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**Consultative Council of European Judges
(CCJE)**

The role of judges in the enforcement of judicial decisions, in their relationships with other state functions and/or other actors

QUESTIONNAIRE

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A) IN CIVIL AND ADMINISTRATIVE MATTERS

1. Is the authority responsible for the enforcement specified in the law or in the constitution?

Yes

Please specify: There is a general reference in the Constitution in Article 159.6 on enforcement and there are a number of laws and procedural rules that deal specifically with the mechanisms and details of the enforcement process.

No

2. What are the competences of the judge in the enforcement procedure?

➤ He is responsible for the enforcement

Yes

No

➤ He has others competences as regards enforcement

Yes

No

If yes, please specify: A judge may deal with any application by any party that relates to the enforcement of a judgment or order of the court and may give any directions necessary for the due execution of the order as the interest of the case may require.

3. Is the judge responsible for the enforcement (if exists) the same than the judge who took the decision?

Yes

No Not in the sense that requires the same physical person of the judge to deal with the procedure. Any judge of the same jurisdiction may deal with any such application.

4. Do the parties have to make a new application for the decision to be enforced?

Yes: The parties have to follow a certain relatively easy procedure to have the decision enforced.

No

5. Shall this new application end with a judicial decision ?

Yes

No: Not necessarily. If during the enforcement process no

problems are encountered then no application to the judge will be necessary.

6. Is the judge working with other actors involved in the enforcement procedure?

Yes

Please specify which actors

xNo

7. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:

➤ He starts the procedure?

Yes

No N/A

➤ He controls and supervises the procedure (eg timeframes) and the work done by the other actors?

Yes

No N/A

➤ Others competences?

Yes

No N/A

If yes, please specify

8. What is the training of the person responsible for the enforcement if it is not a judge? He is a judicial bailiff part of the permanent court staff specially appointed for the purpose of execution.

9. Can the parties appeal if the decision is not enforced within a reasonable time?

Yes

xNo

If yes, what are the sanctions of this appeal?

10. What are the powers of the judge to speed up the enforcement?

He may give general directions if he is the administrative president but normally this falls within the function of the court registrar.

11. What are the powers of the judge to force the enforcement?

Only on application when a problem is encountered.

12. What are the powers of the judge to protect the rights of parties and of third parties in the enforcement?

He may deal with any application and issue judgment or orders accordingly as the justice of the case may demand.

13. In your country, what are the main obstacles to the enforcement of decisions?

Few bailiffs having in mind the totality of the cases that need enforcement.

14. According to you, what main changes are needed to improve the effectiveness of the enforcement proceedings in your country? More personnel and simplification of procedure.

15. Are the enforcement procedures similar for civil and administrative matters?

xYes

No

If not, please clarify the differences.

B) IN CRIMINAL MATTERS

16. Is the authority responsible for the enforcement of sentence specified in the law or in the constitution?

xYes Both the Constitution and specific laws deal with the enforcement of sentences.

Please specify

No

17. What are the competences of the judge in the enforcement of sentences:

➤ He is responsible for the enforcement?

Yes

xNo

➤ He has others competences as regards enforcement?

Yes

xNo

If yes, please specify

18. Is the judge responsible for the enforcement (if exists) the same than the judge who took the decision?

Yes

No N/A

19. Is the judge working with other actors involved in the enforcement of sentences?

Yes

Please specify which actors

x no

20. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:

➤ He starts the procedure?

Yes

No N/A

➤ He controls and supervises the procedure (eg timeframes) and the work done by the other actors?

- Yes
 No N/A
 Others competences?
 Yes
 No N/A

If yes, please specify

21. What are the powers of the judge to protect the rights of detainees and of third parties in the enforcement?

The judge may at any stage of the whole process deal with any application by any party regarding illegal or unlawful detention or excess of police or administrative authority.

22. What are the powers of the judge as regards the alternative solutions to prison ?

The judge is solely responsible at the time of reflection on the appropriate sentence to pass any sentence other than imprisonment, such as suspended sentence, fine, rehabilitation order, release on conditions etc.

23. What are the powers of the judge as regards the implementation of sentences (arrangement of sentence, conditional release, etc.) ?

If a sentence is not respected or followed or misapplied to the detriment of the person involved the judge may give appropriate directions or order his release.

24. What are the powers of the judge as regards the effective payment of fines ?

N/A

25. What are the main reasons for complaints concerning the rights of detainees? Usually length of detention.

26. Who is responsible in your country, for complaints about living conditions in prison? What is the procedure for processing such complaints?

A number of independent officers such as the ombudsman and human rights officials have a say on the matter. Primarily the matter rests with the Ministry of Justice.

27. In your country, what are the main obstacles to the enforcement of sentences?

Only on payment of fines more personnel is needed,

28. According to you, what main changes are needed to improve the effectiveness of the enforcement of sentences in your country?

More personnel as above,