

Strasbourg, 14 January 2014

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Questionnaire for the preparation of the CCJE Opinion No. 17 (2014) on justice, evaluation and independence

Introduction

The questionnaire aims at collecting information, as much as possible, about the evaluation of performance of functioning judges. Therefore, the questionnaire is not related to the process of selection and/or recruitment of judges. The replies to the questionnaire will serve to identify the prevailing practices in the member States, and they will be used in the process of preparation of the CCJE Opinion No. 17 (2014), indicated above.

A. Individual evaluation and assessment of judges: purpose and regulatory framework

1. Does individual evaluation and/or assessment of judges exist in your country?
2. If yes, what is its purpose and rationale?
3. Is it compulsory or optional, and does it apply to all judges in the country?
4. How it is established and regulated:
 - by legislation;
 - by subordinate legislation;
 - by internal institutional regulatory instruments.

B. Criteria for evaluation and assessment

5. Are there quantitative performance indicators that have to be taken into account, such as:
 - the number of cases in which a decision has been made by a judge;
 - the average time spent on each of these cases;

- the average number of hearings per case;
 - clearance rate (number of the cases, where a decision has been made, vis-à-vis the total of the cases forwarded to the judge);
 - the average time to judgment (the time required to deliver a judgment by a judge after the completed hearing);
 - any other quantitative indicators.
6. Are there qualitative performance indicators that have to be taken into account, such as:
- analysis of the type, subject and complexity of the cases dealt with by a judge and his/her decisions;
 - the number of appeals vis-à-vis the number of the cases, where a decision has been made;
 - the number of decisions reversed and/or cases remitted by the appellate court;
 - the types of cases where decisions were reversed and/or cases remitted (criminal, civil, administrative or other);
 - the grounds for reversal and/or remittal;
 - any other qualitative indicators.
7. Are there any other indicators that are taken into account in assessing the judge, such as the opinions of the court users, the judicial hierarchy, court experts and others concerned in the judicial process, as well as press articles?
8. Does the evaluation take into account possible violations of ethical and professional rules/standards adopted for judges?
9. Is there any set scale of importance or of priority between various performance indicators? (please specify)

C. Procedures and mechanisms

10. Who is responsible for individual evaluation and/or assessment of judges? Please specify all institutions and officials taking part in this process (including the Ministry of Justice, presidents of courts, Council for the Judiciary, bodies for the inspection of courts), and indicate their specific roles.
11. Are there different evaluation procedures for different judges, depending on their position in the judicial hierarchy, their experience or any other aspect?
12. Is evaluation a continuous process or is it done periodically; if the latter, how often are judges evaluated?
13. Are the evaluations done routinely, or only or additionally for specific occasions and/or for specific reasons?
14. How is the evaluation conducted? (please specify exact procedures, including possible pre-evaluation, interviews, hearings, oral and verbal submissions and the role of the evaluators and a judge)
15. What are the ratings used during evaluations?

16. What are the consequences of the evaluation and how may it affect the career of a judge? Can it result in:
 - the promotion or demotion of a judge;
 - a professional award to a judge;
 - disciplinary or other measures;
 - a requirement of further training;
 - dismissal from office;
 - any other actions or measures (positive or negative).
17. How are the evaluation and the recommended measures recorded, where are the records deposited, who may examine them and for how long they are kept?
18. Apart from the formal evaluations referred to above, are any informal evaluations undertaken? (for example, in the form of informal consultations and advice from more senior judges)
19. Please provide, if possible, an example (anonymous) of an evaluation/assessment form/sheet/record filled out (if possible, in English or French).

D. Evaluation and assessment vis-à-vis the independence of judges
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20. By what means is the transparency of the evaluation process ensured? Is the evaluating body clearly defined? Are there published guidelines setting out evaluation criteria and the procedural rules to be applied?
21. Are there any protective measures during the evaluation process to avoid personalised opinions or political pressures?
22. How is the participation of a judge in the evaluation procedure ensured and how are his/her views taken into account?
23. Is any self-evaluation by a judge or evaluation by his/her peer judges at the same hierarchical level possible?
24. Can a judge demand the dismissal or removal (temporary or permanent) of a member of the evaluation body from that body? (for example, where there are serious reasons to believe that such member may have an *a priori* negative attitude towards the evaluated judge)
25. What are the possibilities of review (including judicial) of an evaluation of a particular judge, if a judge does not agree with the evaluation and the measures taken as a result of its conclusions?

E. Achievements and problems

26. Please briefly describe achievements and problems of the evaluation system used in your country.