

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
Reply from Cyprus**

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? The purpose is to assess the performance of each individual judge, both on the merits of his work, as well as on his general capability, his ability to cope with the work load and his readiness to try the cases put before him.
3. Is it compulsory or optional, and does it apply to all judges in the country? It applies to all judges and it is compulsory in the sense explained below.
4. How it is established and regulated:
 - by legislation; The general framework is given in the Constitution itself which provides that each judge must be of high professional and moral standard
 - by subordinate legislation; N/A
 - by internal institutional regulatory instruments. There exist a number of practice directions or circulars on the subject.

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; Yes
 - the average time spent on each of these cases; Yes
 - the average number of hearings per case; Yes
 - clearance rate (number of the cases, where a decision has been made, vis-à-vis the total of the cases forwarded to the judge); Yes
 - the average time to judgment (the time required to deliver a judgment by a judge after the completed hearing); Yes
 - any other quantitative indicators. No
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; No. This is dealt with when a case comes on for appeal.
 - the number of appeals vis-à-vis the number of the cases, where a decision has been made; No
 - the number of decisions reversed and/or cases remitted by the appellate court; No
 - the types of cases where decisions were reversed and/or cases remitted (criminal, civil, administrative or other); No
 - the grounds for reversal and/or remittal; This is shown in the appeal judgment.
 - any other qualitative indicators. No
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? The views of the Presidents of the Court may be taken into account but officially the criteria in assessing a judge are set by the Supreme Council of Judicature.
8. Does the evaluation take into account possible violations of ethical and professional rules/standards adopted for judges? Yes.
9. Is there any set scale of importance or of priority between various performance indicators? (please specify) No, but emphasis is given on the quality of performance.

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 the Supreme Court of Judicature, composed only of all the members of the Supreme Court.
11. Are there different evaluation procedures for different judges, depending on their position in the judicial hierarchy, their experience or any other aspect? No. The criteria are the same for all.

12. Is evaluation a continuous process or is it done periodically; if the latter, how often are judges evaluated? It is a continuing process but the actual assessment is done on promotions.
13. Are the evaluations done routinely, or only or additionally for specific occasions and/or for specific reasons? As above.
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) The evaluation is done by the members of the Supreme Council of Judicature without any oral submissions or interviews. The Council has before it the records and the statistics of each individual judge and is cognizant of the general and overall performance of judges.
15. What are the ratings used during evaluations? No specific ratings exist but prominence is given on the quality of judgments and decisions, followed by the productivity factor.
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; It may affect the promotion, otherwise there is no demotion.
 - a professional award to a judge; N/A
 - disciplinary or other measures; Yes
 - a requirement of further training; N/A
 - dismissal from office; Yes, but only on disciplinary proceedings.
 - any other actions or measures (positive or negative). No.
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? The records are kept by the Chief Registrar at the Supreme Court without any time limit. Only the Supreme Court may examine them and they are kept in paper form.
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) No
19. Please provide, if possible, an example (anonymous) of an evaluation/assessment form/sheet/record filled out (if possible, in English or French). Not available.

<p>D. Evaluation and assessment vis-à-vis the independence of judges</p>

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? The evaluating body is clearly defined but there not as yet published guidelines. All judges know that the evaluation is based on quality, productivity, general behaviour and overall performance.
21. Are there any protective measures during the evaluation process to avoid personalised opinions or political pressures? No, but no politics are involved in the whole process whatsoever.

22. How is the participation of a judge in the evaluation procedure ensured and how are his/her views taken into account? The judge to be evaluated does not participate in the process. Evaluation is not a disciplinary procedure.
23. Is any self-evaluation by a judge or evaluation by his/her peer judges at the same hierarchical level possible? No.
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) No.
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 the evaluation of a judge leading to promotion is considered a pure judicial act, and is not of an administrative nature, no review is possible by way of appeal, or an administrative recourse. There has been a case of non promotion against which an administrative recourse was filed but it was dismissed by the Supreme Court. There is now pending another case which is pending. On disciplinary proceedings the judge may defend himself using the services of a lawyer and has the full armour of the criminal procedure in his favour, including calling witnesses and cross-examination.

E. Achievements and problems

26. Please briefly describe achievements and problems of the evaluation system used in your country. As we follow the common law system the whole process is considered judicial in nature and not of an administrative kind with detail records etc. However there is room for improvement and there is a continuing dialogue at the Supreme Court on this.