

AREIOS PAGOS

Supreme Court of Civil and Penal Law

Greece

CCJE-BU (2014)1

Athens, 17 February 2014

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

REPLY from AREIOS PAGOS

**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?

Yes, individual evaluation and/or assessment of judges exists in the judicial system of Greece.

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

The purpose of the evaluation is to record the performance and to evaluate the work and behaviour of judges.

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

It is compulsory and applies to all judges, except for the Judges of the Supreme Court.

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);

Note: In some cases, i.e. in labour cases the average time is shorter.

- 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?

In assessing a judge the opinion of the local Bar Association via its President and the opinion of the judicial hierarchy are also taken into account.

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

Yes, there are statutory ethical and professional rules.

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

The legal substance of every case is examined and the replies provided by the judgment to the claims put forward by the litigants.

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.

Members of the Supreme Courts and the Presidents of the Appellate Courts are not evaluated except in certain cases, such as very serious violation of the code of ethics.

The Ministry of Justice is responsible only for members of the Supreme Courts. The Presidents of the Appellate Courts are responsible for the judges of the lower courts.

The evaluating body, i.e. the Supervisory Council of Courts and the evaluator/supervisor for every judicial district, and their jurisdiction is clearly defined in the Code of Organization of Courts and Code of Ethics for the Judiciary.

Every year the Supreme Court elects by draw in a plenary session the President of the Supervisory Council of Courts among the Vice-Presidents of the Court. The members of the Supervisory Council and the supervisor for every judicial region are also elected by draw among the members of the Supreme Court and the General Prosecutor's Office.

In order to prepare the evaluation report on each judge of his/her district, the evaluator/supervisor visits all courts in his/her region, has a personal interview with every judge, studies all penal and civil decisions issued by the judge, has a meeting with the President of each Court and the President of the local Bar Association. (S)he can also attend a trial, etc. Regarding lower courts, the evaluation can be done by the President of the district Court of Appeal, following the same procedure.

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

The evaluation rules are the same for all judges. The evaluating body, i.e. the Supervisory Council of Courts and the evaluator/supervisor and their jurisdiction is clearly defined in the Code of Organization of Courts and Code of Ethics for the Judiciary.

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

Evaluation is a continuous process conducted annually; however, a separate evaluation can be done in special circumstances.

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

Evaluations are done routinely.

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)

Every year the Supreme Court elects by draw in a plenary session the President of the Supervisory Council of Courts among the Vice-Presidents of the Court. The members of the Supervisory Council and the supervisor for every judicial region are also elected by draw among the members of the Supreme Court and the General Prosecutor's Office.

The evaluator/supervisor visits all courts in his region, has a personal interview with every judge, studies all penal and civil decisions issued by the judge, has a meeting with the President of each Court and the President of the local Bar Association. (S)he can also attend a trial, etc. Regarding lower courts, the evaluation can be done by the President of the district Court of Appeal, following the same procedure.

15. What are the ratings used during evaluations?

Evaluators/ supervisors evaluate the moral conduct and character of judges, their scientific expertise, their sound judgment and perception, their diligence, hard work, professional performance (in qualitative and quantitative terms), their skills in awarding justice, in issuing judgments and coordinating the judicial process, as well as their social conduct and presence in court.

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;

Note: In very rare cases due to violations of ethical standards.

- 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?

There is a special record of the reports of each judge, which is kept in the Ministry of Justice and the Supreme Court (Areios Pagos) Reports can only be examined by the members of the Supervisory Council and the Supreme Court and the person concerned. The record is kept throughout a judge's career.

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)

There are no informal evaluations. Of course, senior judges may give their advice and share their experience with other judges.

19. Please provide, if possible, an example (anonymous) of an evaluation/assessment form/sheet/record filled out (if possible, in English or French).

Example:

The above-mentioned judge, ..., has served as a judge from ... to ..., 2013. He has served at the Courts of First Instance of Korinthos, Chalkis and Athens. He is now serving in the Department of Labor Law. After checking the decisions he has issued, I have noticed that almost all of them have very good structure, the legal problems posed are solved thoroughly and efficiently and he has provided the right solutions. Also, he has issued his decisions within reasonable time.

According to the meetings I have had with the President of the Court and the personal interview, I can attest that he also has a very good presence and conduct at the Court. His moral (character) is very good and his legal knowledge is sufficient.

Therefore, I have come to the conclusion that he is qualified to be promoted to the next rank.

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?

The transparency of the evaluation process is ensured by the fact that the evaluation rules and criteria are the same for all judges.

The evaluating body, i.e. the evaluator/supervisor, and its jurisdiction is clearly defined in the Code of Organization of Courts and Code of Ethics of the Judiciary.

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

As mentioned above (in Answer 20), there are rules protecting every judge. Political pressure cannot be and is not imposed. However, any evaluation carries an amount of personal opinion.

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

There are personal interviews and meetings with every judge, and therefore the evaluator/supervisor acquires direct knowledge of the work produced by the specific judge.

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

There is no such statutory provision. (It is not 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)

It can be done, but it almost never happens.

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?

If a judge does not agree with his/her evaluation, (s)he can ask for a review from the relevant Supervisory Council of the Courts.

E. Achievements and problems

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

The existing evaluation system guarantees uniform evaluation of the judiciary and a regular, thorough and complete inspection of serving judges.

The main problem is that in courts situated in big cities, the number of decisions is accordingly big, so the evaluator/supervisor faces a practical problem in his/her effort to take into account all the decisions issued by the judges under his/her supervision.