

CCJE-BU (2014)1

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 Hungary

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, it exists.

2 If yes, what is its purpose and rationale?

Its purpose is to assess whether the judge is able to fulfill his or her duty and to provide feedback to the judge from an independent source. The evaluation also aims to determine the skills and knowledge areas where the judge is really good at and where there is further room for improvement.

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

It is compulsory to complete it in every 8 year, but in special cases either the judge or the president of the court can ask for an ad hoc evaluation outside this period.

4 How it is established and regulated:

X 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:

X 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:

X analysis of the type, subject and complexity of the cases dealt with by a judge and his/her decisions;

X the number of appeals vis-à-vis the number of the cases, where a decision has been made;

X 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);

X 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?

The opinion of the judges of upper court, who decide about the appeals against the judgments of the judge.

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

Only in the case, when the violation of ethical rules is stated in the Ethical Council's decision.

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

Such prioritization of performance indicators does not exist.

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.

The president of the court where the judge serves and the head of the department (e.g. civil law department) or a judge appointed by him for the evaluation.

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

The judges who are in leading position (head or deputy head of departments, head of groups) are also evaluated based on their leadership skills.

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

The first evaluation takes place at the end of the 3. year after the judge's appointment. Then in every 8 year. In the last 6 years prior to the retirement age the evaluation is not compulsory.

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

Both routinely and occasionally. Specific occasions are: promotion of the judge, suspect of incapability to fulfill his/her position.

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 based on examination of the selected cases, interview with the judge, written opinion of higher court judges and the experience of the attended hearings. The judge can express his or her opinion on the written evaluation. The president of the court makes the final statement as listed in question 15.

15 What are the ratings used during evaluations?

Excellent suitable for higher position, excellent, suitable, unsuited for the position

16 What are the consequences of the evaluation and how may it affect the career of a judge? Can it result in:

X the promotion or demotion of a judge;

- a professional award to a judge;

X disciplinary or other measures;

- a requirement of further training;
X 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?

The evaluation is documented and the records are archived within the HR documents at the president of the court until the judge is in his/her position. The president and others authorized by him are entitled to access these documents, and the court on disciplinary matters.

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)

Informal evaluation does not exist.

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

1. HR information (information on previous professional experience, scientific and educational activities, special skills and knowledge)
2. Statements of the assessment (qualitative and quantitative assessment of the judge's cases from the assessment period [typically the previous calendar year], the experience from the attended hearings, and the level of collaboration of the assessed judge.

3. Evaluation

The assessment is completed in a table format, according to the ratings presented in question 15. e.g. decision making or communication skills

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?

Several different parties are involved in the evaluation process. In addition to the evaluation of the investigator, the examination of the cases concluded by the judge in the assessment period (partly chosen by the judge, and partly by the investigator) the opinion of the higher court judges about the quality of the work of the judge have great importance. The assessed judge is also interviewed and have the possibility to explain the working circumstances.

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

Political pressures are impossible because the evaluation is completed by judges, who are not entitled to make any political activities.

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

The judge can express his or her opinion in a long interview with the investigator.

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

It is not possible or anyway not usual.

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)

Such a possibility does not exist.

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?

The judge can put an appeal before the disciplinary court.

E. Achievements and problems__

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

The interpersonal aspects might have greater importance than it should have.