

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**

**ANSWERS: CROATIA** (Duro Sessa- Member to CCJE)

### 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?

**YES**

2. If yes, what is its purpose and rationale?

***Purpose for evaluation is dual:***

1. ***It sows is judge fulfilling his/hers duties as a judge.***
2. ***Evaluation is a main criterion for promotion to other or higher court and to become president of the court.***

3. Is it compulsory or optional, and does it apply to all judges in the country?

***It applies to all judges in the country with exception to judges of Supreme Court. It is not optional because each judge has to be evaluated if he/she is applying for promotion.***

4. How it is established and regulated:

- by legislation;
- by subordinate legislation;
- by internal institutional regulatory instruments.

***The frame is established by Law on Courts but it is also regulated with subordinate regulation developed by State Judiciary Council***

## **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.

***Indicators which are taken in account are combination of:***

- ***the number of cases in which a decision has been made by a judge;***
- ***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);***

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.

***Indicators which are taken in account are:***

- ***the number of decisions reversed and/or cases remitted by the appellate court showed in percentage and in absolute numbers;***
- ***the grounds for reversal and/or remittal;***

- ***the number of decisions reversed vis-a vis number of decision which have been appealed showed in percentage and in absolute numbers***

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?

***None of above mentioned but also to evaluate judge it is also taken in account his extrajudicial activates connected with his/hers position as a judge such as lecturing, writing legal articles and books etc.***

8. Does the evaluation take into account possible violations of ethical and professional rules/standards adopted for judges?

***Yes and also it is taken into account if a judge commits a disciplinary offence which is established in the disciplinary procedure before State Judicial Council.***

9. Is there any set scale of importance or of priority between various performance indicators? (please specify)

***Two main indicators are quantitative and qualitative performance which is evaluated on the base of subordinate regulation called "Frame measures to evaluate work of judges" In this document delivered by Minister of Justice but after an approval of General Assembly of Supreme Court criterion is set up for different fields of justice and for different type of cases within fields of justice / e.g. criminal, civil, commercial etc. / .***

***Quantitative performance of a judge is measured in relation to indicators set up in this bylaw. His/hers performance is then transferred in percentage and points regarding is a judge fulfilling duties in accordance to the criterion or above it or under it in a year.***

***Qualitative performance is also transferred in points according the criteria mentioned in answer No. 6.***

***Other indicators are also set up in the Law as well as point sistem to calculate the performance of a judge.***

### **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.

***Only two bodies are in charge for evaluation of judges. Council of judges , body of self-governance elected by judges with a seat at each court of appeal which has a duty to collect data necessary to evaluate judge and to deliver a Ruling declaring what is performance of a judge ( Excellent, Very good, Good, Average, Not sufficient ) which can be appealed to Supreme Court.***

**State Judicial Council which in process of deciding on promotion of judges, evaluates other activities and performs an interview with a judge who is candidate for promotion.**

11. Are there different evaluation procedures for different judges, depending on their position in the judicial hierarchy, their experience or any other aspect?

**No. Procedure is same for all judges.**

12. Is evaluation a continuous process or is it done periodically; if the latter, how often are judges evaluated?

**Judges are evaluated when they apply for position of president of court, when they apply for transfer to another court and when they apply for promotion to higher court.**

**But presidents of courts monitor performance of each judge in their court on regular bases comparing their performance in relation to "Frame measures..... (see answer No.9.) Because if a judge for longer period of time does not meet quantitative criteria without justified reason it could lead to disciplinary responsibility of a judge.**

13. Are the evaluations done routinely, or only or additionally for specific occasions and/or for specific reasons?

**Please see answer No.12.**

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)

**In addition to answer under No. 10 the whole procedure could be in brief explained as follows:**

- **announcement for vacancy in the court is announced,**
- **judges apply to State Judiciary Council (SJC),**
- **SJC asks Councils of Judges to deliver Ruling on performance of a judge taking in account his/her performance in previous five years ( for post in Supreme Court for last ten years),**
- **Councils of Judges collect data form presidents of courts which are mostly computerized,**
- **Councils of Judges by majority vote deliver a Ruling,**
- **If a judge is not satisfied with the Ruling he/she can appeal to special panel of five judges of Supreme Court,**
- **A ruling is collected at SJC and after that SJC performs an interview with candidates. Result of the interview is marked with points which are added to the points gained regarding the Ruling on the performance of a judge.**

15. What are the ratings used during evaluations?

**According to Law on Courts and Methodology for evaluation of judges delivered by SJC number of points gained in process of evaluation determines the rating which judge gained from Excellent to Not Sufficient (See answer No.10)**

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).

***The result of evaluation can lead to promotion of a judge but not to demotion, and in most serious cases to disciplinary responsibility.***

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?

**All documents are kept in SJC for ten years.**

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)

***Not institutionally.***

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**

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?

***Evaluation bodies are clearly defined and elected by judges. Evaluation is performed on basis of Law and other regulations which are public and same rules are applied to all judges.***

21. Are there any protective measures during the evaluation process to avoid personalised opinions or political pressures?

***All steps in evaluation process are held by judges and judges are responsible for it and each decision can be challenged before court.***

22. How is the participation of a judge in the evaluation procedure ensured and how are his/her views taken into account?

***Through interview with a judge, with possibility for a judge do provide all data and evidence which are important for his/her evaluation and through right to appeal.***

23. Is any self-evaluation by a judge or evaluation by his/her peer judges at the same hierarchical level possible?

***Yes and No. Please see answers explaining the role of Councils of Judges.***

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)

***Yes, rules regulating excuse of a judge in proceedings apply to this procedure.***

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?

**As mentioned before, each judge who has been evaluated by Council of Judges can apply to Supreme Court where panel of five judges decide on the grounds of appeal. This panel is formed each year at the beginning of a year so it is not possible to create ad hoc panel at the Supreme Court.**

#### **E. Achievements and problems**

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

***In my personal view main problem in creating the system which is objective and based on measurable mostly statistical data forces judges who seek for promotion to arrange their duties to please the process of evaluation. In such system individuality, autonomy and free minded judges are not welcomed and they will hardly gain better results as those who are adjusting their performance to “please” the system of evaluation.***