



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 the Czech Republic

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	yes	no	no	no	no	no	No
Juvenile courts	yes	yes	yes	yes	no	no	No
Administrative courts/council of state	yes	yes	yes	yes	no	no	No
Immigration/Asylum	No						
Courts of Account	No						
Military Courts	No						
Tax Courts	No						
Labour/social courts	No						
Courts for agricultural contracts	No						
Consumers' claims courts	No						
Small claims courts	No						
Courts for wills and inheritances	No						
Patent/copyrights/trademark courts	No						
Commercial courts	yes	yes	yes	yes	no	no	Yes
Bankruptcy courts	yes	yes	yes	yes	no	no	Yes
Courts for land disputes	No						
"Cours d'arbitrage"	No						
Serious crimes courts/courts of assize	yes	yes	no	no	no	no	No
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	No						

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	No						
Other, please specify:	No						

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.

The specialisation and professional experience does not play any role in the recruitment procedure of the judges.

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.

No, any specialisation can be only the sign of his or her professional possibilities.

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

Generally can, but it depends on the type of the specialization. Specialist for the family law could have a massive problems to decide for example cases of the commercial law.

As to separate court systems:	Within the same court system:
<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, but it does not mean, that his specialisation is needed for the court.

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

The satisfaction of the needs of the court.

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?

No, the access is free for all judges.

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

No.

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.

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, the compensation is the same.

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)?

Only in the criminal law matters.

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

Yes, the specialization is needed in higher stages of the Public prosecution service.

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

Yes, the same as before this.

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

No, because there does not exist any Council or similar body in the Czech Republic.

5. Specialisation, professional associations of judges, judicial ethics

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

No.

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.).

Specialised judges have no separate rules.

6. Conclusion

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

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

From my opinion, there is any form of the specialisation needed. Current system of the law is such large and complicated, that any judge can be expert in all its branches. It means, that special courts and specialised judges are needed. The specialisation brings increasing of quality of the court decisions, but brings on the other hand very limited knowledge of the judge of the other branches of the law. And this general knowledge is sometimes needed for right and balanced decision. Professional career of the judge with a very limited specialisation is some times a problem, because to become a real expert in the other branch takes o lot of time and hard work.

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5th January 2012

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