

Strasbourg, 20 January 2016

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

**Questionnaire for the preparation of the CCJE Opinion No. 19 (2016):
“The role of court presidents”**

Please in your answers do not send extracts of your legislation but describe the situation in brief and concise manner.

Comments on what is also happening in practice, and not only on point of law, will be much appreciated.

Introduction

The first three sections deal with presidents of first instance courts and presidents of courts of appeal. Please for each question, if and when applicable, make a distinction between the two positions.

The last section specifically deals with the president of the Supreme Court (e.g. Court of Cassation, Courts of last resort, but not with the Constitutional Courts or bodies with similar authority).

The Bureau and the Secretariat of the CCJE thank you very much for your cooperation and contributions.

1. Selection, removal, term of office, decision making process

- 1.1 How many presidents of first instance courts and how many presidents of the court of appeal there are in your country? **There are presidents of first instance courts and one president of the Supreme Court which is also the Appeal Court.**
- 1.2 Who appoints (e.g. Judicial Council, Ministry of Justice, Higher court, Parliament, Agency etc.) the presidents of the courts? (Please remember, if applicable, to make a distinction between the presidents of the courts of first instance and of the courts of appeal. Is it possible that presidents of the courts are appointed from other legal

professionals than those who are already judges?) The president of the Supreme Court is appointed by the President of the Republic. All presidents of first instance courts are appointed or promoted by the Supreme Council of Judicature. It is possible to appoint a lawyer to any of the above positions instead of a Judge but in practice this has never been done. Only once the President of the Republic appointed a senior advocate from the Attorney-General's office to the position of a Judge of the Supreme Court instead of the most senior president of the District Court as was the practice.

- 1.3 Do the presidents get a "confidence vote" (after or before their appointment) from the other judges of the court? Yes, they must be appointed by at least the majority of the members of the Supreme Council of Judicature, that is at least seven out of the thirteen Judges of the Council.
- 1.4 Please describe briefly the selection procedure for presidents of the courts. The Supreme Council selects the best candidate for the post taking into account the merits of the candidates, their performance and their seniority. The promotion or appointment is then published in the Official Gazette.
- 1.5 What kinds of qualifications (e.g. specific training, previous specific judicial position, seniority, managerial experience etc.) are required to become president? (Please explain, for example, if training is mandatory or on a voluntary basis, is there training at all, and how much it affects the choice of the president). There is no official training process but all Judges follow seminars in Cyprus or abroad on a variety of subjects. Otherwise the selection is based primarily on merit as exhibited during the holding of the position of Senior Judge.
- 1.6 Are presidents selected among the judges of the same court, or they may or must have served in a different court before taking the position as court president. The selection is practically from among the same Court as experience is needed in the particular field or areas of jurisdiction.
- 1.7 Can the candidates, who applied for the position but did not get it, challenge the decision before a court/tribunal? Yes, they can but by judicial precedent such promotions are considered a judicial and not an administrative act.
- 1.8 How often does it happen? (Please give a percentage based on data available or on your personal knowledge). Up to now there were only three such challenges.
- 1.9 Is additional training in management, or in other subjects, required after the judge has been selected as court president? No.
- 1.10 What is term of office for the president of court (please explain if there are limitations)? Each President is a permanent judicial officer and like all judges serves until the age of retirement.
- 1.11 How many times the same position of court president can be hold by the same person? The question does not arise in our system.
- 1.12 Which is the process to confirm presidents in their position (e.g. assessment of the first term served and then renewal)? The post is permanent, subject of course to any disciplinary proceedings.

- 1.13 Under which circumstances can presidents be removed from their office before the expiration of their term? **On disciplinary grounds only.**
- 1.14 Who is in charge of the removal procedure, and how it works? **The Supreme Council of Judicature following specific disciplinary regulations under which the judge may defend himself like a summary criminal trial.**
- 1.15 Can the president removed challenge the decision before a tribunal/court? **No.**
- 1.16 Are the decisions by the presidents shared/negotiated with the other judges or "boards" within the courts? **No.**
- 1.17 Do the local lawyers association or any other authority play a role in the decision making process carried out by the court's president? **No. But lawyers association are in contact with the President and may exchange views on administrative matters only. Never on how a judicial decision is to be reached.**
- 1.18 Are the organizational decisions taken by the presidents supervised by any other authority (e.g. Ministry of Justice, Judicial Council, Supreme Court, other)? **Only by the Judicial Council.**
- 1.19 Is there any extra remuneration for presidents, and how much is it in percentage of the regular judge's salary in the same court? **No.**
- 1.20 Please add any critical issue or further information that you consider relevant for this section. **None.**

2. Tasks, functions, relations

- 2.1 Are the presidents of the courts adjudicating cases as the other judges or they have a reduction of their caseload fixed by the law or by practice? **They have an equal share of work as with all other Judges.**
- 2.2 Are the presidents involved in the selection and recruitment of the judges? (Please make a distinction, if applicable, between full-time/permanent judges, temporary judges, lay judges if it applies in your respective jurisdiction). **No. They only make comments on the suitability of the candidates having taken the views of other Judges. These comments are placed before the Supreme Council as part of the whole picture of a candidate.**
- 2.3 Are the presidents involved in the selection and recruitment of the court staff? **No.**
- 2.4 Do the presidents assess the work of the judges of the court? (If this is the case, please describe how often does it happen, what kind of procedure is followed, what are the consequences of this assessment, and if the assessment can be challenged by the judges before a tribunal/court). **Not officially. They have an overall duty to see that the Court over which they preside works efficiently and may make a friendly suggestion to other Judges as to best practices.**
- 2.5 Are the presidents in charge of starting a disciplinary procedure against a judge? (If this is the case, please describe briefly the procedure and who is going to make the final decision about the charge). **No. But if a matter of concern comes to their attention they may refer the matter to the Supreme Council.**

- 2.6 Can, and under which circumstances, the presidents fire a judge or a court employee? **They do not have such authority.**
- 2.7 Which is the procedure of assigning cases to judges? Is there place for discretion of president of the court in this procedure? If yes, is it regulated by law or other kind of regulation? **Cases are allotted to Judges according to their jurisdiction on an equal basis. For example Judges that deal with a civil jurisdiction between 100,000-500,000 euros take an equal number of cases allocated to them by the Registry of the Court impersonally. Similarly with criminal cases according to the jurisdiction. If for any reason there is a backload in a particular jurisdiction, the President with the consent of the Judges involved in that jurisdiction may reshuffle cases.**
- 2.8 Can presidents set priorities in the handling of the cases (e.g. family cases must be dealt with before contracts)? **No, as these jurisdictions are separate anyway.**
- 2.9 Which are the circumstances that may allow presidents to retrieve cases from judges and re-assign them? **Only on a direction to that effect from the Supreme Council or if the Judge excuses himself from the case for specific reasons.**
- 2.10 Do presidents decide over the composition of court's sections/division and over the composition of judges' panel? **No. This is done by the Supreme Council.**
- 2.11 Do presidents select and appoint judges who may coordinate/head a section/division of the court? **No.**
- 2.12 Can presidents delegate their functions to other judges? **No.**
- 2.13 Are presidents supported in their tasks and by whom? **They have a secretary/stenographer and a clerk/assistant.**
- 2.14 Have presidents any supervision on the judgments delivered by other judges of the court? **No.**
- 2.15 Are presidents in charge of the uniform application of the law within the court, and in which way they carry out this function? **No.**
- 2.16 Do presidents set productivity and/or timeframes targets for their court? **No.**
- 2.17 Do presidents set productivity or timeframes targets for each judge or court staff? **No.**
- 2.18 Do presidents monitor the length of judicial proceedings and what kind of actions they can undertake to improve the pace of litigation? **No. Each Judge is independent but all must conform with Article 6 of the European Convention on Human Rights and similar constitutional and domestic legislation.**
- 2.19 What are the functions of presidents as far as the management of judges and court staff is concerned (i.e. setting working hours, authorising holidays, moving staff from one function to another, allowing extra-judicial activities etc.)? **All these are set by regulations and there is no involvement of the President.**
- 2.20 Have presidents any discretion in setting the remuneration (i.e. financial incentives) or other fringe benefits (please explain which one) of judges or court staff? **No.**

- 2.21 Which tasks presidents have in the appropriation of the court budget among the different courts? **They state the needs of the particular Court.**
- 2.22 Which tasks and how much discretion presidents have in the management of the court budget within the court? **This is done usually by the Registrar of the Court in consultation with the President.**
- 2.23 Do presidents manage the court premises and layout? **No.**
- 2.24 Do presidents manage information and communication technology implemented in the court? **No.**
- 2.25 Do presidents have some autonomy about what kind of information and communication technology tools/application should be implemented in their court? **They may well state the needs of their Court.**
- 2.26 Are presidents really the managers of the court or they are supported in their functions by a board (please describe the composition) or by a court manager/administrative director? **The management is undertaken by the Administrative Registrar of the Court.**
- 2.27 If applicable, please briefly describe the functions and the background of the court manager in comparison to the president of the court. **The Registrar is a public officer with legal background while the President is a Judicial officer. They are appointed differently and are subject to different rules.**
- 2.28 Please describe briefly the court manager selection process, if they serve for a limited term, and if the president can remove the court manager. **They are appointed by the Public Service Commission, are permanent civil servants and the President has no authority over them.**
- 2.29 Are presidents the "interface" with the media, and are they trained to do it? **No.**
- 2.30 Would you please briefly describe what kind of relations there are between presidents of the courts (first instance and appeal) and the president of the Supreme Court (court of last resort)? **They are all independent of each other.**
- 2.31 Are there other tasks of presidents of the courts in your country, which were not mentioned before? **The function of a President is to preside over the Court but primarily he is a Judge and not an administrator.**
- 2.32 Please add any critical issue or further information that you consider relevant for this section. **None.**

3. Accountability and discipline

- 3.1 What kind of accountability mechanisms (e.g. reporting, auditing, etc.) are in place for the presidents, and before which authority (e.g. Judicial Council, Ministry of justice, Supreme Court, internal board etc.)? **There is no special accountability for Presidents. It is similar as with all other Judges and the Judicial Council is solely responsible.**
- 3.2 Do presidents have a different disciplinary responsibility in comparison to the judges? **No.**
- 3.3 Is there any special immunity for presidents? **No.**

- 3.4 Which criteria are used for the evaluation of presidents, how often, and by whom? **The criteria are the same for all Judges. The evaluation is done by the Judicial Council on the basis of merit, seniority, quality of judgments, etc.**
- 3.5 Which are the consequences of such evaluation (e.g. ranking, promotion, admonition, removal, salary increase, any other consequence, etc.)? **Only on promotions.**
- 3.6 Please add any critical issue or further information that you consider relevant for this section. **None.**

4. Appointment, tasks, functions, relations of the president of the Supreme Court (Chief Justice of the court of last resort e.g. court of cassation; please note that you do not have to describe the position of president of the Constitutional Court / here and after referred as president of the Supreme Court).

- 4.1 Who appoints (e.g. Judicial Council, Ministry of Justice, Parliament, etc.) the president of the Supreme Court? **The President of the Republic.**
- 4.2 Please describe briefly the selection procedure. **The most senior Judge of the Supreme Court is usually appointed unless there are cogent reasons for the contrary.**
- 4.3 What kind of qualifications (e.g. specific training in management, previous specific judicial position, seniority, etc.) are required to become president of the Supreme Court? (Please also explain if training is mandatory or on a voluntary basis, if any training is necessary at all, and how much it affects the choice of the president). **None except the above in par. 4.2**
- 4.4 Does the president get a “confidence vote” (after or before their appointment) from other judges of the Supreme Court? **Yes, but not in any official capacity. The retiring President before the new appointment may support the next senior judge for appointment before the President of the Republic. Otherwise there is no confidence vote before or after appointment.**
- 4.5 How long is term of office of the president of the Supreme Court (please explain if there are limitations)? **By the Constitution the age of retirement is 68.**
- 4.6 Can their mandate be renewed, and what is the process (e.g. evaluation of the first term served and then renewal)? **N/A**
- 4.7 What are the tasks and functions of the president of the Supreme Court in comparison to the other courts' presidents? (in particular, please explain the role of the president, if any, in relation to: Judicial Council, Ministry of Justice, legislative power, budget of the judiciary). **He is the most senior Judge in the Republic, presides over the Judicial Council and is primus inter pares with the other Judges of the Supreme Court.**
- 4.8 Please add any critical issue or further information that you consider relevant for this section. **None.**