



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 Montenegro

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 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							
Juvenile courts							
Administrative courts/council of state	√	√					
Immigration/Asylum							
Courts of Account							
Military Courts							
Tax Courts							
Labour/social courts							
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances							
Patent/copyrights/trademark courts							
Commercial courts							
Bankruptcy courts	√	√					
Courts for land disputes							
"Cours d'arbitrage"							
Serious crimes courts/courts of assize							
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)							

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.

Courts for the supervision of criminal enforcement and custody in penitentiaries							
Other, please specify:							

To what extent specialisation of courts is relevant in your system?

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

<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)? **YES**
- 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?
- 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? **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.)? **NOT**
- k) If yes, is there a specific training for this type of posts? Please specify.

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). **YES, ONLY JUDGES WHO WORKS IN SPEZIALIZED DEPARTMENT OF HIGH COURT FOR ORGANIZED CRIME AND CORUPTION**

m) Are there special allowances, or benefits in kind, for specialised judges? **YES, ONLY FOR SPEZIALIZED FINANS ADDITIONAL**

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?

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. **NOT**

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)? **NOT**

c) Is public prosecution organised on a specialised basis in your country? Please specify. **ONLY FOR CRIMINAL CASES FROM ORGANIZED CRIME, CORUPTION, TERRORISAM AND WAR CRIME**

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

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

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. **YES IT SAME FOR ALL JUDGES**

5. Specialisation, professional associations of judges, judicial ethics

a) Are there in your country professional associations of specialised judges? **NOT**

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.).

6. Conclusion

a) Please give your opinion on the advantages and disadvantages of special courts **NOT**

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

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