



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**

**Answers given by Finland  
27 January, 2012  
Justice Timo Esko**

## 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	(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 <sup>1</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>2</sup>	(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	In some district courts there have been projects involving cooperation of specialists in child psychology and welfare in the handling of cases relating to child custody. Specialists are not members of the court.						
Juvenile courts	Do not exist						
Administrative courts/council of state	X			X	X, depending on the nature of the case	X, territorial competence according to special legislation	X, procedural rules in accordance with special legislation
Immigration/Asylum	Helsinki Administrative court has sole jurisdiction in first instance	X				X	
Courts of Account	Do not exist						
Military Courts	X	X			X	X	X, procedural rules in accordance with special legislation
Tax Courts	Do not exist, tax cases are	X, often a special					

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

<sup>2</sup> 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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	handled in the administrative courts. Helsinki Administrative court has the sole jurisdiction in cases concerning VAT, customs duties, excise taxes and road taxes.	Chamber in an administrative court					
Labour/social courts	X, a Labour Court. Some disputes relating to social security legislation are handled by administrative courts, but there is also an Insurance Court, see below.			X, there is only one Labour Court in the country. Its jurisdiction covers disputes relating to collective agreements only. Disputes concerning individual employment contract are handled by ordinary district courts.	X	X, territorial competence covers the whole country	X, procedural rules in accordance with special legislation
Courts for agricultural contracts	Do not exist						
Consumers' claims courts	Do not exist. However, there are some administrative authorities and bodies for consumer claims.						
Small claims courts	Do not exist						
Courts for wills and inheritances	Do not exist						
Patent/copyrights/trademark courts	Helsinki District Court has sole jurisdiction in first instance.	X			X	X	
Commercial courts	Market Court is			X		X	X, procedural

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	a special court hearing market law, competition and public procurement cases, it has sole jurisdiction in first instance.						rules according to special legislation
Bankruptcy courts	Do not exist, but cases relating to restructuring of companies („chapter 11 cases“) are handled by certain courts only in the first instance						
Courts for land disputes	X, it is stated in law that only certain District courts have this kind of jurisdiction (relating mainly to proceedings concerning partitioning of land); as far as environmental protection and permissions relating to it are concerned, Vaasa administrative court has sole jurisdiction.	X			X	X	X, in the Real Estate Formation Act (1995)
“Cours d’arbitrage”	Do not exist						
Serious crimes courts/courts of assize	Do not exist						
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	Do not exist						

Courts for the supervision of criminal enforcement and custody in penitentiaries	Do not exist						
Other, please specify: a) The <b>Insurance Court</b> has jurisdiction in matters concerning for example a person's right to earnings-related pension, national pension, unemployment benefit, wage security, housing allowance, financial aid for students and disability benefits paid by the Social Insurance Institution of Finland.	X			X	X	X	X, procedural rules according to special legislation
b) <b>Maritime Courts:</b> maritime law cases are handled by certain district courts only in the first instance.	X	X			X	X	X, procedural rules according to special legislation

To what extent specialisation of courts is relevant in your system?  
**Not to any great extent.**

## 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.

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.

**A and B: Yes, specialized studies and professional experience are taken into account in the recruitment procedure.**

c) May a judge from a generalist court move to a specialised court, or from one specialisation to another:

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input checked="" type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input checked="" 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)?

**No**

e) What are for judges the criteria for access to specialisation?

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, organised by an institution different from the judicial training institute?

- No?

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

**No**

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

**Some Courts of appeal have taken an active role in this respect and organized training for different groups of judges, sometimes in cooperation with prosecutors and lawyers.**

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.

**No**

l) Do specialised judges have a higher compensation than generalist judges? 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).

**No**

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**

**Specialist training such as meant in this question is not systematically organized or provided for by the judicial authorities**

### **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 such professional associations exist but there are other kind of free societies focusing their activities on different fields of law.**

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

**No, but their practice is usually focused on the field in question.**

c) Is public prosecution organised on a specialised basis in your country? Please specify.

**The Office of the Prosecutor General has organized training programmes the aim of which is, for example, to give special qualifications needed in trials concerning white-collar economic crimes.**

d) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)?

**In military courts working as part of the general (district, appeal and the supreme) court(s), the prosecutor has special training for this assignment.**

e) Are specialised judges assisted by specialised staff (clerks, technical staff, etc.) ? If yes, is this staff recruited on an *ad hoc* basis?

**Special courts have their own staff. If there is a special chamber in connection with a general court, the staff is trained in practice.**

#### **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? If not, please specify the specialised judges that are not under the governance of the Council.

**Finland has not adopted the system of “Council for the judiciary”. There is, however, a Nomination Board for Judges which handles the nomination proceedings of all judges (Supreme Court and Supreme Administrative Court excluded).**

#### **5. Specialisation, professional associations of judges, judicial ethics**

a) Are there in your country professional associations of specialised judges?

**See above 3 a.**

b) Do specialised judges have separate or common “principles of judicial ethics”<sup>3</sup> 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.).

**No, there are no such principles for specialized judges.**

#### **6. Conclusion**

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

a) Please give your opinion on the advantages and disadvantages of special courts

**For the sake of transparency, clarity and intelligibility of the judicial system I am of the opinion that the number of specialized courts should be kept as small as possible.**

b) Please give your opinion on the advantages and disadvantages of specialisation of judges

**In a system based mainly on general courts and administrative courts the continuous training of judges, generalists as well as specialists, is of great importance. In a small country generalists having some additional special skills are often needed.**