



Strasbourg, 16 December 2011

CCJE(2011)7

**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES
(CCJE)**

Questionnaire with a view of the preparation of Opinion No. 15 on specialisation of judges and courts

REPLIES FROM BULGARIA

1. Specialisation of courts

TYPES OF COURTS/JUDGES	(A) TICK THE BOX IF YOUR COUNTRY HAVE SPECIALISED COURTS/JUDGES IN:	(B) IF YES TO (A), TICK THE BOX IF THEY ARE SPECIALISED JUDGES/CHAMBERS WITHIN A GENERALIST COURT <i>(IN BIGGER COURTS, APPELATE COURTS, SUPREME COURT OF CASSATION)</i>	(C) IF YES TO (A), TICK THE BOX IF THEY ARE A SEPARATE INSTITUTION WITHIN THE GENERAL ORGANISATION OF THE JUDICIARY	(D) IF YES TO (A), TICK THE BOX IF THEY ARE A SEPARATE JUDICIARY FORMING A SYSTEM OF THEIR OWN ¹	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS ²	(F) IF YES TO (A), TICK THE BOX IF THEY HAVE A TERRITORIAL COMPETENCE DIFFERENT FROM GENERALIST COURTS (PLEASE SPECIFY IF APPROPRIATE)	(G) IF YES TO (A), TICK THE BOX IF THEY APPLY RULES (PROCEDURE, EVIDENCE, ETC.) THAT ARE DIFFERENT FROM THOSE APPLICABLE IN GENERALIST COURTS (PLEASE SPECIFY IF APPROPRIATE)
Family courts	X	X					
Juvenile courts							
Administrative courts/council of state	X		X	X <i>(Administrative courts/Supreme Administrative Court)</i>			X
Immigration/Asylum	(competence of administrative courts)						
Courts of Account							
Military Courts	X		X	X <i>(Military courts/Military Court of Appeal/Supreme Court of Cassation)</i>	X	X	
Tax Courts	(competence of administrative courts)						
Labour/social courts	X	X					
Courts for agricultural							

¹ For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

² For example, composition including lay members: jurors, psychologists, engineers; please specify qualifications and system of recruitment. For example composition of only lay members: representatives of labour organisations, aldermen-échevins, justices of the peace, magistrates etc.

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contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances	X	X					
Patent/copyrights/trademark courts	Sofia City Court has sole jurisdiction in first instance; administrative aspects - competence of administrative courts /Sofia Administrative Court -appellate instance with regard to Patent Office decisions, Supreme Administrative Court/						
Commercial courts	X	X					
Bankruptcy courts	X	X					
Courts for land disputes	X	X					
"Cours d'arbitrage"	X (not part of the judiciary)		X			X	X
Serious crimes courts/courts of assize	X		X	X <i>Specialised Penal Court/Specialised Penal Court of Appeal/ Supreme Court of Cassation</i>	X	X	
Courts for the							

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supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)							
Courts for the supervision of criminal enforcement and custody in penitentiaries							
Other, please specify: Criminal courts	X	X			X		

To what extent specialisation of courts is relevant in your system? – On the one hand there are three types of specialised courts – administrative (dealing *inter alia* with immigration/asylum, tax and patent/copyrights/trademark matters – included in “Types of Courts/Judges” section in the table above), military and specialised penal courts (under the jurisdiction of which fall organised crime/crimes committed abroad). On the other hand there are specialised judges/chambers in family, labour, wills and inheritances, commercial, bankruptcy, land matters and in criminal cases (falling outside the specialised criminal court’s competence) (as shown in 1 B) in the bigger courts, the appellate courts and the Supreme Court of Cassation. Thus large numbers of disputes are in fact solved by specialised in the relevant field judges.

2. Specialisation of judges

a) Does the recruitment procedure take into account the specialised studies accomplished after the university diploma in law? Does it take into account the specialised professional experience? Please specify – **no**: The recruitment procedure is based on the results of a two-phase competition. It consists of a written and oral exam, assessed according to the six-grade system. The written exam shall be anonymous and shall consist in solving a case in the relevant legal branch. Only a candidate who has passed the written exam with at least very good "4,50" grade shall be admitted to an oral exam. The candidates shall be classified according to their grade, formed as a sum of the marks of the written and oral exam; in case of equal score the competition commission shall classify the candidate with higher overall performance of the state exams. The Supreme Judicial Council shall adopt a decision for appointment of the candidates according to

their order in the classification until the positions, for which the competition was announced, are filled (Judicial System Act, Art.176-187).

b) Are judges promoted to a higher court, or assigned to a post of chief judge, on the basis of a procedure giving relevance to specialisation? Please specify: **yes** – as far as the promotion assignment is preceded by an attestation carried out in compliance with a special methodology (adopted by the Supreme Judicial Council) and the application forms filled in with regard to the assessment include information about professional experience/posts occupied and additional qualification and specialisation acquired; however, the specialisation is an asset, not a prerequisite.

c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: - **yes**: from a generalist court to a specialised court - by filing an application examined within a competition procedure on the basis of seniority and other criteria (according to an attestation methodology) and results of an interview; from one specialisation to another – by showing professional experience (all courts are in one and the same judicial system - see answer 2l)

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input type="checkbox"/> by showing professional experience?
<input type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input type="checkbox"/> by attending specialisation/reconversion courses?
<input type="checkbox"/> other?	<input type="checkbox"/> by passing a specialisation exam?

d) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)? - **yes**

e) What are for judges the criteria for access to specialisation? – the type of cases dealt with, the interest of the judge to attend specialisation courses

f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired? - **no**

g) Are there access/reconversion courses to specialised functions:

- Yes, within the judicial training institute? **yes**
- Yes, organised by an institution different from the judicial training institute?
- No ?

h) Are there training courses reserved only to specialised judges? - **yes**

i) Are exchanges of judicial experiences between different specialisations and/or generalist groups of judges organised? - **yes**

j) Do specialised positions exist in court for organisational purposes only (e.g., judge serving as spokesperson for the court; judge for the development of IT in court; judge co-operating with ADR services, etc.)? - **no**

k) If yes, is there a specific training for this type of posts? Please specify - **see answer 2j**

l) Do specialised judges have a higher compensation than generalist judges? – **no** Please distinguish, if relevant, according to whether the specialist judges belong to the same court system or a separate court system (e.g., in some countries, depending on the distinction between ordinary judges and administrative judges) – **same court system**.

m) Are there special allowances, or benefits in kind, for specialised judges? – **no**

n) Are specialised judges entitled to a preferential access to higher courts? If yes, is such access limited to the specialisation field of the judge concerned? - **no**

3. Specialisation of courts vis-à-vis specialisation of other actors of justice

- a) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify - **no**
- b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)? - **no**
- c) Is public prosecution organised on a specialised basis in your country? Please specify. – **yes** – as far as the district public prosecutor’s offices in bigger towns, the regional public prosecutor’s offices, the appellate public prosecutor’s offices, the Supreme Public Prosecutor’s Office of Cassation and the Administrative Supreme Public Prosecutor’s Office are concerned – they have internal division in departments with regard to the prosecutor’s competence at different stages of proceedings/the different types of proceedings (ex. pre-trial proceedings, supervision in penal proceedings, supervision in civil proceedings, supervision in criminal enforcement, supervision in administrative proceedings, etc.); in some bigger public prosecutor’s offices there also might be specialised divisions according to the types of crimes (ex. economic, international, etc.); besides there are national investigation office, military public prosecutor’s offices, military public prosecutor’s office of appeal, specialised public prosecutor’s office and specialised public prosecutor’s office of appeal (the last two having competence, corresponding to the specialised penal court/specialised penal court of appeal – organised crime/crimes committed abroad)
- d) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)? - **yes**
- e) Are specialised judges assisted by specialised staff (clerks, technical staff, etc.) ? If yes, is this staff recruited on an *ad hoc* basis? - **no**

4. Specialisation and governance

Is your Council for the judiciary or other another equivalent independent body entrusted with the protection of the independence of judges competent for all specialised judges, as for all generalist judges? – **yes – one council for all judges** If not, please specify the specialised judges that are not under the governance of the Council.

5. Specialisation, professional associations of judges, judicial ethics

- a) Are there in your country professional associations of specialised judges? - **yes (administrative judges association)**
- b) Do specialised judges have separate or common “principles of judicial ethics”³ with respect to generalist judges? If separate principles apply, please specify (i.e. separate principles needed by exposure of specialised judges to problems affecting juveniles, family problems, labour disputes, etc.).- **there is a common Code of Ethics – adopted by the Supreme Judicial Council and applicable to all judges.**

6. Conclusion

- a) Please give your opinion on the advantages and disadvantages of special courts:
- higher qualification of the judges in the relevant field – better and in depth knowledge of specific issues, routine;
 - well-harmonised, stable and predictable court practice/less contradictory judgements;
 - speediness;
 - efficiency;
 - the narrow specialisation leads to a limited knowledge of other branches of law; this might sometimes hinder the delivery of a proper and well-balanced judgement
- b) Please give your opinion on the advantages and disadvantages of specialisation of judges
- higher qualification of the judges in the relevant field – better and in depth knowledge of specific issues, routine;

³ See principles of judicial ethics as defined in CCJE’s Opinion No. 3 (i.e. rules having no disciplinary impact).

- well-harmonised, stable and predictable court practice/less contradictory judgements;
- speediness;
- efficiency;
- the specialisation of judges within generalist court allows easy shifts in specialisations (when needed or preferred by the judges), broader knowledge and experience in different branches of law, flexibility.