

# 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?

**In Iceland there are just two instances, eight district courts and the Supreme Court. In each district court there is a president and then president of the Supreme 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 Minister of Justice appoints the presidents of the district courts. There is no appointment acquired by law of the president of the Supreme Court.**

- 1.3 Do the presidents get a “confidence vote” (after or before their appointment) from the other judges of the court?

**All the presidents are selected by appointed judges except for three district Courts where there is only one judge and in that case they are automatically selected.**

1.4 Please describe briefly the selection procedure for presidents of the courts.

**Every judge is eligible. The judges vote for themselves in camera. The one who gets most votes is selected.**

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 no requirement of special qualifications to be selected as president.**

1.6 Are presidents selected among the judges of the same court, or they may or must have served a different court before taking the position as a court president.

**All the presidents are selected from among the judges of the same court.**

1.7 Can the candidates, who applied for the position but did not get it, challenge the decision before a court/tribunal?

**Since every judge of each court is eligible none of them applies for the position. Judges may, however, be notified that they are interested in being president.**

1.8 How often does it happen? (Please give a percentage based on data available or on your personal knowledge).

**With five-year intervals.**

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)?  
**Five years.**

1.11. How many times the same position of court president can be hold by the same person?

**There are no limits of how many times a court president can hold his/her position provided if he/her is selected each five years.**

1.12. Which is the process to confirm presidents in their position (e.g. assessment of the first term served and then renewal)?

**A selection with five-year intervals.**

1.13. Under which circumstances can presidents be removed from their office before the expiration of their term?

**If the Judicial Council considers that a president of a district court has committed a serious offense or if the violation is repeated it can propose with reasoned presentation that he/her will be relieved from office. In that case the Minister of Justice decides if the president will be relieved from office. The Judicial Council takes administrative district courts but not the Supreme Court. The president of Iceland relieves the president of the Supreme Court temporarily from office according to a proposal on behalf of the Minister of Justice after**

**having sought a written opinion from The Judicial Disciplinary Committee. After having relieved a president of a district court or the president of the Supreme Court temporarily from office the Minister of Justice must within two months bring a legal action against the president.**

1.14. Who is in charge of the removal procedure, and how it works?

**The Judicial Council and the Minister of Justice in case of presidents of the district courts. See otherwise answer to question 1.13.**

1.15. Can the president removed challenge the decision before a tribunal/court?

**According to general rules a president can bring a legal action against the Icelandic State for annulment of this decision and payment of compensation.**

1.16. Are the decisions by the presidents shared/negotiated with the other judges or "boards" within the courts?

**Some decisions of the presidents are shared with other judges.**

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.**

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)? **No.**

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?

**There is an extra remuneration. Remuneration for presidents of district courts outside Reykjavik is 8% higher than for district court judges and remuneration for president of the District Court of Reykjavik is 15% higher than other district court judges' remuneration. Remuneration for president of the Supreme Court is 8% higher than for other judges.**

1.20. Please add any critical issue or further information that you consider relevant for this section.

## **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?

**Only the president of the District Court of Reykjavik has a reduction of his caseload fixed by practice since his administrative duties are considered to be 80% of his office duties.**

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.**

2.3 Are the presidents involved in the selection and recruitment of the court staff? **Yes.**

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). **No.**

- 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).

**If a president of a district court considers the offense of a judge so serious that his recommendations alone will not suffice he/her can submit the matter to the Judicial Disciplinary Committee with written and reasoned presentation.**

- 2.6 Can, and under which circumstances, the presidents fire a judge or a court employee?

**The presidents cannot fire a judge under any circumstances but they can fire other court employees.**

- 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?

**Presidents of district courts shall take care of that workload should be as uniform as possible and shall also endeavour to coincidence identity of the case each judge is assigned. The same principle applies in the Supreme Court. This is regulated by law but according to law there is no place for discretion in this procedure.**

- 2.8 Can presidents set priorities in the handling of the cases (e.g. family cases must be dealt with before contracts)?

**By law some types of cases receive priority procedures but the presidents do not have the power to set any general priorities in the handling of cases but in practice some cases enjoy priority, e.g. cases where the accused is in custody.**

- 2.9 Which are the circumstances that may allow presidents to retrieve cases from judges and re-assign them?

**Presidents of the district courts can retrieve a case without the request of a judge if the judge does not comply with the president's request to conclude the case within a reasonable time or the judge's illness or similar situations make it difficult for him to conduct the case.**

- 2.10 Do presidents decide over the composition of court's sections/division and over the composition of judges' panel?

**Presidents of the district courts can use the provisions of other laws to let three judges handle a case. In that case the president assigns the case to all of them and selects one of them to preside. According to the decision the president of the Supreme Court three or five judges sit in each case. In particularly important cases the president can decide that seven judges sit in a case.**

- 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? **No.**
- 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? **Yes.**
- 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? **Yes.**
- 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.)?

**Presidents of district courts manage the courts and are responsible for their function. They divide works between judges and other employees. They can divide judges into departments and assign cases to the judges or departments. He/she shall appoint other staff than judges and terminates their employment. He/she is responsible for monitoring activities of judges and other employees and exercises disciplinary authority to the extent that it does not share others (The Judicial Disciplinary Committee). He/she sets working hours for the employees but not for the judges which have certain freedom in that concern. The president authorises holidays, but in practice the judges have certain freedom in this context. The Judicial Disciplinary Committee has established general rules for which additional functions are compatible with the judges' official functions. If not mentioned in the general rules a judge shall in advance seek its permission for extra-judicial activities.**

- 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?

**They have no discretion in setting the remuneration or other fringe benefits of judges but they can on the other hand set the remuneration of court staff within budgetary limits.**

- 2.21 Which tasks and how much discretion presidents have in the management of the court budget within the court?

**The presidents put forward their budget proposals but the Judicial Council is responsible for the finances of the district courts in the same way as the president of the Supreme Court is responsible for the finances of that court. They take care of financial control within budget.**

- 2.22 Do presidents manage the court premises and layout?

**Since the premises are owned by the state it is responsible for the maintenance and layout of them but daily administration, e.g. layout, is under control of the presidents and office managers where they exist, i.e. at the District Court of Reykjavik and the Supreme Court.**

2.23 Do presidents manage information and communication technology implemented in the court?

**Yes they do that in cooperation with the office managers where they exist but there are just two office managers.**

2.24 Do presidents have some autonomy about what kind of information and communication technology tools/application should be implemented in their court? **Yes.**

2.25 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 president of the District Court of Reykjavik and the president of the Supreme Court are supported by office managers and other presidents are in a way supported by the of the director of the Judicial Council.**

2.26 If applicable, please briefly describe the functions and the background of the court manager in comparison to the president of the court.

**The court manager is most closely to the president in administrative matters and is responsible for daily communication with other staff than judges. The two employed office managers in Iceland both have a legal background.**

2.27 Please describe briefly the court manager selection process, if they serve for a limited term, and if the president can remove the court manager.

**The court managers serve for five years and can be removed from office by the presidents like other general employees. The job is publicly advertised, the applicants are interviewed and one of them employed.**

2.28 Are presidents the "interface" with the media, and are they trained to do it?

**Yes they are but they are not specially trained for this role.**

2.29 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)?

**There are no special relations between the presidents of the district courts and the president of the Supreme Court.**

2.30 Are there other tasks of presidents of the courts in your country, which were not mentioned before? **No.**

2.31 Please add any critical issue or further information that you consider relevant for this section.

### **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.)?

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?

**As said before the presidents are selected with five-year intervals by appointed judges. There exists no special criteria in this regard except for that the judges select the one of them who they believe to be the most capable for the position.**

3.5 Which are the consequences of such evaluation (e.g. ranking, promotion, admonition, removal, salary increase, any other consequence, etc.)?

**There are no special consequences except for salary increase.**

3.6 Please add any critical issue or further information that you consider relevant for this section.

**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?

**As said before appointed judges select president of the Supreme Court. The president is not appointed especially after the selection it is officially announced who has been selected as a president.**

4.2 Please describe briefly the selection procedure.

**Every judge is eligible. The judges vote for themselves in camera. The one who gets most votes is selected.**

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).

**There are no special qualifications required.**

4.4 Does the president get a "confidence vote" (after or before their appointment) from other judges of the Supreme Court?

**See previous answers.**

4.5 How long is term of office of the president of the Supreme Court (please explain if there are limitations)?

**Five years.**

- 4.6 Can their mandate be renewed, and what is the process (e.g. evaluation of the first term served and then renewal)?

**Their mandate can be renewed with a new selection.**

- 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).

**The president of the Supreme Court has no other tasks and functions than the presidents of the district courts. The president is in charge of the court, shares works between judges and other employees and exercises disciplinary authority over them. He is responsible for the operation of the court and its finances and represents the court.**

- 4.8 Please add any critical issue or further information that you consider relevant for this section.