward in this memorandum draw inspiration from different national and international reference standards and declarations. The Council has also carried out a comparative study of laws governing the statute of judges in several democratic countries in order to bring its proposals into closer alignment with good practice in these countries.

5. The reference standards and declarations that the CNDH has considered are as follows:
- The Constitution, in particular Articles 1 (paragraph 2), 19, 25 (paragraph 2), 35, 56, 57, 86, 107, 108, 109, 110, 111, 112, 113, 114, 116 (paragraphs 3 and 5) and 117;

■ Article 14 of the International Covenant on Civil and Political Rights (ICCPR), as interpreted by the Human Rights Committee in its General Comment No. 32[1], in particular paragraphs 19, 20 and 21;
■ Basic Principles on the Independence of the Judiciary, endorsed by United Nations General Assembly resolutions 40/32 of November 29, 1985 and 40/146 of December 13, 1985;
■ Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from August 27 to September 7, 1990;
■ The Bangalore Principles of Judicial Conduct, adopted by the Judicial Group on Strengthening Judicial Integrity on November 26, 2002;
■ Resolution 67/1 adopted by the UN General Assembly on September 24, 2012, as part of the high-level meeting on the rule of law, in particular paragraphs 11 and 14;
■ Resolution A/C.3/67/L.34/Rev.1 on human rights in the administration of justice, adopted by the UN General Assembly on November 16, 2012;
■ Recommendations of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, especially those contained in paragraphs 70, 75 and 98;
■ Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, adopted by the International Association of Prosecutors on April 23, 1999, and approved by the Commission on Crime Prevention and Criminal Justice in its resolution 17/2 of April 18, 2008, in particular paragraph 2.2;
■ The relevant recommendations of the Equity and Reconciliation Commission, in particular recommendations No. 9[2] and 10[3] under the first axis on consolidating the constitutional protection of human rights, as well as recommendations No. 5[4], 7[5], 8[6] and 9[7] included in the sixth axis on rehabilitating justice and strengthening its independence;
■ The European Charter on the Statute for Judges, adopted by the Council of Europe on July 10, 1998.

6. Taking account of the partner for democracy status granted to the Kingdom of Morocco by the Parliamentary Assembly of the Council of Europe in June 2011, the CNDH has also considered the normative documents and declarations produced by the different bodies of the Council of Europe regarding the independence of the judiciary, namely:
■ Recommendation Rec. (2000)19 on the role of public prosecution in the criminal justice system, adopted by the Committee of Ministers of the Council of Europe on October 6, 2000;
■ Recommendation CM/Rec. (2010) on judges: independence, efficiency and responsibilities, adopted by the Committee of Ministers of the Council of Europe on November 17, 2010[8];
■ Recommendation CM/Rec. (2012) of the Committee of Ministers of the Council of Europe on the role of public prosecutors outside the criminal justice system, adopted on

September 19, 2012;
■ Bordeaux Declaration on Judges and Prosecutors in a Democratic Society, adopted by the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE) on January 20, 2010;
■ European Guidelines on Ethics and Conduct for Public Prosecutors, called "Budapest Guidelines", adopted by the Conference of Prosecutors General of Europe on May 31, 2005;
■ Report on European standards as regards the independence of the judicial system, adopted by the Venice Commission at its 85th plenary session in Venice, December 17-18, 2010.[9]

7. In the same vein, the Council has undertaken a comparative study of laws governing the status of judges in several consolidated democracies, namely:
■ Order No. 58-1270 of December 22, 1958 enacting the Organic Law on the Status of the Judiciary, as amended and supplemented (France);
■ Judiciary Act of April 19, 1972, as amended and supplemented, particularly by the Act of February 5, 2009 (Germany)[10];
■ Judicial Code of October 10, 1967, particularly the second part, as amended and supplemented (Belgium);
■ Organic Law 6/1985 of July 1, 1985 on the Judiciary (Spain);
■ Supplementary Law No. 35 of March 14, 1979 enacting the Organic Law of the Judiciary (Brazil);
■ Act No. 195 of March 24, 1958 establishing and organizing the Higher Council of the Judiciary, as amended and supplemented (Italy);
■ Act of April 18, 1827 on the Composition of the Judiciary and the Organization of the Justice System, as amended and supplemented (the Netherlands).

8. The proposals of the CNDH concerning the organic law on the statute of judges are justified by the following arguments:
■ Argument 1: CNDH proposals regarding the statute of judges seek to implement the concluding observations adopted by the Human Rights Committee on December 1, 2004 after examining Morocco's periodic report, in which it urged the country to "take the necessary steps to guarantee the independence and impartiality of the judiciary", in accordance with Article 14 of the ICCPR. They also aim to put into action the recommendations issued to Morocco in July 2012 as part of the Universal Periodic Review, particularly the recommendation to "give high priority to justice reform" (Recommendation 129. 72)
In the same sense, the proposals presented in this memorandum draw guidance from the General Comment No. 32 of the Human Rights Committee, which underlined in

paragraph 19 that "The requirement of competence, independence and impartiality of a tribunal in the sense of article 14, paragraph 1, is an absolute right that is not subject to any exception. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist (…). It is necessary to protect judges against conflicts of interest and intimidation. In order to safeguard their independence, the status of judges, including their term of office, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law."

With regard to discipline, paragraph 20 of this comment provides that "Judges may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the constitution or the law. The dismissal of judges by the executive, e.g. before the expiry of the term for which they have been appointed, without any specific reasons given to them and without effective judicial protection being available to contest the dismissal, is incompatible with the independence of the judiciary. The same is true, for instance, for the dismissal by the executive of judges alleged to be corrupt, without following any of the procedures provided for by the law."

Distinguishing between institutional and personal dimensions of impartiality, paragraph 21 gives strategic guidance on the management of judges' career development, such as the conflict of interest declaration. This paragraph states that "The requirement of impartiality has two aspects. First, judges must not allow their judgement to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other. Second, the tribunal must also appear to a reasonable observer to be impartial. For instance, a trial substantially affected by the participation of a judge who, under domestic statutes, should have been disqualified cannot normally be considered to be impartial."

■ Argument 2: CNDH proposals on the requirements for joining the judiciary aim to diversify and expand pathways to the profession, as part of a forward-looking management of related jobs and skills. These proposals also seek to strengthen the position of the High Council of the Judicial Power in the recruitment and training of judges.

■ Argument 3: The objective of the proposals regarding the rights and duties of judges is to consolidate the existing statutory guaranties, subject to their compatibility with the new constitutional framework, and to implement the new constitutional provisions relating to the rights and duties of judges, in particular those laid down in Articles 109, 111 and 36 of the Constitution.

■ Argument 4: CNDH proposals concerning judges' career development focus on some

strategic aspects directly related to the independence of the judiciary, such as appointment, the accurate scope of judges' security of tenure, the promotion scale, the positions of judges and their disciplinary regime. From a methodological point of view, the proposals concerning this aspect should be considered in tandem with those previously presented in the memorandum on the High Council of the Judicial Power.

■ Argument 5: Proposals relating to the status of public prosecution in the justice system relate to both the status of judges and the Code of Criminal Procedure. For this reason, and taking into account the purpose of this memorandum, the CNDH has opted to present its proposals in the form of thematic entry points.

9. Proposals for the recruitment of judges

The CNDH conducted a comparative study of the laws governing the recruitment of judges in several countries.
For example, the French National School for the Judiciary (Ecole Nationale de la Magistrature) organizes three entry examinations annually:
■ An external competitive examination for holders of at least a four-year university degree and aged 31 years or under;
■ An internal competition open to civil servants of the general government, a local government, a public institution or a public hospital, who have served at least four years in their office and aged no more than 48 years;
■ An examination, laid down in the Organic Law No. 2001-539 of June 25, 2001, open to persons with eight years of professional experience in the private sector, in an elected office or as a lay judge, and aged no more than 40.
Article 18-1 of the French status of judges provides for a direct channel of appointment for persons who have discharged four years of activity in the legal, economic or social field qualifying them for judicial functions, hold a Master's degree in Law, and satisfy other requirements for becoming auditeurs de justice (trainee judges).
The same article institutes another way of direct appointment for holders of a PhD in Law who have, in addition to the qualifications required for the PhD in Law, another postgraduate degree, as well as those who have held teaching or research positions in law in a public higher education institution for three years after obtaining a Master's degree in Law and have a postgraduate degree in a legal discipline.

In Germany, access to the judiciary is conditional upon obtaining a "certificate of qualification for judicial office", which attests to the successful completion of the common training for all legal professions (judges, prosecutors, lawyers, corporate attorneys, etc.). This 6-year common training is divided between a four-year theoretical training in a law school and a

two-year preparatory training through internships. This system is applied at the level of the Federation, while most federated states (Länder) require a ninth semester for theoretical training, therefore a total training period of six and a half years.
Under Section 5 of the German Judiciary Act, "whoever concludes his legal studies at a university by taking the first state examination as well as a subsequent period of preparatory training by taking the second state examination shall be qualified to hold judicial office".
Full university professors of law are also qualified to hold judicial office, according to Section 7 of the said Act.

In Belgium, the Acts of July 18, 1991 and April 7, 2005 amending the Judicial Code provide for three ways of recruiting judges.
- Competitive examination for admission to judicial internship, organized annually. Candidates must hold a Bachelor's in Law and have at least one year of experience in a legal profession as a main occupation;
- Professional competency exam, open to persons with a Bachelor's in Law and a twelve-year professional experience in functions related to the administration of justice;
- Oral examination assessment, open to lawyers who have practiced the profession as a main occupation for at least twenty years, as well as to lawyers with fifteen years of experience in the profession and a five-year experience in another legal profession. The successful completion of the oral examination assessment exempts candidates from the professional competency exam.

The number of judges appointed through the oral examination assessment and the professional competency exam cannot exceed 12% of the total number of judges within the district of the relevant court of appeal. It should be noted that the minimum age for appointment as a judge is 35 years.

The Spanish experience has similar characteristics to the above models. Indeed, the organic laws 6/1985 of July 1, 1985 and 19/2003 of December 23, 2003 on the judiciary uphold the principle of competitive examination as the only means of access to the judiciary, regardless of the candidates' career path.
However, laws distinguish between two categories of potential candidates to the judiciary:
- Applicants holding a Bachelor's in Law and aged less than seventy years;
- Legal professionals with more than ten years of working experience.

One of the characteristics of the Spanish system of recruitment is the central role assigned to the General Council of the Judiciary in the selection and training of judges, pursuant to the Organic Law 16/1994 of November 8, 1994.

In Italy, the principle of competition as the only means of access to the judiciary is enshrined in Article 106 of the Constitution. The recruitment system provides for two types of competitive exams.

- A competition for holders of a Master's degree in Law and a diploma from a school specializing in the training of legal professionals, affiliated to a law school. Applicants in this category must be at least 21 years of age and no more than 40 at the date of the competition;
- A second competition for lawyers aged less than 45 years and having at least five years of experience. The positions open under this competition must not exceed 10% of the total number of positions earmarked to the first competition.

Law No. 303 of August 5, 1998 establishes a special regime for the appointment of certain categories of legal professionals to the Court of Cassation. Thus, full university professors of law and lawyers with fifteen years of working experience and admitted to the bar of the superior courts can be appointed by the High Council of the Judiciary as judges of the Court of Cassation for their outstanding merit, in accordance with Article 106 of the Constitution. Law No. 303 also provides that the judges of the Court of Cassation designated under this procedure may not represent more than 10% of the total number of judges.

In the Netherlands, the Act of April 18, 1827 on the organization of the judiciary provides for two channels of recruitment. The first is open to law school graduates who have a professional experience of less than six years and may become trainee judges. The second path is restricted to lawyers with a Master's degree in Law and at least six years of experience. Applicants in this category must be aged more than thirty years and less than fifty. The Dutch system has two specific features: half-yearly competitive examinations and the use of psychological assessment in the selection process to test certain skills in particular, such as personality, cognitive abilities and analytical skills.

The Portuguese experience is characterized by regulating the age of applying for the judiciary. Law No. 16/98 of April 8, 1998 on the organization and operation of the Center for Judicial Studies provides for two types of candidates.

- Persons holding a Bachelor's in Law for at least two years, in order to ensure that students do not move directly from the university to the Center for Judicial Studies;
- Assessors with at least three years of service, to whom a third of the positions open for competition is earmarked. Assessors are exempt from the written examinations, but take oral tests alongside candidates without work experience and are ranked together with them.

The English and Welsh experience is unique in the sense that it has reshaped, since the enactment of the Constitutional Reform Act 2005, the organization of examinations for

the recruitment of judges, while giving the independent Judicial Appointments Commission a central role in the process of selecting judges. Under this Act, examinations now include interviews, case studies, theoretical written tests and role-plays.
The analysis of comparative experiences in the recruitment of judges reveals the following conclusions:
- Diverse ways to join the judiciary, with a clear preference for the competitive examination, and a tendency to raise the requirements for admission to the profession of judge;
- Tendency to require additional training to initial training, including for candidates with a professional experience in justice-related fields;
- The establishment of bridges between the different legal professions. These gateways make it possible to validate -through training followed by examinations- previous experiences in some academic or legal professions.

Based on these findings, the CNDH proposes to replace the present name "attachés de justice" (trainee judges) by a new name that reflects more clearly the unity of the judiciary and its new independent status. The proposed new name should also reflect the central role that the High Council of the Judicial Power will discharge in ensuring the application of safeguards for judges.

In the same vein, the CNDH proposes a new configuration of the conditions to join the judiciary, by organizing annually three competitions open to the three categories of applicants according to the following parameters.

1) A first competition for trainee judges, open to those who fulfill the following conditions:
- Be of Moroccan nationality and not affected by any of the disqualifications prescribed in the Moroccan Nationality Code;
- Enjoy civil rights;
- Meet the conditions of physical and mental ability required for the performance of the function, as the competitive examination includes a psycho test;
- Be of at least 24 years of age;
- Hold a Master's degree in Law and have completed a one-year internship with a lawyer, a legal aid agency (see accompanying measures in paragraph 13 of this document), a Regional Human Rights Commission, a regional office of the Ombudsman or a local office of the Authority for Equality and the Fight against All Forms of Discrimination.

This proposal reiterates the requirements set forth in Article 4, paragraphs 1, 2 and 3, of the Royal Decree No. 1-74-467 of Shawwal 28, 1394 (November 11, 1974) on the Statute of Judges as amended and supplemented. However, the CNDH proposes to introduce three changes in the conditions for applying to the competitive examination of trainee judges:
- Removing the condition of good moral character, since it requires the production

of a certificate issued by the local administrative authority, now made available to the Government under Article 89 of the Constitution;

- Replacing the requirement of good moral character by producing a clean criminal record. This proposal is based on the analysis of a decision of the French Constitutional Council No. 2012-278 of October 5, 2012, which stated that the purpose of the requirement of good moral character to enter the judiciary is to "allow the administrative authority to ensure that candidates have the necessary guarantees to perform the duties of judges and, in particular, respect the duties attached to their status";
- Adding a condition of psychological ability, required in several comparative systems (e.g. Spain, Italy and Greece).

To ensure the educational quality of these internships, the CNDH proposes that they culminate in a final evaluation in the form of a report to be presented before a jury. The CNDH also proposes that the training period of this category should be 3 years, including 18 months of internship in a court.

2) A second competition for trainee judges open to lawyers and university professors of law having a number (N) of years of working experience. This proposal aims to reduce the time currently required for these professionals to apply for the judiciary, but establishes competition and additional training. The CNDH also suggests opening the way for professionals in the financial, banking and accounting business holding at least a Master's degree and having 8 years of experience. In the same context, it is proposed that this category spend a six-month retraining period in a court.

3) A third competition for trainee judges open to civil servants in Grade 11 having at least 10 years of effective public service and holding a Bachelor's in Law. The CNDH supports the inclusion of a provision in the organic law permitting this category of candidates to join, through competition, the judiciary in all ordinary and administrative courts. The additional training period proposed for this category could be one year, including a 6-month internship in a court.

In the same context, the CNDH encourages the establishment of exchange programs with judicial schools internationally to develop possibilities of internship abroad for the benefit of judges.

Concerning the distribution of positions between the three categories of candidates, the CNDH proposes that the majority be reserved to the first competition, given the complementary nature of the other recruitment channels. This proposal reflects the situation observed particularly in countries whose system of recruitment is based on the concept of judicial career (e.g. France, Spain and Italy).

The French experience confirms this trend. The analysis of the change in judicial positions available for the entry competition of the National School for the Judiciary as well as the

positions allocated to direct appointment since 1992 shows that the number of posts allocated to the first category ranged from 100 in 1994 to 270 in 2013 while the number of trainee judges directly appointed ranged from zero in 1994 to fifty in 2008[11].
These budgetary choices largely explain the distribution of graduating classes from the National School for the Judiciary based on the initial recruitment. For example, the report of this institution for the year 2011 shows the following percentages:

- 1st external competition: 63.04%;
- 2nd internal competition: 10.14%;
- 3rd internal competition: 2.9%;
- Direct appointment: 23.91%.

In Spain, the share of positions reserved for the "lateral entry" of law professors and lawyers does not exceed 25%[12].
As part of implementing the objectives announced by Article 34 of the Constitution, the CNDH proposes to reserve 7% of the total positions open to all categories above to persons with disabilities.
In order to entrench the role of the High Council of the Judicial Power in ensuring the application of safeguards for judges, especially in terms of recruitment, it is proposed that certain provisions currently adopted by the regulatory authority be enacted by means of order by the Executive President of the High Council of the Judicial Power, upon deliberation by the General Assembly and based on the organic law on the statute of judges.These provisions mainly concern conditions governing admission to the competition for trainee judges, the program of examinations and their rating, and the conditions of the end-of-training examination, currently governed by Decree No. 2-05-178 published in the Official Gazette of May 4, 2006.

With a view to strengthening the guarantees of judicial independence, the CNDH also proposes that the following decisions relating to the administration of the competition be taken by the Executive President of the High Council:
1. The appointment of the chair and members of the trainee judge competition jury;
2. The appointment of deputy chair and members;
3. The appointment of assistant examiners;
4. The appointment of the supervisory committee;
5. The appointment of the chair and members of the end-of-training examination jury, currently appointed by the Minister of Justice and Freedoms (Decree No. 2-05-178).
The CNDH also recommends reviewing the composition of juries and the supervisory committee so that they no longer include the representatives of the Ministry of Justice and Freedoms. Currently, juries comprise the Director of Civil Affairs, whereas the said committee includes the Head of the Judges Division, the Head of the Service for the

Management of Judges' Administrative Situation and the Head of the Service for the Movement of Judges. This proposal draws on Recommendation CM/Rec(2010)12 of the Council of Europe Committee of Ministers to member states on judges: independence, efficiency and responsibilities. This recommendation states that "The authority taking decisions on the selection and career of judges should be independent of the executive and legislative powers. With a view to guaranteeing its independence, at least half of the members of the authority should be judges chosen by their peers".
Concerning the disciplinary regime of trainee judges, the CNDH is of the view that it should be managed by the High Council of the Judicial Power. It logically follows that trainee judges should have the same disciplinary safeguards as tenured judges. However, it is proposed that the competent disciplinary authority of trainee judges be composed on a parity basis of three members of the High Council, the Director of the Institut supérieur de la Magistrature (High Judicial Institute), a teacher from the Institute and a representative of trainee judges.

Finally, the CNDH proposes to include psychometric tests in the competitive examinations of trainee judges.
For comparison, the competitive recruitment of judges in the Netherlands requires the successful completion of psychometric tests and personality tests designed to assess candidates' personal qualities and motivation.

In Portugal, Law No. 2/2008 of January 14, 2008 governing the recruitment and training of judges and the structure and operation of the Centro de Estudos Judiciários (Center for Judicial Studies) provides for, in Article 14, "psychological selection tests".
In France, the Ministry of Budget, Public Accounts, the Civil Service and State Reform published in 2010 a practical guide to administrative competitive examinations intended for selection board chairs and members. Among the types of candidate assessment specified in this guide that applies to all competitions, including that of trainee judges, there are psychometric tests that comprise "several types of tests (memory, personality, observation, etc.). These tests measure logical, verbal and numerical skills of a person as well as his/her reasoning and intellectual abilities."

10. Proposals concerning some rights and duties of judges

Having found that several relevant provisions included in the current statute of judges can be transferred to the organic law provided for in Article 112 of the Constitution, the CNDH puts forward only some proposals to strengthen the statutory safeguards of judges.
As such, it is proposed that the organic law on the statute of judges should enshrine

the provisions of Article 111 of the Constitution. To complete the general provisions of the second paragraph of that Article, the CNDH proposes that the organic law define professional associations according to their statutory purpose that must relate to the defense of the fundamental rights and professional interests of judges, the administration of justice, the promotion of professional training for judges and the independence of the judiciary[13].

This proposed definition of professional associations according to their statutory object is the result of a combined reading of paragraph 1.7 of the European Charter on the Statute for Judges and the Universal Charter of the Judge adopted in Taiwan on November 17, 1999 by the International Association of Judges.

Indeed, the European Charter on the Statute for Judges provides that "professional organizations set up by judges, and to which all judges may freely adhere, contribute notably to the defence of those rights which are conferred on them by their statute, in particular in relation to authorities and bodies which are involved in decisions regarding them".

Article 12 of the Universal Charter of the Judge provides that "the right of a judge to belong to a professional association must be recognized in order to permit the judges to be consulted, especially concerning the application of their statutes, ethical and otherwise, and the means of justice, and in order to permit them to defend their legitimate interests".

The CNDH also proposes to relocate the first paragraph of Article 13 of the Royal Decree on the Statute of Judges to the organic law subject of this memorandum. This Article provides that "judges shall at all times demonstrate the reserve and dignity required by the nature of their work. Judges shall be forbidden to conduct any political deliberation and any political demonstration. Any action to stop or impede the functioning of the courts shall be prohibited."

It also recommends reinforcing these provisions by others aimed to require judges to abstain from displaying relationships or adopt a public manner likely to raise doubts about his/her independence or impartiality.

In a bid to entrench the separation of powers, it is proposed that the following declarations be received by the Executive President of the High Council of the Judicial Power.

- Declaration of private gainful activity by the spouse of a judge;
- Declaration by a judge or the spouse of interest in a company likely to affect the function of which the judge is invested.

The CNDH also recalls the need to review the current system of declaration of assets under Law No. 53-06 repealing and replacing Article 16 of the Royal Decree on the Statute of Judges. This review should be made in light of Article 147, first subparagraph

of paragraph 4, of the Constitution. The same approach should be followed to enshrine the jurisdiction of the Court of Auditors in the regular review of the change in judges' declaration of assets and income. In this regard, the CNDH considers that the support of the Executive President of the High Council of the Judicial Power and the inspecting judges constitutes a guarantee of efficiency.
In the same vein, the implementation of Article 36 and last paragraph of Article 109 of the Constitution requires the establishment of arrangements to prevent conflicts of interest in the organic law on the statute of judges.

Finally, the CNDH considers it necessary to provide for a procedure in this organic law for the implementation of the new guarantee enshrined in Article 109, second paragraph, of the Constitution allowing a judge whenever he/she deems that his/her independence is threatened to refer the matter to the High Council.

11. Proposals concerning the career of judges

Regarding this aspect closely linked to the independence of judges, the CNDH proposes that the organic law establishes a general rule under which all decisions relating to the career of judges be made by the High Council of the Judicial Power, in accordance with Articles 113 and 57 of the Constitution, taking into account the decision of the Constitutional Council No. 854-12 of June 3, 2012.

On the aforementioned normative basis, the CNDH puts forward the following proposals.

A) New configuration of the appointment decisions

The CNDH proposes reshaping the appointment decisions and the rules to include in the draft organic law on the statute of judges as follows:

DECISION	PROPOSED RULE
Appointment of judges among the trainee judges	Decision of the High Council of the Judicial Power and approval by Royal Decree (Article 57)
Appointment of officers and noncommissioned officers as judges in the military court[14]	Decision of the Council (upon a proposal from the government authority responsible for the defense) and approval by Royal Decree (Art. 57)
Assignment of judges to the central administration of the Ministry of Justice and Freedoms (for positions lower than central director level)	Decision of the Council's Executive President after seeking the opinion of the relevant committee and upon a proposal from the Minister of Justice and Freedoms Procedure similar to secondment
Deputation of judges	Decision of the Council's Executive President after seeking the opinion of the relevant committee
Appointments to positions of judicial responsibility	Internal call for applications, review of applications by the Council's Nominating Committee, decision of the Council and approval by Royal Decree (Art. 57)
Appointment as First President of the Court of Cassation	Directly appointed by the King (by Royal Decree)
Appointment as Prosecutor General at the Court of Cassation	Directly appointed by the King (by Royal Decree)
Appointments to local tax boards and the National Tax Appeals Board (Art. 225 and 226 of the Tax Code)	Internal call for applications, review of applications by the Council's Nominating Committee, decision of the Council and approval by Royal Decree (Art. 57)
Appointments to other bodies	Internal call for applications, review of applications by the Council's Nominating Committee, decision of the Council and approval by Royal Decree
Secondment to international or foreign organizations	Internal call for applications, review of applications by the Council's Nominating Committee, decision of the Council and approval by Royal Decree

In the same direction and to strengthen the guarantees for the independence of the judiciary, it is proposed that the organic law should provide for a nonrenewable fixed-term of office for all positions of judicial responsibility. For example, Article 38-1 of the French status of the judiciary provides that "No person may be appointed as Prosecutor General of the same court of appeal for a term of more than seven years."

B) Enshrining the security of tenure of sitting judges

Concerning the security of tenure for sitting judges, enshrined in Article 108 of the Constitution, the CNDH proposes that the organic law should guarantee this principle, while stating that the sitting judge cannot receive, without his/her consent, a new assignment, even as a promotion[15]. This proposal aims to implement the safeguards prescribed in Article 108 of the Constitution.

In addition, the formula proposed by the CNDH is compatible with paragraph 12 of the Basic Principles on the Independence of the Judiciary, which states that "Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists."

For comparison, the French constitutional provision that guarantees the tenure of sitting judges (art. 64 of the Constitution) is detailed in the organic law on the status of the judiciary (Order No. 58-1270 of December 22, 1958 enacting the Organic Law on the Status of the Judiciary, consolidated version of February 15, 2012). Indeed, Article 4 of organic law reproduces the constitutional principle of security of tenure for sitting judges, while stating that the latter cannot receive without their consent a new assignment, even as a promotion.

For decisions involving the career of judges, it is proposed that all appointment decisions of judges and prosecutors to be taken by the High Council of the Judicial Power. These decisions must be reasoned and may be challenged before the highest administrative jurisdiction of the Kingdom on the grounds of abuse of power. This proposal seeks to provide judges and prosecutors alike with the same statutory safeguards under the organic law.

For comparison, the jurisprudence of the European Court of Human Rights has established since the 1980s the principle of tenure as a fundamental guarantee of the independence of the judiciary. In its judgment on the case of Campbell and Fell v./the United Kingdom, the Court stated that "It is true that the irremovability of judges by the executive during their term of office must in general be considered as a corollary of their independence … However, the absence of a formal recognition of this irremovability in the law does not in itself imply lack of independence provided that it is recognized in fact and that the other necessary guarantees are present."

Other countries have opted for the constitutional recognition of the tenure of all judges.

This is the case of Italy, whose Constitution provides in Article 107 that "Judges may not be removed from office. Neither may they be dismissed or removed from office nor assigned to other courts or functions unless following a decision of the High Council of the Judiciary, taken either for the motives and with the guarantees of defense established by the rules of the judiciary or with their consent" and that "judges are distinguished only by their different functions". It also specifies that "the state prosecutor enjoys the guarantees established in his favor by the rules of the judiciary".

C) A new promotion matrix

Regarding the promotion and evaluation of judges, the CNDH proposes a new matrix that complements the proposals it has previously made in its memorandum on the High Council of the Judicial Power (see the appendix).

Thus, it is proposed that the organic law should establish a promotion matrix based on the following parameters:

- Seniority;
- The evaluation criteria proposed in the CNDH memorandum on the High Council of the Judicial Power (including self-assessment and evaluation reports for prosecutors);
- Continuing education attested by a certificate, a diploma or a training document;
- The training of legal professionals (including as part-time lecturer in law schools);
- Academic and educational publications.

The CNDH proposes that promotion to a higher grade should take into consideration only the activities carried out by the judge during the years required for promotion.

The breakdown of the parameters proposed above is justified by two requirements: to consolidate the usual position of the seniority criterion while facilitating the transition to an assessment system based on performance as well as investment in training and research activities related to the legal profession. Several comparative experiences have opted for this choice.

In fact, the Italian system of promotion combines the seniority criterion, prescribed by laws No. 570 of July 25, 1966, No. 831 of December 20, 1973 and No. 97 of April 2, 1979, with other performance evaluation criteria[16]. One of the specificities of the Italian evaluation procedure of judges is that it is based not only on reports made by the heads of jurisdiction but also on the opinions of the "judicial councils", which are collegial bodies set up at each court of appeal and composed of judges, representatives of the bar association and academia[17].

Beyond the diversity of evaluation regimes across the federated states (Länder), the German assessment system integrates the seniority parameter through the relatively long interval between evaluation timelines (every 4 or 5 years) while focusing evaluation on the professional, personal, social and leadership skills[18].

The Spanish evaluation system has adopted a similar approach based on the evaluation of performance, length of service and investment in various academic activities related to the legal profession[19].

Likewise, the promotion matrix of Lithuanian judges[20] assigns 15% to seniority, 40% to job performance, 20% to personal qualities (including compliance with judicial ethics), 10% to diplomas and certificates, 10% to motivation and 5% to language proficiency.

D) The administrative positions of judges

The CNDH has found that most of the provisions currently governing the administrative positions of judges can be transferred into the organic law subject of this memorandum, provided they are reworded in accordance with the new responsibilities vested in the High Council of the Judicial Power. The CNDH, which recommends that all decisions concerning the administrative position of judges be made by the High Council, submits only some additional proposals regarding the positions in which judges can be.

In this context, it is proposed that judges in active service should benefit every six years of activity from a leave of no more than six months for the purpose of scientific research or professional retraining.

Moreover, the CNDH suggests setting the retirement age of judges at 65, with the possibility to extend it only once for a period of 2 years, at the request of the person concerned and after receiving a favorable opinion from the High Council of the Judicial Power.

E) The disciplining of judges

Reiterating its proposals on the disciplinary procedure which were presented in its memorandum on the High Council of the Judicial Power (see Appendix 1), the CNDH proposes establishing a disciplinary system based on the following rules that should be provided in the organic law on the statute of judges:

- The High Council of the Judicial Power should exercise the disciplinary authority over judges and prosecutors. This implies that the decisions currently made by the Minister of Justice and Freedoms in disciplinary matters be assigned to the Executive President of the

Council;

- All disciplinary sanctions shall be imposed by decision of the Council's Executive President, after seeking the opinion of the Council convened as a disciplinary board and assisted by experienced inspecting judges;
- Disciplinary offenses should be defined on the basis of any failure by a judge to comply with his/her professional duties or observe honor, propriety or dignity;
- Any gross and deliberate violation by a judge of a rule of procedure that constitutes an essential guarantee of litigant rights, ascertained by a final judicial decision, should be qualified as a disciplinary offense[21];
- The rules on disciplinary safeguards provided in the current statute of judges should be relocated to the new organic law;
- Challenging for abuse of power the disciplinary decisions of the Council before the Kingdom's highest administrative jurisdiction should be made possible[22].

12. Proposals regarding the status of public prosecution in the judicial system

Aware that any proposal on the status of the public prosecution must cover several legal texts, the CNDH has chosen to submit its proposals on the status of prosecutors in the judicial system through the following entry points:

A) Ensuring the independence of prosecutors from the executive branch

The CNDH proposes that the organic law on the statute of judges should place prosecutors under the authority of the King's Prosecutor General at the Court of Cassation as well as under the control and direction of their superiors.

In the same context, the CNDH proposes amending Article 51 of the Criminal Procedure Code in order to enshrine two principles: the independence of prosecutors in investigation and prosecution, and the right of the Minister of Justice and Freedoms to notify the Prosecutor General at the Court of Cassation of any violation of criminal law that comes to his/her attention. However, the Minister should not have the power to instruct the Prosecutor General to initiate the prosecution.

This proposal is in line with the Standards of Professional Responsibility and the Statement of the Essential Duties and Rights of Prosecutors, adopted by the International Association of Prosecutors on April 23, 1999 and approved by the United Nations Commission on Crime Prevention and Criminal Justice in resolution 17/2 of April 18, 2008. Paragraph 2.2 of these standards states that "If non-prosecutorial authorities have the right to give general or specific instructions to prosecutors, such instructions should be transparent;

consistent with lawful authority; subject to established guidelines to safeguard the actuality and the perception of prosecutorial independence."

B) Conditions for the implementation of Government criminal policy through the public prosecution service

The CNDH proposes that Article 51 of the Criminal Procedure Code should establish the role of the Minister of Justice and Freedoms in conducting the Government's criminal policy. The new wording of Article 51 may also entrust the Minister of Justice and Freedoms with the mission to ensure the consistent application of the criminal policy through the issuance of general circulars addressed to the King's Prosecutor General at the Court of Cassation.

C) Strengthening the control of prosecutors' action by holding them responsible and accountable

Recalling the key provisions of the current legal regime for the control of prosecutors (Article 56, subparagraph 2 of paragraph 1, of the Royal Decree No. 1-74-467 of Shawwal 26, 1394 A.H. (November 11, 1974) on the Statute of Judges, as well as Articles 36-51 of the Criminal Procedure Code, the CNDH emphasizes the need to strengthen the control of prosecutors' action on three levels: the work of the judicial inspection that should be part of the duties assigned to the High Council of the Judicial Power; the evaluation of prosecutors under the conditions laid down in Article 116, paragraph 4, of the Constitution; and the development of a procedure for the implementation of the guarantee provided by the second paragraph of Article 109 of the Constitution.

D) Mechanisms for coordination between the King's Prosecutor General at the Court of Cassation and the Minister of Justice and Freedoms

The CNDH proposes that the organic law provides a mechanism for coordination between the King's Prosecutor General at the Court of Cassation and the Minister of Justice and Freedoms (e.g. regular meetings, annual conference on the criminal policy, etc.). In the same vein, it is proposed that the King's Prosecutor General at the Court of Cassation should publish an annual report on the implementation of the criminal policy by public prosecutors. This report must be submitted to His Majesty the King, the Executive President of the High Council of the Judicial Power and the Minister of Justice and Freedoms.
The CNDH would like to point out that its proposals on the status of public prosecution in the judicial system are based on the recommendations of the Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul. The premise of the Rapporteur

is "the thin line between ensuring that prosecutors are accountable in the discharge of their functions, and the imperative that prosecutors operate independently and without fear, pressure, threats or favour". After studying several comparative experiences, the Rapporteur has found a general tendency to move towards a more independent prosecution service model, in terms of its relationship with other authorities, notably the executive.

The Rapporteur also emphasized the importance of strengthening the statutory safeguards for prosecutors through the establishment of a "framework for dealing with internal disciplinary matters and complaints against prosecutors, who should in any case have the right to challenge – including in court – all decisions concerning their career, including those resulting from disciplinary proceedings".

Regarding the hierarchy of prosecutors, the Rapporteur noted that "in most countries where the prosecution service is hierarchical, case-specific instructions may also be given by the Prosecutor General or the Head of the Prosecution Service or on his behalf to individual prosecutors, including instructions as to whether to initiate or discontinue prosecution in a specific case or to transfer the case to another prosecutor. It would be an abuse of authority if the motive for such an instruction is politically motivated". The Special Rapporteur further emphasized that "case-specific instructions to prosecutors from external organs are not desirable and that they should be formally recorded and carefully circumscribed to avoid undue interference or pressure".

Finally, the Rapporteur recommended that "the prosecutor and the prosecution service should be autonomous, irrespective of the institutional structure. States should ensure that prosecutors can perform their functional activities in an independent, objective and impartial manner"[23].

13. Accompanying measures

In addition to the proposals outlined above, the CNDH considers that the following accompanying measures would have a positive impact on overhauling the status of judges.

A) Setting up legal aid agencies

The CNDH, which has proposed prior internship as a prerequisite to apply for the competition of trainee judges (for category 1 candidates), recommends the establishment by law of legal aid agencies at the territorial level.
The functions of these agencies may be as follows:

- Information and guidance on access to justice;
- Legal advice (subject to the responsibilities vested in lawyers);
- The promotion of alternative dispute resolution;
- Assistance in the completion of any procedure for the exercise of a right (subject to the powers devolved to the different legal professionals);
- Assistance in drafting some legal documents (subject to the powers devolved to the different legal professionals).

The CNDH invites stakeholders to explore the feasibility of this solution as part of a complete overhaul of the legal aid system.

The CNDH also recalls that this proposal is part of the implementation of United Nations General Assembly resolution 67/1 adopted on September 24, 2012, in the framework of the high-level meeting on the rule of law.

To this end, paragraph 11 of the resolution recognizes "the importance of national ownership" in rule of law activities and strengthening justice institutions. The paragraph also emphasizes the importance of establishing a justice that is accessible and responsive in order to protect the rights, build confidence and promote social cohesion and economic prosperity. Paragraph 14 emphasizes the right of equal access to justice for all, including members of vulnerable groups, and the commitment of States to take all necessary measures to ensure a transparent, effective and non-discriminatory access to justice.

B) Reviewing national educational standards in university law studies

To strengthen the practical dimension of legal education, the CNDH proposes reforming the national educational standards in university law studies. The aim is to increase, during the last year of Bachelor's degree, the total time devoted to end-of-study projects, professional projects and internships. At the Master's level, the CNDH suggests raising the overall time devoted to introductory courses in research, as well as mandatory training in the workplace.

Strengthening the practical dimension of legal education, with adequate time volume, would allow introducing innovative teaching techniques, such as the legal clinics approach and judicial investigation techniques.

C) Creating the Council of State

The CNDH recommends to the different stakeholders to explore the feasibility of creating a Council of State on the basis of Article 114 of the Constitution. In this regard, the CNDH recalls the speech of His Majesty the King of December 15, 1999 which opened the prospect of setting up a "Council of State to top the judicial and administrative pyramid of our country".

In the framework of its current reflection on this issue, the CNDH is of the view that the Council of State may assume the following four major functions:

- Acting as the Supreme Administrative Court;
- Providing legal advice to the government and the parliament;
- Screening the procedural and substantive admissibility of legislative motions;
- Considering the admissibility of objections of unconstitutionality raised before the administrative courts.

CONTRIBUTION TO PUBLIC DEBATE

THE ORGANIC LAW ESTABLISHING THE STATUTE FOR JUDGES

Appendix: Reminder of CNDH proposals on the criteria for managing the career of judges

It is proposed that the organic law on the High Council of the Judicial Power should establish the principle of the performance evaluation of judges while specifying that the assessment shall not have the purpose or the effect of undermining the independence or impartiality of the judge concerned.

In a bid to provide strong safeguards against any attempt to undermine the independence of judges during their evaluation, it is proposed that the latter should focus on quantifiable and objectively measurable criteria. This choice has twin benefits: it preserves the independence of judges while facilitating the development of measurable indicators, a necessary methodological condition to improve the quality of services provided to individuals.

The organic law on the High Council of the Judicial Power may enshrine several criteria as principles for the evaluation of judges, which may be detailed in the organic law on the statute of judges. The assessment can rest on a set of basic skills necessary for the proper discharge of the judicial office, such as:

1. The ability to manage case outflow compared to case inflow and cases pending;
2. The ability to decide cases within a reasonable time;
3. Organizational skills;
4. Knowledge of law and procedure;
5. Fair and equal treatment of cases;
6. Communication;
7. Management of hearings;
8. Management of evidence;
9. Decision making;
10. Management of pending cases[24];
11. Quality of judgements[25].

These criteria can be combined with the seniority criterion that remains important.

Some provisions of Article 23 of the Statute of Judges can be transferred to the organic law on the High Council of the Judicial Power, particularly the principle of continued promotion of judges to higher grades and steps. In the same vein, it is proposed that the organic law should also include the impossibility to promote a judge to a higher grade unless he/she is on the advancement eligibility list, as well as the principle of taking into account, when establishing the said list, the candidate's university degrees, qualification and ability to perform the duties corresponding to the higher grade. It is further proposed to create, within the Council, a Promotion Committee composed exclusively of the judicial members[26].

To strengthen the statutory safeguards of judges, it is proposed that any judge who challenges the assessment of his professional performance could refer the case to the Promotion Committee. After hearing the observations of the judge concerned and those of the assessing authority, the Promotion Committee shall deliver a reasoned opinion to be placed in the file of the judge concerned. In the same sense, it is proposed to grant judges the possibility to self-assess their performance as part of a more comprehensive approach to evaluation.

Regarding prosecutors, the CNDH considers that the organic law on the High Council of the Judicial Power should enshrine the principle that the Council shall take into consideration the

evaluation reports prepared by the higher authority to which they report.

In disciplinary matters, it would be appropriate that the organic law on the High Council of the Judicial Power enshrines three constitutional provisions: the participation of inspecting judges in disciplinary matters, the qualification as gross professional misconduct of any failure by a judge to shoulder his obligations with respect to independence and impartiality, as well as the possibility to challenge for abuse of power individual decisions issued by the High Council of the Judicial Power before the highest administrative jurisdiction of the Kingdom.

In the Royal Decree No. 1-74-467 of Shawwal 26, 1394 A.H. (November 11, 1974) on the Statute of Judges, the provisions of Chapter V relating to the disciplinary regime applicable to judges broadly afford judges with the necessary disciplinary guarantees. It is therefore proposed to transfer the provisions of Articles 59, 61, 62 and 63 of this law to the organic law on the High Council of the Judicial Power, while redrafting Article 58 to include the provisions of the third paragraph of Article 109 of the Constitution. In the same vein, it is proposed to grant the Council's Executive President the authority to declare sanctions against judges following disciplinary proceedings taken by the Council convened as disciplinary board.

NOTES

1. General Comment No. 32 was adopted at the ninety-tenth session of the Human Rights Committee (July 9-27, 2007) CCPR/C/GC/32, August 23, 2007.

2. "The constitutional principle of the separation of powers, particularly as it concerns the independence of the judiciary and the statute of judges, should be consolidated and any interference by the executive branch in the organization of justice and the conduct of the judiciary should be expressly prohibited." IER Final Report, Volume I, p. 103.

3. "The constitutional guarantees of the independence of the High Council of the Judicial Power should be strengthened". The Equity and Reconciliation Commission proposes "defining its Statute by means of an organic law under which its composition and mission will be reviewed with a view to ensuring that it significantly represents civil society, while providing it with human and financial autonomy, and giving it wide powers in the field of organizing the profession, laying down its controls and ethics, evaluating judges and taking disciplinary measures against them. The Council should also be given the responsibility of preparing an annual report concerning the administration of justice." Volume I, p. 103.

4. "Giving incentives to judges and judicial officers, improving their initial and in-service training, and assessing their performance on a regular basis", Volume I, p. 106.

5. "Reviewing the organization and the responsibilities of the Ministry of Justice in such a way as to prevent any interference or influence of the administrative apparatus in the course of justice and the conduct of trials", Volume I, p. 106.

6. "Criminalizing interference by the administrative authority in the course of justice", Volume I, p. 106.

7. "Increasing penalties against any breach or infringement of the inviolability and independence of justice", Volume I, p. 106.

8. Recommendation on "Judges: independence, efficiency and responsibilities", adopted by the Committee of Ministers of the Council of Europe on November 17, 2010 (CM/Rec. (2010)12);

9. See in particular Part II – the Prosecution Service CDL-AD(2010) 040, Study No. 494 / 2008, CDL-AD(2010) 040: European Commission for Democracy through Law (Venice Commission), Report on European standards as regards the independence of the judicial system: Part II – the prosecution service, adopted at the 85th plenary session (Venice, December 17-18, 2010) on the basis of comments by Mr. James Hamilton (Ireland), Mr. Jørgen Steen Sørensen (Denmark) and Ms. Hanna Suchocka (Poland).

10. German Judiciary Act of April 19, 1972, Federal Law Gazette Part I, p. 713, as amended and supplemented by the Act of February 5, 2009 (article 9), Federal Law Gazette Part I, p. 160.

11. Senate report on the draft Finance Act 2013 (Judicial Justice and Access to Law).

12. John Bell, Judicial Appointments: Some European Experiences, 2003, p. 9.

13. See: DAJ/DOC (98) 23: The European Charter on the Statute for Judges, Strasbourg, July 8-10, 1998, and the Universal Charter of the Judge, adopted in Taipei on November 17, 1999 by the International Association of Judges.

14. This proposal is in line with the recommendations made by the CNDH in its memorandum on the Royal Decree No. 1-56-270 of Rabii II 6, 1376 A.H. (November 10, 1956) establishing the Code of Military Justice, as amended and supplemented.

15. See Olivier Plue, "The Tenure of Judges: A Model?", PhD thesis in Public Law, supervised by Professor Jean Morange, defended on November 22, 2011 at the Université Panthéon-Assas, Graduate School of Public Law, Administrative Science and Political Science.

16. Consiglio Superiore della magistratura, The Italian Judicial System (pp. 13-15).

17. Ministry of Justice (France): Professional Evaluation of Judges, February 10, 2010, p. 3.

18. Dr. Cheryl Thomas, Review of Judicial Training and Education in Other Jurisdictions, University of Birmingham, School of Law, May 2006, p. 115.

19. John Bell, Judicial Appointments: Some European Experiences, 2003, p. 9.

20. Judicial council of Lithuania, "Selection criteria of persons seeking judicial promotion", approved by Resolution No. 135-174-7.1.2, October 26, 2012.

21. For comparison, the French Constitutional Council stated in its Decision No. 2010-611 of July 19, 2010 that a similar provision in the organic law relating to the application of Article 65 of the Constitution is consistent with the constitutional requirements.

22. Currently, the Administrative Chamber of the Court of Cassation is competent in the matter.

23. Human Rights Council, A/HRC/20/19 of June 7, 2012, pp. 3, 6, 15 and 19.

24. The criteria 4 to 10 are used in the evaluation system of the Administrative Appeals Tribunal in Australia.

25. See for example: Pascal Mbongo (studies compiled by): "The quality of judicial decisions", Council of Europe, 2011.

26. It is proposed to include this provision in the Rules of Procedure of the High Council of the Judicial Power. For the composition of promotion committees in comparative law, see the composition of the promotion committee of judges in France, Official Gazette No. 0245 dated 21 October 2010.

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Conseil national des droits de l'Homme

The organic law on

the statute of judges

Contribution to public debate - N°2

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