

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 35

RE-ESTABLISHMENT OF THE COUNCIL OF JUDGES

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and the laws and usages of war,

Noting that, prior to the changes made by the former regime, Iraq had a functioning Council of Judges that administered the judicial and prosecutorial systems to insure that judges and public prosecutors were appointed from among persons enjoying the highest reputation for fairness and integrity and of recognized competence of law, and that the judicial system exercised its authority in accordance with the rule of law, and

Recognizing that a key to the establishment of the rule of law is a judicial system staffed by capable persons and free and independent from outside influences.

I hereby promulgate the following:

Section 1 Purpose

This Order re-establishes the Council of Judges ("the Council"), which is charged with the supervision of the judicial and prosecutorial systems of Iraq. The Council shall perform its functions independently of the Ministry of Justice.

Section 2 Membership

1) The following officials shall serve as members of the Council:

Chief Justice of the Supreme Court (President of the Council)
The Deputy Chief Justices of the Supreme Court
Director-General of the State Council Assembly
Director-General, Office of Public Prosecution
Director-General, Legal Supervision Office
Director-General, Administration, if such person is a Judge or Prosecutor
Presidents of the Appellate Courts

- 2) The Council shall also have a Secretary-General, who shall be selected by the President of the Council. The Secretary-General shall perform administrative functions for the Council, together with such additional employees as the Council and the Ministry of Finance may deem appropriate.
- 3) The President of the Council shall be the Chief Justice of the Supreme Court. The Vice President of the Council shall be selected by the Council from the Deputy Chief Justices of the Supreme Court.

Section 3 Duties

- 1) The Council shall have the following specific duties:
 - a) To provide administrative oversight of all the judges and all public prosecutors, excluding, however, the members of the Supreme Court.
 - b) To investigate allegations of professional misconduct and incompetence involving members of the judiciary or public prosecutors, and, when appropriate, to take appropriate disciplinary or administrative measures against members of the judiciary or public prosecutors, including but not limited to, removing a judge or prosecutor from office, including the members of the Supreme Court.
 - c) To nominate capable persons as required to fill judicial vacancies or public prosecutor vacancies, and to recommend their appointment.
 - d) To promote, advance, upgrade, and transfer judges and prosecutors.
 - e) To assign or reassign judges and prosecutors to hold specific judicial and prosecutorial posts as provided for in the Law of Judicial Organization (Law No. 160 (1979)) and the Law of Public Prosecution (Law No. 159(1979)).
- 2) The Council shall have such other duties as may be determined from time to time by law.

Section 4 Meetings

- 1) The Council shall conduct regular meetings at least monthly. The President of the Council may call special sessions of the Council when needed to conduct necessary business.

- 2) A quorum shall require at least three-fourths of the membership of the Council and the presence of either the President or the Vice-President of the Council. Decisions of the Council will be by majority vote of those members present.

Section 5

Disciplinary and Professional Standards Committee

- 1) The Council shall appoint a Disciplinary and Professional Standards Committee ("the Committee") of at least three (3) members from its own membership. The Committee shall investigate allegations of misconduct and incompetence by members of the judiciary and public prosecutors, and shall make appropriate decisions concerning disposition of those allegations, including but not limited to, the removal of that judge or prosecutor from office if the allegations are substantiated.
- 2) Any judge or prosecutor adversely affected by a decision of the Committee may appeal the decision to the Council within thirty (30) days from the date of the decision of the Committee. The decision of the Council on the appeal shall be final and conclusive, and no further appeal is authorized.
- 3) The Director General of Public Prosecutions shall also have the right to appeal any decision made by the Committee to the Council, within thirty (30) days from the date of the decision of the Committee.

Section 6

Independence of the Council

- 1) The Council shall perform its duties and responsibilities independently of any control, oversight, or supervision by the Ministry of Justice. To the extent that provisions of Iraqi law, specifically the Law of Judicial Organization (Law No. 160 (1979) and the Law of Public Prosecution (Law No. 159) (1979)) conflict with the provisions of this Order, those provisions of Iraqi law are suspended.
- 2) The Council of Judges shall take the place of the Council of Justice that was previously established by the Judicial Organization Law (Law No. 160) (1979) in so far as the Council of Justice exercised any authority over any judge or prosecutor. All administrative oversight of the judges and prosecutors shall now rest only with the Council of Judges. The Council of Justice shall continue in existence, but shall have no jurisdiction over any prosecutor or judge.

Section 7
Entry into Force

This Order shall enter into force on the date of signature.

 9/18/03
L. Paul Bremer, Administrator
Coalition Provisional Authority