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Chief Justice participates in Fourth International Conference of Chief Justices in Istanbul of Turkey

Chief Justice, Qanoonpoh Sayed Yousuf Halim, participated in Fourth International Conference of Chief Justices held in Istanbul, hosted by the Supreme Court of Turkey Republic.



Around 36 Heads of Supreme Courts from different countries participated in the conference held on October 11 and 12, 2018, initiated by UNDP and the Supreme Court of Turkey to debate (Istanbul Declaration) draft that focused on the circle of transparency in judicial performance process. Participants exchanged views on the need for declaration issuance and its legal impacts and consequences for ensuring transparency in judicial performance and following necessary reforms,

while the primary steps had been completed in previous conferences, approved the draft with 15 principles in the plenary session.



Chief Justice of Afghanistan talked about the approved principles in Istanbul Declaration and said that fortunately, Afghanistan has already observed majority of contained provisions in its laws and administrative and judicial performances and observation of the rest of the principles which are optional and can assist in ensuring transparency in administrative and judicial performances can be used by entering adjustments in legislative documents.

Chief Justice meets USAID Corruption Inspector General for Afghanistan

On September 30, 2018, Chief Justice, *Qanoonpoh* Sayed Yousuf Halim met with USAID Corruption Inspector General for Afghanistan, Dr. Lawrence Robertson.



Explaining the goals to be achieved regarding assessing state of corruption in Afghanistan in political and economic dimensions, Dr. Robertson added, “The United States of America conducted a comprehensive study on perception of corruption state in Afghanistan and has determined to peruse this phenomenon in terms of its impact on political and economic situations of Afghanistan and by understanding the government’s plans and programs and identifying challenges, will

provide professional and technical assistances and appropriate solutions to fight this phenomenon.”

Chief Justice detailed comprehensive strategy of the government in fighting corruption, where based on “Rule of law and access to justice” the Judiciary holds significant responsibilities and recalled judicial reform programs and judiciary action plan prepared in accordance with requirements that has been improved significantly since the last two years in fields of judicial rules and procedures, counter-corruption and creating transparency, restructuring and avoid swelling, establishment of courts of anti-corruption and violence against women in the center and provinces, also establishment of anti-heavy corruption primary and appellate courts in the framework of anti-heavy corruption justice and judicial center, considering judges’ capacity building, appointment of judges with respect to standard and principles, and strengthening judicial care office in fighting corruption and ensuring ideal coordination with justice administrations.

Chief Justice added, “The counter-corruption has been of the government priorities as the Rule of Law and Anti-Corruption High Council led by the President, Justice and Judicial Committee led by the second Vice President, Counter-Corruption Special Committee led by the Attorney General and other sub-structures indicate that fundamental institutions have been established for anti-corruption, laws are better disciplined and joint struggle is going on.

Chief Justice also added that as a result of

implementation of reform programs, including designation of qualified people on affairs with counter-corruption, trust of people increased on judiciary, people refer to the courts for resolving their problems such as, civil, commercial, criminal, personal affairs in primary stages and appeal in its due time and lawful manner, which show a strong well towards system reform and a hope for corruption reduction which will come to halt in two coming years In sha Allah.

Chief Justice considered financial and technical assistances of the international community, including USAID very important for implementation of indicators of action plan in the judiciary and hope the assistances could help them meet their goals.

Doctor Robertson expressed contentment on development and performances of Afghanistan Judiciary and promised further cooperation in coordination with international assistances for implementation of judiciary action plan.

Chief Justice meets with European

Union Ambassador

Chief Justice, *Qanoonpoh* Sayed Yousuf Halim met with EU Ambassador to Afghanistan, **Pierre Mayaudon** on October 1, 2018. The EU Ambassador talked about corruption and realization of government's strategy regarding corruption during the last one year, and development and performances of justice and judicial institutions, adding that European Union helps Afghanistan socially, economically and politically and is trying to provide ways for further effective cooperation regarding counter corruption by identifying challenges and restrictive factors.



Chief Justice considered government's strategy towards fighting corruption a vital document based on which the judiciary arranges and puts into action its comparative strategy accordingly. Since counter-corruption has multi-dimensions, the Supreme Court took restrictive measures after

identifying factors, risks and vulnerabilities to corruption so that it could control this phenomenon that by outlining and implementing judiciary action plan in in the areas such as judicial reforms, review of structure for solving people's needs, reform of laws and procedures related to justice, serious fight against corruption, codification of judiciary program, replacement of cadres based on statutory criteria, addressing demands of claimants, establishing complaints commission, quick settlement of cases and respecting basic rights around the cases by respecting rules of fair trial and other relevant cases to judicial performances. In the meantime, due to efforts made by Judicial Care, about 51 people, including 6 Judges, 9 Correspondents and Administrative staff, 4 Advocates and 34 "broker", irrelevant to judiciary have been arrested in the last one year on charge of corruption. It is hoped that by financial and technical assistances of the international community for implementation of indicators of the action plan against corruption and action plan for judiciary, there will be a more effective and positive development on the route to fighting corruption. At the end, the EU Ambassador expressed content about development in judicial system and promised organization of technical assistances.

Oversight Committee for Justice and Services Project hold by Chairmanship of Chief Justice and Director of the Committee

The conference held on September 4, 2018 in Supreme Court's Conference Hall in presence of the Attorney General, the Acting Finance Minister, the Justice Minister, the General Administrative Director of Judiciary, the Deputy Attorney General and other related officers. The conference covered extension and financing issues of the new project in justice and judicial sector.



Chief Justice who holds the responsibility of justice and judicial services project talked about current situation of the project and requirements of justice and judicial administrations for better serving people and realizing aims and indicators of national justice and judicial reform program. He added, “In a situation that justice and judicial administrations need reforms, standardizing

activities, capacity building and solving infrastructural issues, extension and financing of new project for justice and judicial sector are considered very important because solving financial and technical needs require costs that such facilities can be provided through international assistances by justice and judicial projects.” He asked the Minister of Finance as a coordinator of international assistances to consider the importance of the issue and pay necessary attention in solving the problem.

Later, the prosecutors and Minister of Finance talked and considered extension and financing justice and judicial services project vital for support and implementation of aims included in action plans of their institutions and emphasized on funding and extension of the project in framework of the international support.

Acting Finance Minister, after evaluation of justice and judicial sector monitoring project promised to take measures in solving problems and challenges that caused stagnation of the project in coordination with government authorities and international donors, and by realizing the requirements of these administrations, will cooperate in financing the new project and will proceed with expenses payments of this project and staff and legal aid providers’ salaries.

Report on the Supreme Court High Council sessions

On September 1, 4, 11, 18 and 25, 2018, the Supreme Court High Council held periodic session under the chairmanship of Chief Justice, *Qanoonpoh* Sayed Yousuf Halim and issues included in the agenda were address. important decisions and approvals are mentioned as the followings:



- emphasizing on respect to legal procedures for releasing criminal defendants' cases to ultimately bail, it was stated that ultimately bail is not an administrative affair, but requires judicial decision that in such cases and by considering provision of articles 105 and 305 of penal code when cases are subject to tribunal process, if decision is made in verdict's text and in the other way with judicial ruling and/or if cases are not subject to tribunal process,

appropriate decision should be made regarding suggest of the relevant prosecutor where decision and signatures of the related judicial board is necessary in all cases about release of ultimately bail.

- Regarding performance procedure on confiscated goods in criminal cases that their relevant cases are either kept or ended during investigation process by imposing no litigation, it was specified in light of article 173 of the penal code that such goods are refundable to its owner according to the law, unless the mentioned goods are requisitioned and/or there is a dispute on its ownership that in such situations the claim for confiscating or resolve the conflict are of the authorized court's eligibility according to the civil procedures code.
- Regarding a suggestion of AGO about articles 133 and 134 of the Constitution of Afghanistan and article 91 of the Law on Organization and Jurisdiction of Courts of Judiciary, it was stated that there is no conflict and contradiction between verdict of article 91 of Organization and Jurisdiction of Courts of Judiciary and article 134 of the Constitution and the meaning of accusation in verdict of above mentioned article of the Law on Organization and Jurisdiction of Courts of Judiciary is considered assignment of criminal action by Judiciary Care

and Audit General Directorate in a specific limit to the Judge, including performances of judicial recording employee, not issuance of an official indictment from prosecution office, so the listed performances of article 91 of the Law on Organization and Jurisdiction of Courts of Judiciary after temporary discharge of the judge, the jurisdiction of prosecution office mentioned in article 134 of constitution of Afghanistan will not be disturbed, but performances of the prosecution office follow the legal path.

- Considering and assessing activities of the Audits from judicial and administrative performances of the courts for the purpose of solving the defects and working gaps, respecting the standards in auditing process, creating transparency and desperate in judicial and administrative performances in financial affairs of the courts, speeding up the process of addressing cases, organizing Audits' behaviors with judges and courts with clients and set assure of identical implementation of laws, regulations, bills and instructions in civil, public right, criminal rights, deeds, financial issues and other relevant issues to judicial and administrative, a comprehensive instruction was approved and in addition to enforcing courts for its implementation, Judicial Audit General Directorate was assigned to assess and monitor

the process of observation and instructions of the courts.

- In order to comply with all legal procedures of addressing cases in accordance with verdict of article 194 of penal code, it was stated that whenever a victim has no litigation jurisdiction and be with no guardian, in this case the respective court for the criminal litigation is obliged to appoint a guardian to provide aids for him/her, and this verdict should be considered by all courts in case of need.
- The SC High Council expressed condolences regarding untimely death of Judge Abdul Rashid, head of Paktika Appellate Court and martyrdom of Mohammad Yousuf Waziri, Correspondent of Logar Primary Court, who lost his life as a result of armed assault of peace and stability enemies of Afghanistan, heaven was asked for them and great patience for their families from Allah the almighty.
- Performance report on primary and appellate courts and supreme divisions of the supreme court during first quarter of 1397 was assessed, based on the reports, during the above mentioned time, primary courts of the capital and provinces addressed and resolved 14,491 cases, appellate courts resolved 7,074 cases and supreme divisions of the supreme court resolved 3,332 cases, totaled 24,897 cases in the three trials procedures and necessary decisions were

made accordingly.

- Also, incomes of the Supreme Court from deeds and incomes of civil and commercial decisions, cash fines of convicts that made an amount of 250 million Afn were deposited to the government account.
- Considering a report by Directorate of Judicial Audit and its scrutinizing comment, the meeting members ordered establishment of courts to deal with violations of Saghar Primary Court's director in Ghor Province. After hearing his statements, the meeting ordered his suspension from the job in accordance with Article 91 of Law on Organization and Jurisdiction of the Courts of Judiciary. It was also instructed that the suggestion on his suspension should be sent to the President's Office for approval to develop further investigations on the case.
- Considering an audit report and scrutinizing comment on the case of corruption committed by one of judges in Shindand Primary Court, Herat, the case went under investigation following provisions of Article 91 of Law on Organization and Jurisdiction of the Courts of Judiciary. After hearing his statements by the High Council and receiving some documents and proofs on this matter, necessary decision was made accordingly.
- Seven appeals by General Directorate of Government Cases were heard with the

presence of Mr. Said Mohammad Hashimi; Deputy Minister of Justice, General Director of Government Cases, colleagues and representatives from client offices and in one case, Acting Mayor and Deputy Mayor of Kabul were also present. Decisions were made in accordance with provisions of Article 482 of Civil Procedures Code. To achieve required results in terms of addressing appeals by General Directorate of Government Cases, the High Council emphasized that Directorate of Government Cases should be very attentive in establishing contacts and coordination with client offices as well as collecting legal documents and evidence. Regarding failure to provide credible documents by Directorate of Government Cases as well as its respective offices and lack of full knowledge and information by General Directorate of Government Cases' professional members as well as its respective offices regarding two cases, the High Council instructed that the professional members should participate in the coming meetings fully prepared and present reliable documents to avoid waste of time.

- High Council heard some duty violation cases of judges, which were also highlighted in audit reports as well as scrutinized comments, and necessary punishments were given to 11 current and previous judges of Herat, Bamyān, Baghlan

and Ghor Appellate Courts due to recognition of their duty violations in accordance with provisions of Regulation on Procedures for Addressing Judicial Violations. Moreover, the High Council appreciated activities and performance of a judge in Herat Appellate Court deeds unit and awarded him with ten-day salary.

The High Council also heard and gave following instructions regarding requests for instructions:

- Regarding a request for instruction by MoJ General Directorate of Huquq pertaining reimbursement of a tariff obtained higher than legally-accepted amount, it was instructed that such tariff is reimbursable from MoJ through legally claiming the appropriation by Mustufiat and MoJ General Directorate of Huquq should act accordingly.
- Regarding a request for instruction by Kabul Appellate Court pertaining a criminal case appeal, which was already finalized by appellate court, but the above decision was considered a violation by Appeals Division of the Supreme Court following Attorney General's objection, it was instructed that verdicts, orders, rulings and instructions by higher courts shall be enforceable on lower courts on newly resolving of cases according to provisions of Article 48 of Law on Organization and Jurisdictions of the Courts of Judiciary.

Therefore, the Kabul Appellate Court should take legal and necessary actions accordingly.

- Regarding a request for instruction by Kabul Municipality's Property Acquisition Directorate pertaining existence of legal ambiguity in the process of acquisition of residential and agricultural lands, it was instructed that the provisions of articles four, five, nine and eleven as well as chapter three of Property Acquisition Law and on the other hand, articles four, nine, eighteen and nineteen as well as chapter five of Land Management Law clearly states and previous draft number 493 dated September 14, 2006 of SC High Council along with enforcement of above two laws with late dates are revoked. The requestor for instruction can act in accordance with above enforced laws.
- Regarding request for instruction by Herat Appellate Court pertaining procedures for obtaining cash fines equivalent to customs debts in cases of using smuggled cars, whereby article 192 and 194 of Customs Law were revoked following enforcement of Penal Code, it was instructed that necessary actions should be taken according to what article 168 of Customs Law approved in 2016/2017 states about issues of clearance and cancellation of customs debts.
- Considering request for instruction by Jawzjan Appellate Court pertaining issued verdicts on cessation of hostilities, it was instructed that in

case the discussed final verdicts are decided to be revoked by SC High Council, the Appeals Court, which is assigned to hear the case at the next level, can end the hostility between parties taking into consideration the nature of case.

- Regarding two requests for instruction by Ghazni Appellate Court, it was instructed that since each appellate court has established an Office for Registration of Documents and Collaterals in its structure, therefore, preparing letter of will, letter of guardianship, sale permit and other related issues are one of duties and responsibilities of Office for Registration of Documents and Collaterals. It was also clearly stated that court's permit regarding sale of a person's legal property to obtain debt is applicable only on debtor's share and does not disturb other rights who have not been declared as defendant. Courts should act accordingly and in accordance with provisions of law.
- To be more attentive on a request for instruction by Kabul Appellate Court pertaining several related and unrelated criminal cases, a request for instruction by Herat Appellate Court pertaining lease of endowed lands, a request for instruction by Balkh Appellate Court pertaining verdicts on challenges in enforcement, committees were established with the membership of SC High Council to present their opinions on these matters in next meeting.

- Regarding a request for instruction by Prosecution Office on Monitoring Enforcement of Decrees and Alternative to Imprisonment of AGO pertaining procedures for benefiting from President's decree on amnesty and reduction in punishments of one of moral crimes' convicts, it was instructed that convicts of the above-mentioned crimes, who were convicted based on article 427 of the previous Penal Code and their crime has not been recognized as sexual assault according to grouping in previous Penal Code, are not counted as convicts of sexual assault. However, following enforcement of new Penal Code, all the above-mentioned crimes are considered as sexual assault without considering their gender. Thus, such convicts, whose cases are being addressed considering provisions of article 427 of the previous Penal Code, can benefit from decrees on amnesty and reduction in punishments.
- Five civil appeals and 16 criminal appeals were reviewed and addressed with the presence of Dr. Ghulam Haider Alama; Deputy Attorney General for Judicial Prosecution, his colleagues, family members of convicts and defense lawyers. From the above, two criminal appeals were approved due to matching of their reasons with provisions of article 482 of Civil Procedures Code and three criminal appeals were approved according to provisions of article

282 of Criminal Procedures Code and it was instructed that the case should be addressed again besides revocation of final decision on the matter.

- Besides approval of 31 requests for change in criminal courts and following Attorney General's request, the authority to address some of criminal cases is assigned to appellate courts of Kapisa, Kandahar, Nangarhar, Paktia, Baghlan, Jawzjan, Ghazni, Faryab, Bamyan, Badakhshan, Helmand, Herat, Kunar Ha, Maidan Wardak, Logar, Takhar, Laghman, Balkh, Paktika, Khost, Ghor, Badghis, Samangan, Farah, Daikundi, Nimroz, Kunduz and Zabul. Moreover, the meeting also approved assigning and sending a separate judicial delegation to Nangarhar and Kandahar to address some of compiled criminal cases.

Head Crimes against Internal and External Security Appellate Court at Bagram Prison Meets Deputy Director of Human Rights Unit in Afghanistan

On August 28, 2018, Qazawatyar Fayezi, Head of Appellate Court for Addressing Crimes against Internal and External Security at Bagram Prison met Renaud Detalle; Deputy Director of Human Rights Unit in Afghanistan, Ghazizada; Chief Human Rights Officer and one of the Special Representatives of Human Rights.

Initially, the aforementioned delegates visited the blocks and solitary prison cells in cooperation with General Safiullah Safi, Commander General of Military Police Regiment, and then the Head of Appellate Court welcomed them at the Justice and Judicial Center and appreciated views expressed by the Human Rights Unit besides international conventions and treaties in terms of paying special attention to the implementation of human rights and respect to the country's laws and constitution. He mentioned the two-times conducting of seminars in 2017 and midst of current year titled "Elimination of Violence against Women", "Implementation of Human Rights" and "Prevention of Torture" in the light of laws of the country, conventions and treaties with the assistance of UNAMA, Appeals Court and other relevant office of Justice and Judicial Center.

The Justice and Judicial Center appreciated participation and coordination of all bodies involved including UNAMA and requested the delegates to plan as well as conduct workshops in Bagram Prison's Justice and Judicial Center with the cooperation of Supreme Court to enhance the professional capacity of judges and other administrative departments.

The Head of Appellate Court ensured implementation of fundamental rights of the accused in accordance with the laws of the country, holding of public hearings with global standards and fair trial criteria, obtaining human rights of suspects, defendants and convicts, continuous monitoring of various justice and judicial areas, and specifically providing secrecy as well as security to them. The case in which the delegates and investigators of the relevant province had violated provisions of law and the same case was referred to court for further evaluation and necessary actions were taken accordingly in the light of enforced laws of the country, conventions and treaties was explained as an example. The violators of law were introduced to justice and judicial centers. The meeting ended following receiving of delegates in office of Head of Appellate Court. On behalf of UNAMA, the delegates committed to provide better cooperation with justice and judicial centers in terms of ensuring justice, implementing human rights, enforcing governed laws of the country, conventions and international treaties and conducting workshops.

Bagram Prison's Primary and Appellate Divisions Conduct a Meeting

On September 06, 2018, Bagram Prison's Primary and Appellate Divisions conducted a meeting regarding implementation of enforced laws of the country, conducting standard and just meetings while considering fundamental rights of the parties, implementation of single judicial procedure with regards to investigation process as well as hearing cases, scrutinize and analyze judicial delegates in terms of issuing provisions related to prevention of or decrease in violation of issued provisions in primary and appellate phases.

In order to address the cases as soon as possible and transfer them in their initial stage and even at the stage of appeal in the legal period of time, the heads of primary and appeals courts complain of the incompleteness of the case documents during the investigation which, first of all, causes a delay in dealing and solving cases and secondly, after issuance of judicial decrees to remove gaps and defects in some cases due to disappearance of evidence, documents or supportive documents, a correct answer cannot be given to issue a fair ruling or judgment or central or provincial investigators

neglect to provide a better solution to the received rulings or, they keep silence and do not provide new information on resolving judicial rulings that can be very useful in issuance of decisions. Hence, the analysis of judicial rulings remains intact, or if the answer is given, it is time consuming and it will be necessary to review the cases which are either stopped or processed for a long period of time in justice departments. To solve this problem, it was considered necessary to conduct a meeting with relevant investigative units (Attorney General, National Security and Defense Bureau 501 and 241) to discuss different approaches.

The Heads of Primary and Appellate Divisions demanded that judges consider accuracy in scrutinizing, analyzing cases and institutionalizing judicial rulings in the light of laws of the country, and requested the heads of primary and appellate divisions to carefully monitor the cases at the end to prevent the violations of decisions and, on the other hand, establish a separate judicial procedure and, in some cases, prevent a significant difference in the judgments issued by two courts. The issue was noted by heads of primary courts and they committed to implement them accordingly.

Regarding some oral complaints of the defendants, who were not given enough time to defend themselves in the presence of the judicial delegates and before the appellate court during the course of the judicial sessions at the primary court, the heads of

primary courts stated that upon filing a lawsuit, enough time is given to the accused and a defense attorney to defend the rights of suspects through a defense attorney and the suspect himself but if the given time is not enough, the suspects will receive some extra time.

The heads of appellate court's divisions insisted that, as far as possible, the primary court should pressurize the investigating authorities to complete the investigation of the case and submit it to the court for judicial review as soon as possible. If this area is not addressed to the possible extent, they will seek to avoid the issuance of a court order to resolve the gaps and defects in the process of investigations, which delays the process of resolving the cases.

To provide better services within the law, ensure social justice, create best judicial procedures and reduce violation of provisions issued by head of the appellate court, the heads of primary and appellate courts' divisions requested that a copy of the appellate and supreme court decisions pertaining violations should be forwarded to divisions so they can take necessary measures in implementing enforced laws of the country and expected judicial procedures considering those decisions. After hearing the speeches, primary court and heads of appellate court divisions ensured to act accordingly. The meeting ended following presentation of agenda, conclusion and a prayer.

News and Events

According to a 5-year capacity building program planned for 2018 at the south zone level, Directorate of Capacity Building and Performance Appraisal conducted a training “Basic Skills of Courts’ Administrative System and Performance Appraisal” from September 16-19, 2018. The Checchi organization conducted the training for 30 administrative employees of courts in Kandahar, Helmand, Uruzgan and Zabul provinces.

- ❖ Directorate of Capacity Building and Performance Appraisal conducted a Training Workshop on Recruitment Through Open Competition and Preparing Terms of References (TORs) to Human Resource employees for two days (September 15-16) with the financial and technical cooperation of the Checchi organization. Hamed Baha Ayyar, Capacity Building and Performance Appraisal Director conducted the training on employees’ needs assessment, how to prepare terms of references , how to prepare a *Tashkeel* and approve them, advertise a vacancy with ToR, distribute, receive and record applications, recruitment committee, shortlist applicants with relevant standards, written test, interview select candidates, collect documents and information, request for approval, duty analysis and

job characteristics that are basic requirements of human resource. The program was welcomed by the participants who are responsible to implement reforms according to the judiciary plans in administrative sections.

- ❖ On August 8, 2018, *Qazawatyar* Ghulam Sakhi, head of Sar-e-Pul Appellate Court met Luis Gomez Odia, Head of UNAMA Office in Mazar-e-Sharif and talked about security of courts. Head of UNAMA promised to participate personally in justice and judicial coordination meetings and gifted few volumes of Law to head of the Appellate Court.
- ❖ On August 15, 2018, Sabrina Hamidi, head of Human Rights Commission in eastern zone visited Kunar Courts and appreciated the performance of courts and added, “We are in contact with people and they are happy about courts’ performance. People’s trust has increased on courts than before. Courts’ performance is focused on transparency and justice in Kunar province”. She granted an appreciation letter to the head of the Appellate Court.
- ❖ On September 1-4, 2018, Empowerment Organization conducted a four-day program titled “Principles of Commercial Procedures Code” in Kapisa Appellate Court’s classrooms for judges and participants. Abdul Wahid Hamed was the trainer and participants were satisfied with his detailed lectures on Commercial Procedures Code. The program ended with prayers for Afghanistan’s peace and prosperity.

- ❖ On August 5-9, 2018, Qazawatyar Ataullah Fikri, head of Paktia Appellate Court conducted a five-day seminar about Penal Code for judges of Paktia, Khost and Logar provinces. At the end, the participants including representatives of UNAMA and Human Rights, deputy governor of Paktia, head of the Appellate Court, and representatives of civilian and military institutes emphasized on the necessity for penal Code and were happy that it is being implemented.

COUNTER-CORRUPTION

A) Report on Judicial Activities of Kabul Anti-Corruption Primary Court

1. Report

Kabul Anti-Corruption Primary Court addressed (14) criminal cases related to corruption crimes from August 23 to September 22, 2018. As a result, 20 persons were trialed for committing crimes such as misuse of official authority, bribery and theft. Out of which, 9 people were acquitted of the imposed allegations and 5 others were trialed for different punishments, imprisonment and cash penalties as following:



- 1 month to 1-year imprisonment 8 people
- 1 to 5 years imprisonment 6 people
- 5 to 15 years imprisonment 2 people

Total of cash penalties (5205) USD

Table 1: Indicates statistics of convicts of Kabul Anti-Corruption Primary Court in August 2018

| No | Type of case | No of cases | Judicial decision | | | | | | | |
|--------------|------------------------------|-------------|-------------------|-----------|--------------------|--------------------------------------|-----------|------------|---------------------------|---------------|
| | | | Number of accused | Acquittal | Number of convicts | Number of prisoners for imprisonment | | | | |
| | | | | | | 1 month to 1 year | 1-5 years | 5-15 years | Convicts for cash penalty | Cash penalty |
| 1 | Misuse of Official Authority | 4 | 8 | 4 | 4 | | 2 | 2 | | 1105 |
| 2 | Forgery | 4 | 6 | 1 | 5 | 3 | 2 | | | 100 |
| 3 | Bribery | 6 | 6 | | | 5 | 1 | | | 4000 |
| Total | | 14 | 20 | 5 | 9 | 8 | 6 | 2 | | 5205\$ |

The Court has so far issued rulings for 16 cases and sent them for filling the investigative gaps and flaws to the related references.

Table 2: Indicates rulings of Kabul Anti-Corruption Primary Court in August 2018

| No | Type of case | Number of cases | Number of accused | Reason for ruling | Related references |
|--------------|---|-----------------|-------------------|-------------------|--------------------|
| | | | | Gaps and flaws | |
| 1 | Misuse of Official Authority | 3 | 12 | 3 | Prosecution office |
| 2 | Not using Official Authority and Waste of Documents | 1 | 8 | 1 | Prosecution office |
| 3 | Forgery | 5 | 11 | 5 | |
| 4 | Embezzlement | 5 | 20 | 5 | Prosecution office |
| 5 | Treachery | 1 | 2 | 1 | |
| 6 | Bribery | 1 | 1 | 1 | Prosecution office |
| Total | | 16 | 54 | 16 | |

1. Samples of Verdicts Issued by Kabul Anti-Corruption Primary Court

Verdict dated September 11, 2018

Conviction of Head and Executive Manager of Economics Faculty of Kabul University with the charge of forgery and misuse of official authority

On December 4, 2016, a memorandum of understanding (MoU) was signed between Apollo Poland and Kabul Universities through Erasmus +. Based on this MoU, scholarships considered for students who are fluent in English and were announced online. Students were introduced by Sub-Directorate of Foreign Relations and Cultural Affairs. Apollo Poland university had asked to introduce three qualified students from Economics Faculty. The Economics Faculty faked two students of the semi higher education that were introduced to Sub-Directorate of Foreign Relations of Kabul University. After five months, an official email was by Apollo University of Poland to Sub-Directorate of Foreign Relations that the mentioned students were not present in classes and even in dorms. After Sub-Directorate of Foreign Relation's investigations, it was found that one of the students graduated in 2016, and one of them was not even student of the economics faculty. Based on that report, Head of the faculty and Executive Manager were introduced to justice and judicial institutions for further investigations.

After completion of primary investigations, the case was referred to Kabul Anti-Corruption Primary Court.

The judicial session held on September 11, 2018, according to article 313 of Criminal Procedure Code, convicted them to five years of imprisonment on their absence with the charge of misuse of official authority and forgery.

B) Report on Judicial activities of Kabul Anti-Corruption Appellate Court

1) Report

Kabul Anti-Corruption Appellate Court addressed (5) criminal cases related to corruption crimes from August 23 to September 23, 2018. As a result, 8 people were trialed for committing crimes such as: misuse of official authority, bribery and embezzlement and were convicted to different imprisonment terms, out of which 2 people were acquitted of the imposed allegations due to lack of sufficient reasons:

- 1 month to 1-year imprisonment (3 people)
- Convicts of cash penalties (2 people)

Total of cash penalty makes a sum of USD 2,791

Table 3: indicates statistics of Kabul Anti-Corruption Appellate Court performances in August 2018

| No | Type of case | Number of cases | Judicial decision | | | | | | | |
|--------------|------------------------------|-----------------|-------------------|-----------|--------------------|-------------------------------------|-----------|------------|-----------|---------------|
| | | | Number of accused | Acquittal | Number of convicts | Number of prisoners to imprisonment | | | | |
| | | | | | | 1 month to 1 year | 1-5 years | 5-15 years | Cash fine | Cash penalty |
| 1 | Misuse of official authority | 3 | 4 | 2 | 2 | 1 | | | 1 | 160\$ |
| 2 | Bribery | 1 | 2 | | 2 | 1 | | | 1 | \$ 2631 |
| 3 | Embezzlement | 1 | 2 | | 2 | 1 | | | | |
| Total | | 5 | 8 | 2 | 6 | 3 | | | 2 | 2791\$ |

The Court issued rulings for 7 cases and sent them back to related references for filling the investigative gaps and flaws.

Table 4: indicates rulings of Kabul Anti-Corruption Appellate Court in August of 2018

| No | Type of case | Number of cases | Number of accused | Reason for ruling | Related references |
|----|------------------------------|-----------------|-------------------|-------------------|--------------------|
| | | | | Gaps and flaws | |
| 1 | Misuse of official authority | 5 | 12 | 5 | Prosecution Office |
| 2 | Illegal Possession of Weapon | 1 | 3 | 1 | Prosecution Office |
| 3 | Bribery and Forgery | 1 | 8 | 1 | Prosecution Office |
| | Total | 7 | 23 | 7 | |

3. Samples of issued verdicts by Kabul Anti-Corruption Appellate Court

Verdict dated September 18, 2018

Conviction of three Engineers of District 7 of Kabul Municipality with the charges of receiving 200,000 AFNs as bribe

Based on an information by a contractor that constructs residential houses and has contracted constructing a building in PD7, the construction work of which has begun, two engineers of the district 7 have stopped his work due to not having permission from municipality. Whereas, the district's contractor was introduced to one of the construction control managers of the district by the head of the district to discuss the issue. The mentioned manager has asked the contractor for

300,000 AFNs as bribe to start the construction work while two other engineers have also witnessed the case. Finally, they have agreed on 200,000 AFNs and promised to submit the money by the evening of that day. After agreement, the contractor reports to Counter Heavy Crimes Directorate following which, the marked money is given to contractor to be submitted to engineers. One of the engineer is arrested red-handed while receiving money at the Se-Rahi Alauddin area and he has confessed in the primary investigation. Beside him, two engineers with head of the district are introduced to justice and judicial organizations with the charge of receiving bribe.

The case was then referred to Kabul Anti-Corruption Primary Court after completion of primary investigations. The court handled the case in judicial meeting held on July 19, 2018. As a result, the court sentenced three engineers of municipality to one year and six months imprisonment for the charge of bribery according to article 371 (5), 375 (2), 385, considering article 213 and 214 of the Penal Code effective as of detention date. Moreover, the court fined them 200,000 AFN equivalent to the bribed money. The court acquitted Head of the district seven of Kabul municipality due to insufficient reasons according to article 335 of Criminal Procedure Code.

The case was referred to Kabul Anti-Corruption Appellate Court due to dissatisfaction of the accused. The appellate court heard the case in judicial session held on September 17, 2018 and approved Kabul Anti-

Corruption Primary Court’s decision according to article 54 of the Law on Organization and Jurisdiction of the Courts of Judiciary.

C. Report on Judicial Activities of Kandahar Anti-Corruption Appellate Division

Kandahar Anti-Corruption Appellate Division heard 14 cases related to corruption from March 21 to September 22. The court trialed 14 people for committing crimes such as: embezzlement, bribery and misuse of official authority. The court acquitted six people due to lack of sufficient evidences and sentenced the rest to imprisonment and cash fines as follow:

- One month to year imprisonment (4 people)
- One to five years imprisonment (9 people)
- Cash fine convicts (3 people)

Total of cash fines make a sum of USD 1,000.

Table 5: indicates figures of convicts by the Kandahar Anti-Corruption Appellate Division during the last six months 2018

| No | Type of case | No. of cases | Judicial Decision | | | | | | | |
|--------------|------------------------------|--------------|-------------------|-------------------|-----------------|-------------------|-----------|------------|-----------------------|------------------|
| | | | No. of accused | No. of acquittals | No. of convicts | No. of prisoners | | | | Cash fine |
| | | | | | | I month to 1 year | 1-5 years | 5-15 years | Convicts of cash fine | |
| 1 | Misuse of official authority | 7 | 14 | 4 | 10 | 1 | 4 | | 3 | USD 1,000 |
| 2 | Bribery | 3 | 5 | 2 | 3 | 1 | 2 | | | |
| 3 | Embezzlement | 4 | 6 | | 6 | 2 | 3 | | | |
| Total | | 14 | 25 | 6 | 19 | 4 | 9 | | 3 | USD 1,000 |

The mentioned court also issued four rulings due to

investigative gaps and deficiencies and sent them back to their respective offices during this period.

Table 4: indicates figures of rulings by Kandahar Anti-Corruption Appellate Division in the last six months 2018

| No | Type of case | No. of cases | No. of accused | Reason for ruling | Respective office |
|-------|------------------------------|--------------|----------------|----------------------|--------------------|
| | | | | Gap and deficiencies | |
| 1 | Misuse of official authority | 1 | 3 | 1 | Prosecution Office |
| 2 | Embezzlement | 1 | 1 | 1 | Prosecution Office |
| 3 | Bribery | 2 | 3 | 2 | Prosecution Office |
| Total | | 4 | 7 | 4 | |

2. Summary of Verdicts Issued by Kandahar Anti-Corruption Appellate Division

Verdict dated July 03, 2018

Conviction of Administrator and Managers of National Bus Branch for the Charge of Embezzling 1,088,277 Afn

Based on a letter dated May 10, 2017, a three-person committee composed of Technical and Utility Assistant Manager of General Department of Transportation, technical member of transportation and technical control member of the first district were assigned to inspect and investigate the branch of the National Bus. After the investigation the committee reported that head of the branch Kandahar National Bus had been running this position for several years. As he was not a professional body, he secretly collected the fare incomes of governmental and nongovernmental vehicles and did deposited to the enterprise' account,

but he had embezzled. He had embezzled 8,970,190 Afn from fare contracts, illegally debited 26,987 Afn, 30,000 Afn in the name of his son, and 72,000 from salary Sawr (April and May) 2016.

The case was then referred to Kandahar Anti-Corruption Primary Court. The court heard the case in a judicial session conducted on May 05, 2018 and sentenced the accused to one year and one-month imprisonment for the charge of embezzling 72,000 Afn in accordance with article 391 of the penal code and to reimburse the embezzled amount of money of based on article 398 of mentioned code. Head of the National Bus Branch was sentenced to five years imprisonment for the charge of embezzling 8,970,190 Afn based on the article 301 (3) of the Penal Code and was sentenced to one year and six months imprisonment in accusation of 38,900 Afn according to article 391 of the mentioned code, to year and two months imprisonment of for charge of embezzling 23,200 Afn based on article 391 (1) of mentioned code, to four months imprisonment for the charge of embezzling 26,987 Afn according to article 391 of the mentioned code, and to one year and eight months imprisonment in regards to embezzling 30,000 Afn according to article 73 of the Penal Code. The issued verdict of the severe punishment of five years and one-month imprisonment and reimbursement of the embezzled amount of money on him according 398 of the aforementioned.

But case was then referred to Kandahar Anti-Corruption Appellate Court due to dissatisfaction of the

accused. The appellate court heard the case in a judicial session held on July 03, 2018 and amended the verdict of the primary court according to article 54 of the Law on Organization and Jurisdiction of Court the Judiciary and sentenced him to eight years imprisonment for the charge of embezzling 8,970,190 Afn according to article 267 (3) of the Penal Code and article 391 (3) of the mentioned code and to years of imprisonment for the charge of embezzling 38,900 according to article 391 of the mentioned code, to one year and eight months imprisonment for charge of embezzling 30,000 Afn according to article 391 of the mentioned code. The court ordered to apply the severe punishment of eight years imprisonment according to article 73 of the Penal Code and to reimburse the embezzled amount of money based on the article 398 of the aforementioned code.

Counter Narcotics and Intoxicants

A. Report on Judicial Activities of Kabul Counter Narcotics and Intoxicants Primary Court

1. Report

Kabul Counter Narcotics and Intoxicants Primary Court heard 45 cases related to drugs from August 23 to September 22, 2018 and issued verdicts accordingly. The court trialed 77 people for the charges of smuggling and transporting drug sentenced as following:



- One month to year imprisonment (one person)
- One to five years imprisonment (49 people)
- Five to 15 years imprisonment (8 people)
- 15 to 20 years imprisonment (19 people)

The ordered to eliminate 8893,772 KGs of drugs obtained in relation to above trials.

Table 1: figures judicial performance by Kabul Counter Narcotics and Intoxicants Primary Court in August and September 2018

| No | Type of cases | No. of cases | Quantity | Judicial Decisions | | | | | | |
|--------------|---------------------------------|--------------|-----------------|--------------------|-------------------|-----------------|-------------------|-----------|------------|-------------|
| | | | | No. of accused | No. of acquittals | No. of convicts | No. of prisoners | | | |
| | | | | | | | 1 month to 1 year | 1-5 years | 5-15 years | 15-20 years |
| 1 | Heroin | 21 | 61.813 | 33 | | 33 | | 28 | 3 | 2 |
| 2 | Opium | 6 | 745.91 | 12 | | 12 | | 4 | | 8 |
| 3 | Morphine | 4 | 7554 | 6 | | 6 | | 1 | 2 | 3 |
| 4 | Hashish | 4 | 216.824 | 9 | | 9 | | 6 | 2 | 1 |
| 5 | Methamphetamine | 8 | 47.225 | 13 | | 13 | 1 | 9 | 1 | 2 |
| 6 | Chemicals type Acid and alcohol | 2 | 268 liter | 4 | | 4 | | 1 | | 3 |
| Total | | 45 | 8893.772 | 77 | | 77 | 1 | 49 | 8 | 19 |

**2. Summary of verdicts issued by Kabul Counter Narcotics and Intoxicants Primary Court
Verdict dated September 22, 2018
Ten Years Imprisonment for the Charge of Smuggling 1,696 KGs of Heroin**

Based on a telephonic notice of information and investigation Department stating, “Four passengers two of whom were female have swallowed some capsules of drugs and intend to transfer them to India.”

Personnel of Counter Narcotics Department of Hamid Karzai International Airport acted and conducted a check and control to identify and arrest the accused on July 14, 2018. The personnel identified and arrested the accused among passengers of the Spice Jet and sent and introduced to Police 300-Bed Hospital to extrude the capsules. As a result, doctor extruded 1903 capsules

(heroin) from the stomach of the four accused people. The case was then referred to Kabul Counter Narcotics and Intoxicants Primary Court and the court heard the case in a judicial session held on September 22, 2018. The primary court sentenced one the accused to five years imprisonment for the charge of smuggling 439 KGs of Heroin according to article 302 (1.3) of the Penal Code and to 10 years imprisonment for the charge of smuggling 822 KGs of heroin according to article 203 (1.4) of the Penal Code and he sentenced to the severe punishment of 110 years imprisonment based on article 58 of the Penal for the charge of smuggling 822 KGs of heroin. The court sentenced the other accused for charge of smuggling 427 KGs of heroin and the two females accused for the charge of smuggling 830 KGs of heroin to one year and one-month imprisonment every individual of them according to article 304 (3.1) of the Penal Code observing articles 213 and 215 of the Penal Code effective as of detention date. The court also ordered to confiscate two SIM cards and USD 900 obtained from the accused according to article 32 of the Counter Narcotics and Intoxicants Law to eliminate the obtained 1,696 KGs of Heroin.

Verdict dated September 18, 2018

Sixteen Years Imprisonment for the Charging of Selling 18,410 KGs of Opium

Based on a secret telephonic notice of Central Investigation Department stating, “One of the residents of Chahar Asiab intends to sell some opium.” CID

personnel went to the area, one of the officers introduced himself as purchaser to the accused and the accused asked the officer to go to a village with him, but the officer rejected. The accused contacted his partner to ask him to bring the drug on the road and then vehicle type of Saracha arrived the area. The accused said, “The drug is in the vehicle, you can see the drug and give me the money.” Meanwhile, the arrest officers acted and obtained 18,410 KGs of opium from the vehicle and arrested the accused with the vehicle carrying the drug and a motorcycle.

The case was then sent to Kabul Counter Narcotics and Intoxicants Primary Court and the court heard the case in a judicial session held on September 18, 2018. The court sentenced the accused to 16 years imprisonment for the charge of selling 18,410 KGs of opium effective as of the detention date according to article 304 (6.1) of the Penal Code and ordered to confiscate the vehicle carrying the drug according to article 308 of the Penal Code and confiscate one mobile phone with its SIM card based on article 32 of the Counter Narcotics and Intoxicants Law and to eliminate the obtained drug based on article 19 of the Counter Narcotics and Intoxicants Law.

B. Report on Judicial Performance of Kabul Counter Narcotics and Intoxicants Appellate Court

1. Report

Kabul Counter Narcotics and Intoxicants Appellate Court heard 54 cases related to drugs and issued orders accordingly from August 23 to September 22, 2018.

The court trialed 54 individuals for the charges of smuggling and transporting drugs while acquitting 6 individuals and sentencing the other 48 as following:

- One to five years imprisonment (25 people)
- Five to 15 years imprisonment (17 people)
- 15 to 20 years imprisonment (6 people)

The court also ordered to eliminate 5870,97 KGs of drugs obtained and confiscated in relation to the above trials

Table 1: figures of judicial performance by Kabul Counter Narcotics and Intoxicants Appellate Court in Aug and Sep 2018

| No | Type of case | No. of case | Quantity | Judicial Decision | | | | | |
|--------------|--------------|-------------|----------------|-------------------|-------------------|-----------------|------------------|------------|-------------|
| | | | | No. of accused | No. of acquittals | No. of convicts | No. of prisoners | | |
| | | | | | | | 1-5 years | 5-15 years | 15-20 years |
| 1 | Heroin | 25 | 136*855 | 25 | | 25 | 9 | 13 | 3 |
| 2 | Opium | 11 | 1785*7 | 11 | 3 | 8 | 6 | | 2 |
| 3 | Hashish | 6 | 2687 | 6 | 2 | 4 | 3 | | 1 |
| 4 | Morphine | 2 | 7*1 | 2 | 1 | 1 | | 1 | |
| 5 | Chemicals | 10 | 1254*315 | 10 | | 10 | 7 | 3 | |
| Total | | 54 | 5870*97 | 54 | 6 | 48 | 25 | 17 | 6 |

3. Summary of Verdicts Issued by Kabul Counter Narcotics and Intoxicants Appellate Court Verdict dated September 17, 2018

Sixteen Years of Imprisonment for the Charge of Smuggling 271 KGs of Opium

Policer officers of Jawzjan Province was noticed through a previous notice of detective police of Information and Investigation Department stating, “A policer officer of Highway Battalion Headquarters is transporting some drugs using vehicle from Balkh

Province to Jawzjan Province.” The officers conducted a checkpoint six KM of 60-meter road after the notice. They stopped a vehicle type Corolla Taxi driven by the accused traveling from Balkh Province at 07:00 PM and arrested the suspect. The chasing vehicle fled who was later arrested with cooperation of Information and Investigation Unit in a ruin area in Chahar Shanbih Village while evacuating the vehicle from the drug.

The case was then referred to Kabul Counter Narcotics and Intoxicants Primary Court. the court heard the case in a judicial session held on March 19, 2018 and sentenced the accused to 16 years of imprisonment effective as of detention date for the charge of smuggling 271 KGs of opium according article 304 (6.1) of the Penal Code observing article 17 of the mentioned code and sentenced the other accused to five years of imprisonment effective as of detention date according to article 304 (1) of the Penal Code observing articles 17, 213, and 214 of the Penal Code. Meanwhile, the court ordered to confiscate the vehicle transporting the drug according to article 308 of the Penal Code and three mobile phones along with their SIM cards 2500 Afn based on the article 19 of the Counter Narcotics and Intoxicants Law, and to eliminate the obtained 271 KGs of opium according to article 16 of the mentioned law.

But the case was then referred to Kabul Counter Narcotics and Intoxicants Appellate Court due to dissatisfaction of the accused. The appellate court handled the case in a judicial session held on September

17, 2018 and Unanimously confirmed the decision of the primary court regarding one the accused according to article 267 of CPC and article 18 (2) of the new Counter Narcotics and Intoxicants Law and amended the verdict of the primary court regarding the other accused and sentenced the accused to 16 years of imprisonment for the charge of smuggling 271 KGs of opium according to article 304 (6.1) of the Penal Code observing article 17 of mentioned code sentenced the other accused to five years of imprisonment for the charge of assisting in smuggling of 271 KGs of opium according to article 304 (601) observing article 59 (59) the sentenced each the three other accused to five years of imprisonment for the charge of smuggling 271 KGs of opium based on the article 304 (6.1) of the Penal Code observing article 17 of the mentioned observing articles 213 and 214 of the penal code. Meanwhile, the court ordered to confiscate the vehicle carrying the drug based on the article 308 of the Counter Narcotics and Intoxicants Law and three mobile phone sets along with its SIM cards and 2500 according to article 19 of the Counter Narcotics and Intoxicants Law. The court also ordered to eliminate the obtained amount of opium according to article 16 of the Counter Narcotics and Intoxicants Law.