



CCJE-GT(2012)3  
*Bilingue/ bilingual*

Strasbourg, 20 mars / March 2012

**CONSEIL CONSULTATIF DE JUGES EUROPEENS  
CONSULTATIVE COUNCIL OF EUROPEAN JUDGES  
(CCJE)**

**Compilation des réponses au  
questionnaire sur la spécialisation  
des juges**

**Compilation of replies to the  
questionnaire on the specialisation  
of judges**

**Contents**  
**Table des matières**

<b>Albanie / Albania</b> .....	<b>4</b>
<b>Belgium / Belgique</b> .....	<b>7</b>
<b>Bosnia and Herzgovina / Bosnie-Herzégovine</b> .....	<b>14</b>
<b>Bulgaria / Bulgarie</b> .....	<b>19</b>
<b>Croatia / Croatie</b> .....	<b>24</b>
<b>Cyprus / Chypre</b> .....	<b>29</b>
<b>Czech Republic / République Tchèque</b> .....	<b>33</b>
<b>Denmark / Danemark</b> .....	<b>37</b>
<b>Finland / Finlande</b> .....	<b>42</b>
<b>France</b> .....	<b>48</b>
<b>Georgia / Géorgie</b> .....	<b>53</b>
<b>Germany / Allemagne</b> .....	<b>58</b>
<b>Greece / Grèce</b> .....	<b>64</b>
<b>Italy / Italie</b> .....	<b>67</b>
<b>Luxembourg</b> .....	<b>72</b>
<b>Monaco</b> .....	<b>77</b>
<b>Montenegro</b> .....	<b>81</b>
<b>Norway / Norvège</b> .....	<b>85</b>
<b>Netherlands / Pays Bas</b> .....	<b>90</b>
<b>Poland / Pologne</b> .....	<b>95</b>
<b>Romania / Roumanie</b> .....	<b>105</b>
<b>Slovakia / Slovaquie</b> .....	<b>110</b>
<b>Slovenia / Slovénie</b> .....	<b>114</b>
<b>Spain / Espagne</b> .....	<b>118</b>
<b>Sweden / Suède</b> .....	<b>124</b>
<b>Switzerland / Suisse</b> .....	<b>129</b>
<b>The «Former Yugoslav Republic of Macedonia» / L'ex «Républic Yugoslave de la Macédoine»</b> .....	<b>135</b>
<b>Ukraine</b> .....	<b>139</b>
<b>United Kingdom / Royaume-Uni</b> .....	<b>146</b>
<b>Appendix</b> .....	<b>150</b>



## Albanie / Albania

### 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 <sup>1</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>2</sup>	(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	X	X	X	X		X	
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)							

<sup>1</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>2</sup> 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) Under the law no.9877, 18.02.2008, it is required that to apply to the High Council for Justice (Council for the Judiciary) for being a judge of serious crimes court you should have worked as a district court judge not less than five years. The recruitment procedure of serious crimes courts' judges takes also into account the specialised studies accomplished after the university diploma in law. It takes into account the specialised professional experience, too.

b) There is not a requirement that judges are promoted to a higher court, or assigned to a post of chief judge, on the basis of a procedure giving relevance to specialisation.

c) *A judge may move from a generalist court to a specialised court and vice versa.*

<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 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) The system ensures that all judges may access specialisation (e.g. by giving them the appropriate information).

e) The criteria for access of judges to specialisation are mainly the specialised studies and/or publications accomplished after the university diploma in law.

f) Financial provisions exist helping judges to transfer to other towns where specialisation may be acquired.

g) There are access/reconversion courses to specialised functions within the judicial training institute.

h) There are not training courses reserved only to specialised judges, yet.

i) There are exchanges of judicial experiences between different specialisations and/or generalist groups of judges organised.

j) Specialised positions do not 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.).

k) ....

l) Judges of serious crimes court, who are considered as specialised judges, have a higher compensation than generalist judges, that is district court judges.

m) There are special allowances for judges of serious crimes court.

n) In general, specialised judges are not entitled to a preferential access to higher courts, yet.

### **3. Specialisation of courts vis-à-vis specialisation of other actors of justice**

- a) The bar or professional associations of lawyers is not organised on a specialised basis in my country.
- b) Lawyers don't have to be specialised (e.g. registered in special bar listings) in order to practice before specialised courts.
- c) Public prosecution is organised on a specialised basis in my country. So, there is serious crimes public prosecution.
- d) In order to practice before serious crimes courts prosecutors have to belong to serious crimes department of the prosecution service.
- e) Specialised judges are not assisted by specialised staff.

### **4. Specialisation and governance**

Our Council for the Judiciary (High Council of Justice) is entrusted with the protection of the independence of all specialised judges, as for all generalist judges. So, the specialised judges are under the governance of the Council.

### **5. Specialisation, professional associations of judges, judicial ethics**

- a) There are not professional associations of specialised judges in my country.
- b) Specialised judges don't have separate or common "principles of judicial ethics"<sup>3</sup> with respect to generalist judges.

### **6. Conclusion**

- a) Special courts make it possible to achieve an efficient legal system.
- b) Specialisation helps judges to act more professionally.

## Belgium / Belgique

### 1. La spécialisation des tribunaux

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>4</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>5</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
Tribunaux des affaires familiales	X	X					
Tribunaux pour enfants	X	X					
Tribunaux administratifs/ Conseil d'Etat	X			X	X		
Immigration/asile	X			X	X		
Cour des Comptes	X			X	X		
Tribunaux militaires		X					
Tribunaux fiscaux	X	X					
Tribunaux des prud'hommes/tribunaux des affaires sociales	X		X				
Tribunaux spécialisés dans les contrats agricoles	X	X	X				
Tribunaux chargés des plaintes des consommateurs	X	X					
Tribunaux pour le règlement des petits litiges	X		X				
Tribunaux chargés des documents testamentaires et des successions	X	X					
Tribunaux spécialisés dans le droit des brevets/ les droits d'auteur/ le droit des marques	X	X					
Tribunaux du commerce	X		X				

<sup>4</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>5</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ Juges SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>4</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>5</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
Tribunaux de la faillite	X		X				
Tribunaux pour les litiges fonciers	X	X	X				
"Cours d'arbitrage"	X	X					
Cours pour les crimes graves/ cours d'assises	X				X		X
Tribunaux chargés de la supervision des informations judiciaires (autorisent par exemple les arrestations, les écoutes téléphoniques, etc.)	X	X					
Tribunaux chargés de la supervision de l'exécution des peines et de la détention provisoire dans les établissements pénitentiaires	X	X					
Autres, veuillez préciser							

**Observations :**

- *Droit de la famille : la création d'un tribunal de la famille est prévue ;*
- *Conseil d'Etat : il s'agit d'une juridiction administrative qui ne fait pas partie de l'ordre judiciaire ; en règle, le Conseil d'Etat n'est pas compétent dès lors qu'un droit subjectif est en cause ; dans ce cas, le litige concerne un droit civil qui est de la compétence des cours et tribunaux de l'ordre judiciaire.*
- *Immigration et asile : ces matières sont de la compétence de juridictions administratives avec un recours devant le Conseil d'Etat ; toutefois, lorsque ces matières donnent lieu à une privation de liberté en vue de l'expulsion, un recours est ouvert devant la chambre du conseil du tribunal de première instance et, donc, devant l'ordre judiciaire.*
- *Cour des comptes : la Cour des comptes est une cour spéciale qui ne fait pas partie de l'ordre judiciaire et ses membres sont nommés par la Chambre des Représentants.*
- *Litiges fonciers et contrats agricoles: certains de ces litiges (bail commercial, bail à loyer, servitudes, troubles de voisinage, etc.) sont de la compétence du juge de paix ; certains autres litiges (expropriation, contrats entre agriculteurs, contrats entre agriculteurs et fournisseurs, etc.) sont de la compétence du tribunal de première instance.*
- *Petits litiges : les litiges dont le montant ne dépasse pas 1.860 euros sont de la compétence du juge de paix.*
- *Arbitrage : la loi prévoit que la sentence arbitrale peut être revêtue de la formule exécutoire par le président du tribunal de première instance en vue de son exécution forcée ; par contre, la demande*



d'annulation de la sentence arbitrale est adressée au tribunal de première instance, sans qu'une spécialisation du juge saisi soit requise.

- Les cours d'assises comprennent, outre les magistrats professionnels, douze jurés ; cette juridiction est caractérisée par le règle de l'oralité des débats, c.-à-d. que toute l'instruction sera faite oralement à l'audience (audition du juge d'instruction et des enquêteurs qui exposent la manière dont l'instruction et l'enquête se sont déroulés et dont les preuves ont été recueillies, audition des experts sur leurs constatations, travaux et conclusions, audition des témoins et, bien entendu, audition de l'accusé).
- Cour de cassation : la Cour comporte trois chambres : chambre civile, chambre pénale et chambre sociale ; elle fonctionne donc sur une base spécialisée selon ces trois matières.

Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?

Outre les juridictions spécialisées (tribunal de commerce ; tribunal du travail) ou les sections spécialisées du tribunal de première instance (tribunal correctionnel, tribunal de la jeunesse, tribunal de l'application des peines), les tribunaux sont organisés de telle manière que chaque chambre a des compétences spécifiques (contrats, responsabilité civile, successions, droit de la famille, chambres fiscales, litiges immobiliers, etc.).

La spécialisation est donc une réalité dans les faits.

Toutefois, cela n'empêche pas certaines chambres d'avoir une compétence assez large ou de regrouper plusieurs matières spécialisées, eu égard au nombre réduit d'affaire dans celles-ci ou à la taille réduite du tribunal qui empêche de créer une chambre spécialisée pour chaque matière.

Certaines matières (affaires fiscales, droit de la jeunesse, tribunal d'application des peines) ne peuvent être traitées que par des magistrats spécialisés nommés ou désignés spécifiquement en raison de leur formation ou expérience spécifique.

## 2. Spécialisation des juges

- a) La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? Veuillez préciser.

Pour certaines fonctions spécialisées (juge de la jeunesse, juge d'appel de la jeunesse, juge d'instruction, juge du tribunal d'application des peines), soit une formation spécialisée organisée par l'Institut de formation judiciaire (voir l'article 259sexies, § 1<sup>er</sup>, du Code judiciaire), soit, selon le cas, une expérience spécifique est requise. Pour les autres fonctions (juge au tribunal de commerce, juge au tribunal du travail), une formation spécifique n'est pas requise, mais il est tenu compte lors de la nomination des titres et mérites et de l'expérience dans la matière concernée. Ainsi, le Conseil supérieur de la Justice tiendra-t-il compte lors de sa présentation du candidat à nommer de la formation, de l'expérience ou des qualités du candidat en fonction du profil exigé pour la fonction à remplir.

- b) Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? Veuillez préciser.

Pour une place de président d'une juridiction spécialisée, il est bien évidemment tenu compte de la formation ou de l'expérience dans le domaine propre à cette juridiction.

Il en va de même des promotions à une juridiction de degré supérieur lorsque celle-ci a besoin d'un spécialiste dans un domaine particulier. Il convient à cet égard de se référer à ce qui est exposé dans la réponse à la question précédente.

- c) Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre :

Pour les systèmes judiciaires distincts :	Au sein d'un même système judiciaire :
<input checked="" type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input checked="" type="checkbox"/> en faisant preuve d'une expérience professionnelle ?
<input type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input type="checkbox"/> en suivant des cours de spécialisation/reconversion ?

autre?

en passant un examen de spécialisation ?

d) Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)?

*Le système garantit la possibilité de poser sa candidature pour de telles fonctions.*

e) Quels sont pour les juges les critères d'accès à la spécialisation ?

*Lorsque l'accès à la spécialisation nécessite une nomination ou désignation spécifique (p.e. juge des saisies, juge de la jeunesse, juge d'appel de la jeunesse, juge d'instruction, juge fiscal, tribunal d'application des peines), une formation ou une expérience dans le domaine concerné est généralement requise.*

*Certaines fonctions spécialisées sont des « mandats spécifiques » (juge des saisies, juge de la jeunesse, juge d'appel de la jeunesse, juge d'instruction - articles 58bis, 4°, et 259sexies, § 1<sup>er</sup>, du Code judiciaire) qui font l'objet d'une désignation par le Roi, sur présentation par l'assemblée générale de la juridiction parmi les candidats qui font l'objet d'une proposition motivée du président de ladite juridiction. Dans ce cas une expérience spécifique et une formation spécialisée organisée par l'Institut de formation judiciaire sont requises.*

*Lorsque la spécialisation n'est pas soumise à une telle nomination ou désignation (p.e. affectation à une chambre spécialisée dans telle ou telle matière du droit), il n'y a pas d'exigence légale particulière.*

f) Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ?

*A part le remboursement des frais de déplacement et, dans le cas d'une formation, d'hébergement, il n'y a pas d'aide financière spécifique.*

g) Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :

- Oui, au sein de l'institut de formation judiciaire ?

- Oui, organisés par une institution distincte de l'institut de formation judiciaire ?

- Non ?

*Observation : C'est le cas lorsque la loi prévoit qu'une formation spécifique organisée par l'Institut de formation judiciaire est requise. Cela n'empêche pas l'Institut de formation judiciaire d'organiser des formations dans d'autres domaines spécialisés du droit. Dans ce dernier cas, il ne s'agit, toutefois, pas de formation donnant accès à la fonction.*

h) Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ?

*C'est le cas, mais, souvent, les formations sont également accessibles à d'autres juges. En effet, la spécialisation dans un domaine spécifique du droit n'empêche pas que des connaissances dans d'autres domaines spécialisés soient nécessaires.*

i) Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ?

*Oui.*

j) Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ?

*Cela existe, mais de manière informelle. Il ne s'agit pas de fonctions spécifiques réglées par la loi.*

k) Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser

*Il n'existe pas de formation spécifique systématique, même si l'Institut de formation judiciaire peut en organiser.*

l) Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs).

*En règle, ce n'est pas le cas.*

*Les magistrats désignés ou détachés à une juridiction administrative, font souvent l'objet d'un régime de rémunération distinct.*

m) Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ?

*Le juges d'instruction et les juges de la jeunesse perçoivent une prime spéciale qui varie en fonction de l'ancienneté.*

n) Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ?

*Ce n'est pas le cas, mais la spécialisation entrera en considération lorsque le poste à remplir appartient au domaine concerné.*

### **3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice**

a) Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? Veuillez spécifier.

*Pour la Cour de cassation, il y a un barreau spécialisé qui a un monopole en matière civile en raison du caractère très spécifique et spécialisé de la procédure en cassation.*

*Pour les autres cours et tribunaux, il n'y a pas de barreau spécialisé. Il n'empêche que la plupart des avocats sont actuellement spécialisés.*

b) Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ?

*A l'exception de ce qui est précisé dans la réponse à la question précédente au sujet des avocat à la Cour de cassation, ce n'est pas le cas.*

c) Le ministère public est-il organisé de manière spécialisée dans votre pays ? Veuillez préciser.

*C'est le cas devant les juridictions du travail qui disposent d'un parquet spécialisé (« auditorat du travail »).*

*Par contre, il n'existe pas de ministère public spécialisé auprès du tribunal de première instance, si ce n'est que certaines matières sont traitées par des magistrats spécialisés (en matière fiscale et du droit de la jeunesse notamment).*

d) Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public)?

*C'est le cas en matière fiscale. C'est aussi le cas en matière du droit de la jeunesse et de l'application des peines où la désignation, comme c'est le cas pour les juges, est soumise à l'exigence d'une formation spécialisée auprès de l'Institut de formation judiciaire.*

e) Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? Le cas échéant, ce personnel est-il recruté sur une base *ad hoc* ?

*Les juges sont assistés d'un greffier et selon le cas, d'un personnel administratif. Ces greffiers et ce personnel d'assistance n'ont pas dû suivre une formation spécialisée.*

### **4. Spécialisation et gouvernance**

Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? Sinon, veuillez préciser quels sont les juges spécialisés qui ne relèvent pas de la gouvernance de ce Conseil.

*C'est le cas pour les juges, spécialisés ou non, qui appartiennent à l'ordre judiciaire.*

*Le Conseil supérieur de la justice n'est pas compétent pour les juges qui appartiennent à des juridictions administratives.*

## **5. Spécialisation, associations professionnelles de juges, déontologie judiciaire**

- a) Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ?

*C'est le cas pour certaines catégories de juges spécialisés comme les juges de la jeunesse, les juges de police, les juges de paix et les juges d'instruction.*

*Il existe également des associations de magistrats par degré de juridiction : juges de première instance, juges d'appel.*

- b) Les juges spécialisés ont-ils des «principes de la déontologie judiciaire»<sup>6</sup> communs ou distincts de ceux des juges généralistes ? Si des principes distincts s'appliquent, veuillez préciser (par exemple, des principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).

*Les principes déontologique sont les mêmes pour tous les juges, sans distinction selon leur spécialisation.*

## **6. Conclusion**

Veuillez donner votre avis quant aux avantages et inconvénients de la spécialisation des tribunaux et des juges.

*Le grand avantage de la spécialisation est que le juge connaît mieux les spécificités de la situation qui lui est soumise et qu'il doit apprécier. Ainsi, il percevra mieux le contexte de cette situation, que ce soit dans le domaine social, familial, psychologique, économique, financier etc. Il fera donc preuve d'une plus grande efficacité et d'une meilleure adaptation et se fera mieux comprendre du justiciable.*

*A cela s'ajoute le fait que le droit devient tellement complexe et étendu, qu'il est devenu impossible de se familiariser avec toutes les disciplines juridiques. La spécialisation est devenue indispensable si on veut bien maîtriser un domaine particulier.*

*Mais la spécialisation a ses limites. Le droit n'est pas un domaine cloisonné. Toute matière spécialisée du droit n'empêche pas que des connaissances dans d'autres matières soient indispensables. Prenons l'exemple du droit pénal financier : le juge qui est spécialisé en droit pénal, doit également s'ouvrir à d'autres domaines tels que le droit fiscal, le droit bancaire, le droit financier, le droit commercial et économique, le droit des contrats. En effet, ces différents aspects auront leur incidence sur l'appréciation de l'infraction pénale. Il en va de même dans les autres branches du droit.*

*Par ailleurs, nombre de juridictions, tout en ayant une large compétence, sont de dimension réduite et ne comprennent pas suffisamment de juges spécialisés pour chaque matière. Dans ces juridictions, les juges doivent faire preuve de polyvalence afin de répondre aux attentes des justiciables.*

*C'est également le cas des cours suprêmes qui ne comprennent qu'un nombre restreint de juges. Même si ces cours sont divisées en sections ou en chambres spécialisées, cette spécialisation est limitée en n'empêche pas que ces chambres ont à traiter un très large éventail de matières. Ainsi, la chambre civile est appelée à traiter des matières telles que le droit civil au sens strict, le droit commercial, le droit économique, le droit fiscal, le droit de la propriété intellectuelle, le droit de la*

<sup>6</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).

*construction, etc. La chambre pénale doit traiter des matières elles que le droit pénal commun, le droit pénal financier, le droit de l'environnement, le droit de l'aménagement du territoire, etc. Les différentes chambres de la cour suprême sont parfois appelées à siéger en chambres réunies, ce qui a pour effet que nombre de juges traiteront des matières qui ne font pas partie de leur spécialité. Une grande polyvalence est, ici aussi, de mise.*

*Enfin, il n'est pas rare dans une juridiction qu'un juge soit appelé à siéger dans une matière autre que celle de sa spécialité. C'est le cas lorsqu'il doit remplacer un collègue absent ou lorsque le cadre n'est pas complet ou pendant les périodes de vacances. Il est indispensable qu'il ait une connaissance suffisante de la branche du droit concernée pour comprendre et apprécier la cause qui lui est soumise.*

*En conclusion, si elle répond aujourd'hui à une nécessité, la spécialisation ne doit pas faire perdre au juge une connaissance générale du droit, nécessaire non seulement pour bien maîtriser le domaine juridique qui est le sien mais également pour être en mesure de fonctionner avec satisfaction dans d'autres domaines du droit.*

## Bosnia and Herzegovina / Bosnie-Herzégovine

### 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 <sup>7</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>8</sup>	(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.)							

<sup>7</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>8</sup> 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:							

There are four, relatively separate judicial systems in Bosnia-Herzegovina; at the level of the state of BiH, of the Federation of BiH, of Republika Srpska and of the Brčko District of BiH. Each of the four systems is regulated by a separate law: Law on the Court of BiH, Law on Courts in the Federation of BiH, Law on Courts in Republika Srpska and the Law on Courts of Brčko District. Due to the fact that the foregoing laws established different judicial systems, it was not possible to provide adequate information by answering questions in the above table, which is why the answers are given below in a narrative form.

Law on the Court of BiH regulates the jurisdiction of the Court of BiH, as well as its internal organisation. The following Divisions and Sections have been set up under the Law: **Criminal Division** (consisting of Section I for War Crimes, Section II for Organised Crime, Economic Crime and Corruption, and Section III for other criminal offences falling under the Court's jurisdiction), **Administrative Division** and **Appellate Division** (consisting of Section I, which rules on appeals from decisions rendered by Section I of the Criminal Division, Section II, which rules on appeals from decisions rendered by Section II of the Criminal Division, Section III, which rules on appeals from decisions rendered by Section III of the Criminal Division, as well as on appeals from the Administrative Division decisions and on complaints relative to election issues).

A separate body – the High Judicial and Prosecutorial Council, appoints judges to the Court of BiH, whereas the Court President assigns judges to divisions and sections. Prior experience of a judge in a specific field of law as a rule has an impact on the decision on the appointment and assignment to a certain division/section, although this is not prescribed by the law.

Separate laws on courts of the entities and Brčko District regulate the material and territorial jurisdiction of the entity courts. Basic courts (in Republika Srpska and Brčko District) and municipal courts (in the Federation of BiH) in principle are first-instance courts of general jurisdiction.

District courts (Republika Srpska), Appellate (Brčko District) and Cantonal courts (Federation of BiH), are courts of appeal as a rule, however they also have first-instance jurisdiction in matters clearly defined by the law.

Under the Law on Courts of Republika Srpska, separate District Commercial Courts have been established as first-instance courts, as well as the Higher Commercial Court as the second-instance court whose jurisdiction covers the entire entity of Republika Srpska.

Laws on courts of the Entities generally, do not regulate the courts' internal organisation. Exception from this are provisions prescribing that minor offence divisions are to be established in all municipal/basic courts, while in the Federation of BiH, the law also defines municipal courts that have special commercial divisions. As to all other matters, internal organisation of the courts is regulated by the courts' internal acts, while the laws only contain a provision that courts may establish divisions for deciding on matters in the same legal field. Assignment of judges and their potential specialisation inside the court is within the competence of the president of the court.

The High Judicial and Prosecutorial Council appoints judges to the entity courts too, while presidents of courts assign judges to specific divisions and sections within a court. Prior experience of a judge in a specific field of law generally has an impact on the decision on the appointment and assignment to a certain division/section, although no such obligation is prescribed by the law.

Only professional judges try cases in Bosnia-Herzegovina, that is, there are no lay-judges.

To what extent specialisation of courts is relevant in your system?  
There is very little specialisation of courts in Bosnia-Herzegovina.

## 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.

After getting a university diploma and following a two-year internship, a bachelor of law sits for the bar exam, which, under the law, is a prerequisite for holding the position of a judge. The bar exam is universal for all lawyers who wish to apply for judicial or prosecutorial positions and it encompasses all fields of law.

There are no separate specialised studies or courses for members of the judiciary. However, judges may attend various specialised studies organised by universities. Specialised studies that may have been completed cannot replace the bar exam and formally are not a condition for the position of a judge, but practically, they may give an edge over other candidates. The criteria applied when selecting judges include professional knowledge, professional experience and work results; skills demonstrated through publication of papers and other activities within the profession; professional proficiency based on previous results during the career, including participation in organised types of professional development...

- 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.

The law stipulates the minimum number of years of relevant experience as a prerequisite for the appointment of judges to courts at various levels, as well as for the appointment to the position of a court President (years of experience working as a judge, prosecutor, attorney or other relevant experience in law following the bar exam). Specialisation, as one of the criteria for the assessment of a judge's qualification may be an asset, but formally is not a condition for the appointment to a higher court or to the position of the President of a court.

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

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input 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 checked="" 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)?

Information on available positions and vacancies for judicial positions is public.

Information about training programmes for judges is public and is published on the web pages of the Centres for Judicial and Prosecutorial Training.

Each year, faculties of law offer specialised studies and the necessary information about programmes for specialised studies is published in daily newspapers and on their respective web pages.

- 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?  
No.
- 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?



Training programmes organised by the Centres for Judicial and Prosecutorial Training encompass a variety of areas and are adapted to the needs of judges coming from all levels and all courts.

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

Exchange of experience is possible through various types of seminars and trainings, conferences organised by the associations of judges etc.

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.

No.

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.

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?

They do not have a preferential access. Such experience is valued equally as all other elements of a judge's professional background.

### **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)?

*Attorneys who wish to practice before the courts in Bosnia-Herzegovina must be on one of the entity listings of attorneys, kept by the entity Bar Associations. In BiH, there are specialised commercial courts (in Republika Srpska only) and in order for an attorney to be able to practice before them, no formal specialisation is required, nor is a separate listing kept.*

However, those attorneys who wish to practice in criminal cases before the Court of BiH, in addition to being registered on one of the entity listings of attorneys, must also be registered on a separate listing of attorneys kept by the Criminal Defence Section (established as part of the Ministry of Justice of BiH). The Criminal Defence Section, in addition to keeping the listing of attorneys authorised to practice in criminal cases before the Court of BiH, is also in charge of organising special trainings for attorneys so that they can meet the criteria for being put on the list.

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

No.

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

In the Prosecutor's Office of BiH, there are special departments corresponding to the special criminal divisions of the Court of BiH.

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

As a rule, there is no prior specialisation as a prerequisite for employment, but staff specialises through work that is usually related to a particular field of law.

#### **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.

The High Judicial and Prosecutorial Council is competent for all judges.

#### **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"<sup>9</sup> 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.).

The same principles of judicial ethics apply to all judges.

#### **6. Conclusion**

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

Certain types of cases (juveniles and family disputes) do not require specialised courts (due to economic difficulties); instead, specialised divisions with specialised judges should be established within the existing courts.

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

I believe that every specialisation of judges leads to better quality and greater efficiency.

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<sup>9</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

## Bulgaria / Bulgarie

### 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  <b>( IN BIGGER COURTS, APPELATE COURTS, SUPREME COURT OF CASSATION)</b>	(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 <sup>10</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>11</sup>	(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	X	X					
Juvenile courts							
Administrative courts/council of state	X		X	X <b>(Administrative courts/Supreme Administrative Court)</b>			X
Immigration/Asylum	(competence of administrative courts)						
Courts of Account							
Military Courts	X		X	X <b>(Military courts/ Military Court of Appeal/ Supreme Court of Cassation)</b>	X	X	
Tax Courts	(competence of administrative courts)						
Labour/social courts	X	X					
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and	X	X					

<sup>10</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>11</sup> 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.

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  <b>( IN BIGGER COURTS, APPELATE COURTS, SUPREME COURT OF CASSATION)</b>	(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 <sup>10</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>11</sup>	(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 )
inheritances							
Patent/copyrights/trademark courts	Sofia City Court has sole jurisdiction in first instance; administrative aspects - competence of administrative courts /Sofia Administrative Court - appellate instance with regard to Patent Office decisions, Supreme Administrative Court/						
Commercial courts	X	X					
Bankruptcy courts	X	X					
Courts for land disputes	X	X					
“Cours d’arbitrage”	X (not part of the judiciary)		X			X	X
Serious crimes courts/courts of assize	X		X	X <b><u>Specialised Penal Court/Speci alised Penal Court of Appeal</u></b> Supreme Court of Cassation	X	X	
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)							
Courts for the supervision of criminal enforcement and custody in penitentiaries							
Other, please specify:	X	X			X		

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  ( IN BIGGER COURTS, APPELATE COURTS, SUPREME COURT OF CASSATION)	(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 <sup>10</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>11</sup>	(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 )
Criminal courts							

To what extent specialisation of courts is relevant in your system? – On the one hand there are three types of specialised courts – administrative (dealing *inter alia* with immigration/asylum, tax and patent/copyrights/trademark matters – included in “Types of Courts/Judges” section in the table above), military and specialised penal courts (under the jurisdiction of which fall organised crime/crimes committed abroad). On the other hand there are specialised judges/chambers in family, labour, wills and inheritances, commercial, bankruptcy, land matters and in criminal cases (falling outside the specialised criminal court’s competence) (as shown in 1 B) in the bigger courts, the appellate courts and the Supreme Court of Cassation. Thus large numbers of disputes are in fact solved by specialised in the relevant field judges.

## 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 – **no**: The recruitment procedure is based on the results of a two-phase competition. It consists of a written and oral exam, assessed according to the six-grade system. The written exam shall be anonymous and shall consist in solving a case in the relevant legal branch. Only a candidate who has passed the written exam with at least very good "4,50" grade shall be admitted to an oral exam. The candidates shall be classified according to their grade, formed as a sum of the marks of the written and oral exam; in case of equal score the competition commission shall classify the candidate with higher overall performance of the state exams. The Supreme Judicial Council shall adopt a decision for appointment of the candidates according to their order in the classification until the positions, for which the competition was announced, are filled (Judicial System Act, Art.176-187).

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: **yes** – as far as the promotion assignment is preceded by an attestation carried out in compliance with a special methodology (adopted by the Supreme Judicial Council) and the application forms filled in with regard to the assessment include information about professional experience/posts occupied and additional qualification and specialisation acquired; however, the specialisation is an asset, not a prerequisite.

c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: - **yes**: from a generalist court to a specialised court - by filing an application examined within a competition procedure on the basis of seniority and other criteria (according to an attestation methodology) and results of an interview; from one specialisation to another – by showing professional experience (all courts are in one and the same judicial system - see answer 2l)

As to separate court systems:	Within the same court system:
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input 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? – the type of cases dealt with, the interest of the judge to attend specialisation courses
- 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? - **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.)? - **no**
- k) If yes, is there a specific training for this type of posts? Please specify - **see answer 2j**
- l) Do specialised judges have a higher compensation than generalist judges? – **no** 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) – **same court system**.
- 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)? - **no**
- c) Is public prosecution organised on a specialised basis in your country? Please specify. – **yes** – as far as the district public prosecutor's offices in bigger towns, the regional public prosecutor's offices, the appellate public prosecutor's offices, the Supreme Public Prosecutor's Office of Cassation and the Administrative Supreme Public Prosecutor's Office are concerned – they have internal division in departments with regard to the prosecutor's competence at different stages of proceedings/the different types of proceedings (ex. pre-trial proceedings, supervision in penal proceedings, supervision in civil proceedings, supervision in criminal enforcement, supervision in administrative proceedings, etc.); in some bigger public prosecutor's offices there also might be specialised divisions according to the types of crimes (ex. economic, international, etc.); besides there are national investigation office, military public prosecutor's offices, military public prosecutor's office of appeal, specialised public prosecutor's office and specialised public prosecutor's office of appeal (the last two having competence, corresponding to the specialised penal court/specialised penal court of appeal – organised crime/crimes committed abroad)
- d) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)? - **yes**
- 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? – **yes – one council for all judges** If not, please specify the specialised judges that are not under the governance of the Council.

#### 5. Specialisation, professional associations of judges, judicial ethics

c) Are there in your country professional associations of specialised judges? - **yes (administrative judges association)**

b) Do specialised judges have separate or common “principles of judicial ethics”<sup>12</sup> 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.).- **there is a common Code of Ethics – adopted by the Supreme Judicial Council and applicable to all judges.**

#### 6. Conclusion

a) Please give your opinion on the advantages and disadvantages of special courts:  
– higher qualification of the judges in the relevant field – better and in depth knowledge of specific issues, routine;  
- well-harmonised, stable and predictable court practice/less contradictory judgements;  
- speediness;  
- efficiency;  
- the narrow specialisation leads to a limited knowledge of other branches of law; this might sometimes hinder the delivery of a proper and well-balanced judgement

b) Please give your opinion on the advantages and disadvantages of specialisation of judges  
– higher qualification of the judges in the relevant field – better and in depth knowledge of specific issues, routine;  
- well-harmonised, stable and predictable court practice/less contradictory judgements;  
- speediness;  
- efficiency;  
- the specialisation of judges within generalist court allows easy shifts in specialisations (when needed or preferred by the judges), broader knowledge and experience in different branches of law, flexibility.

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<sup>12</sup> See principles of judicial ethics as defined in CCJE’s Opinion No. 3 (i.e. rules having no disciplinary impact).

## Croatia / Croatie

### 1. Specialisation of courts

TYPES OF COURTS/JUDGES	(A) TICK THE BOX IF YOUR COUNTRY HAVE SPECIALISED COURTS/JUDGES IN:	(B) IF NO 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 <sup>13</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>14</sup>	(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		x					
Juvenile courts	x	x			x		x
Administrative courts/council of state	x						
Immigration/Asylum Courts of Account							
Military Courts							
Tax Courts							
Labour/social courts	X only one first instance court in zagreb	X in all other courts of first and second instance					
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances							
Patent/copyrights/trademark courts							
Commercial courts	x						
Bankruptcy courts							
Courts for land disputes							
"Cours d'arbitrage"							
Serious crimes courts/courts of assize		x				X /there are only four courts in the Country with jurisdiction for serious and org.crime	

<sup>13</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>14</sup> 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.



TYPES OF COURTS/JUDGES	(A) TICK THE BOX IF YOUR COUNTRY HAVE SPECIALISED COURTS/JUDGES IN:	(B) IF NO 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 <sup>13</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>14</sup>	(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)
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)		x					
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.

**State Judiciary Council has competence for appointment judges and presidents of courts in the procedure which is strict and proscribed by law and self-governing regulations. Not to go in the details it is based on points.**

**Also interview with the candidates can gain some points and of course specialization of judges in specific field of law and working experience in that field will play important role.**

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.

**Please see answer under 2.a.**

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

<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 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?  
**There can be various criteria taken into account, but main are interest of a judge to attend specific specialization courses, number of judges which show interest, needs of the court, sufficient funds etc.  
If possible through Judicial Academy all judges will be eligible for access to specialization.**
- f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?  
**YES, there are specific regulations which cover that area.**
- 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, judges who are a fulfilling their duties in specialized courts (commercial and petty crime courts) or judges to whom specific cases are assigned in courts of general jurisdiction have specific trainings in matters of law but in other areas connected with their specific duties.**
- 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.)?  
**YES, but only at Supreme court and larger courts. Those duties mentioned above are not only duties of those judges in the courts. They are fulfilling their regular duties in lower scale and those additional duties as well.**
- k) If yes, is there a specific training for this type of posts? Please specify.  
**YES. Those judges have specific training programs created, developed and exercised within Judicial Academy.**
- 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).  
**In Croatia first instant courts are, municipal courts ( courts of general jurisdiction), petty crime courts / judges of those courts have same compensation which is the lowest in the system. Judges of Commercial Courts and Administrative Courts are also first instant specialized courts and judges of those courts have higher compensation then judges of municipal courts but formal requirements are different.  
In second instant courts of general jurisdiction judges with duties on specific criminal cases where these courts act as first instance courts (organized crimes, war crimes) have higher salaries then other judges in the same court.  
Judges of second instance specialized courts ( High Commercial Court, High Petty Crime Court, High Administrative Court ) have higher compensation then judges of general second instance court.  
At the top of the pyramid are judges of Supreme Courts with same salaries regardless on type of cases or specialization**

m) Are there special allowances, or benefits in kind, for specialised judges?  
Please see answer under 2.I.

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 in the principle, but in practice judges of specialized first instance courts will be more likely appointed to second instant specialized court of same jurisdiction.**

### **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. Only few attorneys can call themselves as specialized for specific field of law upon permission form the Bar.**

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

**NO.**

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

**YES. Every office of the prosecutor is organized in two departments. Criminal and Civil for the cases where they are representing the State in civil cases.**

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

**NO.**

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

**NO in principle. Only judges in municipal courts dealing with juvenile cases are assisted by civil servants with specific qualifications (e.g. psychologists )**

### **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.

**In Croatia Council is competent for all judges of all courts.**

### **5. Specialisation, professional associations of judges, judicial ethics**

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

**YES. Judges in charge for juvenile cases have an Association but most of judges are members of Association of judges.**

b) Do specialised judges have separate or common "principles of judicial ethics"<sup>15</sup> 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.).

**NO. Code of Ethic is the same for all judges.**

### **6. Conclusion**

<sup>15</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

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

**For specific fields of law which require specific organization of courts when dealing with that type of cases my opinion is that specialized courts are welcomed. But too many specialized courts makes system of judiciary less flexible because judges cannot be transferred to other courts in the same city where there is lack of judges.**

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

**Specialization of judges is in my opinion is more preferable solution because that is best way how judicial system can provide best legal protection to the parties .**

**Disadvantage is that generally speaking judges are not very fond of specialization because in some extend specialization can be disadvantage when they apply for promotion to a higher courts.**

## Cyprus / Chypre

### 1. Specialisation of courts

TYPES OF COURTS/JUDGES	(A) TICK THE BOX IF YOUR COUNTRY HAVE SPECIALISED COURTS/JUDGES	(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 <sup>16</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>17</sup>	(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	X		X				X
JUVENILE COURTS							
ADMINISTRATIVE COURTS/COUNCIL OF STATE	X	X					
IMMIGRATION/ASYLUM COURTS OF ACCOUNT							
MILITARY COURTS	X		X		X		X
TAX COURTS							
LABOUR/SOCIAL COURTS	X		X		X		X
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							
"COURTS D'ARBITRAGE"							
SERIOUS CRIMES COURTS/COURTS OF ASSIZE	X						
COURTS FOR THE SUPERVISION OF CRIMINAL INVESTIGATIONS (E.G.							

<sup>16</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>17</sup> 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.

TYPES OF COURTS/JUDGES	(A) TICK THE BOX IF YOUR COUNTRY HAVE SPECIALISED COURTS/JUDGES	(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 <sup>16</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>17</sup>	(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)
AUTHORISING ARREST, WIRE-TAPPINGS, ETC.)	X						
COURTS FOR THE SUPERVISION OF CRIMINAL ENFORCEMENT AND CUSTODY IN PENITENTIARIES							
OTHER, PLEASE SPECIFY: RENT CONTROL TRIBUNAL		A SPECIAL LAW PROVIDES FOR THE SETTING UP OF THE COURT	X		X		SPECIAL RULES OF PROCEDURE APPLY NOT SO STRICT AS THE ORDINARY CIVIL PROCEDURE RULES

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. It takes into account the requirements specified by law for appointment to specialised courts ie less years of advocacy practice as well as the inclination of the candidate or his or her particular field of practice.
- 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. Judges of specialised courts are not considered as candidates for the Supreme Court because of their limited sphere of judicial activity i.e. dealing only with labour law or family law etc, while judges from the district court level deal extensively during their career with all aspects of civil as well as criminal law.
- c) May a judge from a generalist court move to a specialised court, or from one specialisation to another:

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input type="checkbox"/> by showing professional experience?
<input checked="" type="checkbox"/> <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, through dissemination of case law and bibliography on the subject.
- e) What are for judges the criteria for access to specialisation? No special criteria exist. The judge who sits in a specialised court has all the information needed through case law, internet etc.
- f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired? N/A
- 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? NO N/A
- h) Are there training courses reserved only to specialised judges? No
- i) Are exchanges of judicial experiences between different specialisations and/or generalist groups of judges organised? YES, through seminars in which specialised judges also participate.
- 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. N/A
- 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 less as they deal with only one specific area of law and not with the general court activity which includes civil and criminal law at all levels of difficulty.
- 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)? No. Specialisation comes from practising in that particular area of law.
- c) Is public prosecution organised on a specialised basis in your country? Please specify. Yes. All public prosecutors belong to the Attorney General Office, a constitutionally entrenched separate and independent body, entirely different from the judiciary.
- d) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)? As above. However, private prosecution is also possible in some cases and these may be handled by any lawyer wishing to take up the case.
- e) Are specialised judges assisted by specialised staff (clerks, technical staff, etc.) ? If yes, is this staff recruited on an *ad hoc* basis? No. The staff comes from the general staff of the general court system.

### **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, the Supreme Court of

Judicature is responsible for all judges both of the general courts and the specialised ones and are entrusted with protecting their judicial independence as well.

#### **5. Specialisation, professional associations of judges, judicial ethics**

- a) Are there in your country professional associations of specialised judges? No. Specialised judges form part of the Association of Judges which includes all judges of all specialised courts.
- b) Do specialised judges have separate or common “principles of judicial ethics”<sup>18</sup> 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.). No separate ethical conduct exists for specialised judges.

#### **6. Conclusion**

- a) Please give your opinion on the advantages and disadvantages of special courts
- b) Please give your opinion on the advantages and disadvantages of specialisation of judges
- c) Specialisation of both courts and judges is in principle a necessary part of any system of justice. It provides for specialisation in the particular field of law, thus enabling stability in the case law, better and in depth knowledge of the subject and the ability to help litigants and their lawyers more effectively. I cannot see any disadvantages provided specialised judges of first instance courts are not elevated to higher courts of general jurisdiction, unless higher specialised courts exist.

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<sup>18</sup> See principles of judicial ethics as defined in CCJE’s Opinion No. 3 (i.e. rules having no disciplinary impact).



## Czech Republic / République Tchèque

### 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 <sup>19</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>20</sup>	(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 COURTS	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						
"COURTS D'ARBITRAGE"	NO						
SERIOUS CRIMES COURTS/COURTS OF ASSIZE	YES	YES	NO	NO	NO	NO	No
COURTS FOR THE SUPERVISION OF	NO						

<sup>19</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>20</sup> 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.

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 <sup>19</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>20</sup>	(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)
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CRIMINAL INVESTIGATIONS (E.G. AUTHORISING ARREST, WIRE-TAPPINGS, ETC.)

COURTS FOR THE SUPERVISION OF CRIMINAL ENFORCEMENT AND CUSTODY IN PENITENTIARIES  
 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”<sup>21</sup> 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
- b) 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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<sup>21</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

## 1. Specialisation of courts – additionally please see explanatory note below

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 <sup>1</sup>	(E) If yes to (A), tick the box if they have a composition including lay members or only of lay members <sup>2</sup>	(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)
<i>ADDITIONALLY PLEASE SEE EXPLANATORY NOTE BELOW</i>							
Family courts	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Juvenile courts	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Administrative courts/council of state	<input checked="" type="checkbox"/> special boards				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Immigration/Asylum	<input checked="" type="checkbox"/> a special board				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Courts of Account							
Military Courts							
Tax Courts	<input checked="" type="checkbox"/> a special board				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Labour/social courts	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Courts for agricultural contracts							
Consumers' claims courts	<input checked="" type="checkbox"/> special boards				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Small claims courts	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Courts for wills and inheritances	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Patent/copyrights/trademark courts	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Commercial courts	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Bankruptcy court	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Courts for land disputes							
"Cours d'arbitrage"	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Serious crimes courts/courts of assize	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>

<sup>1</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>2</sup> 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	(x)						x
Other, please specify: <i>The Land Registration Court, Court of Housing, The Special Court of Indictment and Revision, etc.</i> For various boards please see our explanatory note below	x (x)				x		x

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 totality of qualifications is considered.*

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. *The totality of qualifications is considered.*

c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: except for The Maritime and Commercial Court in Copenhagen and The Labor Court all courts are generalist courts

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input type="checkbox"/> by showing professional experience?
<input checked="" type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input type="checkbox"/> by attending specialisation/reconversion courses?
<input checked="" type="checkbox"/> other? The judges in the Labor Court are Supreme Court judges, who have been appointed by the government and execute this duty alongside their permanent tenure	<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? *The specialisation rests upon the court adopting special procedure for a given class of cases.*

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:

Courts for the supervision of criminal enforcement and custody in penitentiaries	(x)						x
Other, please specify: <i>The Land Registration Court, Court of Housing, The Special Court of Indictment and Revision, etc.</i> For various boards please see our explanatory note below	x (x)				x		x

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 totality of qualifications is considered.*

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. *The totality of qualifications is considered.*

c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: except for The Maritime and Commercial Court in Copenhagen and The Labor Court all courts are generalist courts

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input type="checkbox"/> by showing professional experience?
<input checked="" type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input type="checkbox"/> by attending specialisation/reconversion courses?
<input checked="" type="checkbox"/> other? The judges in the Labor Court are Supreme Court judges, who have been appointed by the government and execute this duty alongside their permanent tenure	<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? *The specialisation rests upon the court adopting special procedure for a given class of cases.*

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:

Courts for the supervision of criminal enforcement and custody in penitentiaries	(x)						x
Other, please specify: <i>The Land Registration Court, Court of Housing, The Special Court of Indictment and Revision, etc.</i> For various boards please see our explanatory note below	x (x)				x		x

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 totality of qualifications is considered.*

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. *The totality of qualifications is considered.*

c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: except for The Maritime and Commercial Court in Copenhagen and The Labor Court all courts are generalist courts

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input type="checkbox"/> by showing professional experience?
<input checked="" type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input type="checkbox"/> by attending specialisation/reconversion courses?
<input checked="" type="checkbox"/> other? The judges in the Labor Court are Supreme Court judges, who have been appointed by the government and execute this duty alongside their permanent tenure	<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? *The specialisation rests upon the court adopting special procedure for a given class of cases.*

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:



While the chairmanship in a board is held by an independent judge, differing principles apply to appointment of the remaining board members. Rules of appointment are typically laid down in law. In most boards the members are selected based on their specialist competences or political experience.

In reference to court specialisation in the field of immigration/asylum the relevant Danish body is The Refugee Appeals Board. Its decisions may be tried before a general court only in relation to judicial matters.

In the field of the administrative rule of law, certain powers are delegated to "The Ombudsman" who by own decision or by following a complaint from a citizen may issue opinions on any error or misconduct by administrative bodies.

Separate from the above mentioned administrative boards there are numerous other boards in the field of civil law, particularly in consumer and tenant law. Such boards are given official mandate by their approval by The Minister of Business and Growth or have been established by law. Generally the chairman of the board is required to be a judge from the general court system. The chairman executes his duties alongside his permanent tenure. The membership is typically composed of representatives for the interested parties, thereby bearing similarities to arbitration.

Whenever a case is raised before a general court and the case falls under the competencies of one of said boards, the general court often will refer the case to the board, but the decisions of the board can normally be brought before a general court for re-examination. Some cases, for example tax cases, have to be brought before an administrative board before a case can be raised before a general court.

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Submitted by The Danish delegation to CCJE on February 1<sup>st</sup>, 2012

## Finland / Finlande

### 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 <sup>22</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>23</sup>	(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	In some district courts there have been projects involving cooperation of specialists in child psychology and welfare in the handling of cases relating to child custody. Specialists are not members of the court.						
Juvenile courts	Do not exist						
Administrative courts/council of state	X			X	X, depending on the nature of the case	X, territorial competence according to special legislation	X, procedural rules in accordance with special legislation
Immigration/Asylum	Helsinki Administrative court has sole jurisdiction in first instance	X				X	
Courts of Account	Do not exist						
Military Courts	X	X			X	X	X, procedural rules in accordance with special legislation
Tax Courts	Do not exist, tax cases are	X, often a special					

<sup>22</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>23</sup> 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.

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 <sup>22</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>23</sup>	(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)
	handled in the administrative courts. Helsinki Administrative court has the sole jurisdiction in cases concerning VAT, customs duties, excise taxes and road taxes.	Chamber in an administrative court					
Labour/social courts	X, a Labour Court. Some disputes relating to social security legislation are handled by administrative courts, but there is also an Insurance Court, see below.			X, there is only one Labour Court in the country. Its jurisdiction covers disputes relating to collective agreements only. Disputes concerning individual employment contract are handled by ordinary district courts.	X	X, territorial competence covers the whole country	X, procedural rules in accordance with special legislation
Courts for agricultural contracts	Do not exist						
Consumers' claims courts	Do not exist. However, there are some administrative authorities and bodies for consumer claims.						
Small claims courts	Do not exist						
Courts for wills and inheritances	Do not exist						
Patent/copyrights/trademark courts	Helsinki District Court	X			X	X	

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 <sup>22</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>23</sup>	(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)
	has sole jurisdiction in first instance.						
Commercial courts	Market Court is a special court hearing market law, competition and public procurement cases, it has sole jurisdiction in first instance.			X		X	X, procedural rules according to special legislation
Bankruptcy courts	Do not exist, but cases relating to restructuring of companies („chapter 11 cases“) are handled by certain courts only in the first instance						
Courts for land disputes	X, it is stated in law that only certain District courts have this kind of jurisdiction (relating mainly to proceedings concerning partitioning of land); as far as environmental protection and permissions relating to it are concerned, Vaasa administrative court has sole jurisdiction.	X			X	X	X, in the Real Estate Formation Act (1995)
“Cours d’arbitrage”	Do not exist						
Serious crimes courts/courts of assize	Do not exist						

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 <sup>22</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>23</sup>	(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)
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	Do not exist						

Courts for the supervision of criminal enforcement and custody in penitentiaries	Do not exist						
Other, please specify: a) The <b>Insurance Court</b> has jurisdiction in matters concerning for example a person's right to earnings-related pension, national pension, unemployment benefit, wage security, housing allowance, financial aid for students and disability benefits paid by the Social Insurance Institution of Finland.	X			X	X	X	X, procedural rules according to special legislation
b) <b>Maritime Courts:</b> maritime law cases are handled by certain district courts only in the first instance.	X	X			X	X	X, procedural rules according to special legislation

To what extent specialisation of courts is relevant in your system?  
**Not to any great extent.**

## 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.

**A and B: Yes, specialized studies and professional experience are taken into account in the recruitment procedure.**

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

<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)?

**No**

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?

**No**

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?

**No**

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

**Some Courts of appeal have taken an active role in this respect and organized training for different groups of judges, sometimes in cooperation with prosecutors and lawyers.**

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.

**No**

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**

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**

**Specialist training such as meant in this question is not systematically organized or provided for by the judicial authorities**

### 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 such professional associations exist but there are other kind of free societies focusing their activities on different fields of law.**

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

**No, but their practice is usually focused on the field in question.**

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

**The Office of the Prosecutor General has organized training programmes the aim of which is, for example, to give special qualifications needed in trials concerning white-collar economic crimes.**

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

**In military courts working as part of the general (district, appeal and the supreme) court(s), the prosecutor has special training for this assignment.**

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

**Special courts have their own staff. If there is a special chamber in connection with a general court, the staff is trained in practice.**

### 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.

**Finland has not adopted the system of “Council for the judiciary”. There is, however, a Nomination Board for Judges which handles the nomination proceedings of all judges (Supreme Court and Supreme Administrative Court excluded).**

### 5. Specialisation, professional associations of judges, judicial ethics

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

**See above 3 a.**

b) Do specialised judges have separate or common “principles of judicial ethics”<sup>24</sup> 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.).

**No, there are no such principles for specialized judges.**

### 6. Conclusion

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

**For the sake of transparency, clarity and intelligibility of the judicial system I am of the opinion that the number of specialized courts should be kept as small as possible.**

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

**In a system based mainly on general courts and administrative courts the continuous training of judges, generalists as well as specialists, is of great importance. In a small country generalists having some additional special skills are often needed.**

<sup>24</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

## France

### 1. La spécialisation des tribunaux

TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ Juges SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>25</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>26</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
TRIBUNAUX DES AFFAIRES FAMILIALES	X	X					
TRIBUNAUX POUR ENFANTS	X	X			X		
TRIBUNAUX ADMINISTRATIFS/ CONSEIL D'ÉTAT	X				X		
IMMIGRATION/ASILE	X				X		
COUR DES COMPTES	X				X		
TRIBUNAUX MILITAIRES							
TRIBUNAUX FISCAUX							
TRIBUNAUX DES PRUD'HOMMES/TRIBUNAUX DES AFFAIRES SOCIALES	X		X		X		
TRIBUNAUX SPECIALISES DANS LES CONTRATS AGRICOLES	X	X			X		
TRIBUNAUX CHARGES DES PLAINTES DES CONSOMMATEURS							
TRIBUNAUX POUR LE REGLEMENT DES PETITS LITIGES							
TRIBUNAUX CHARGES DES DOCUMENTS TESTAMENTAIRES ET DES SUCCESSIONS							
TRIBUNAUX SPECIALISES DANS LE DROIT DES BREVETS/ LES DROITS D'AUTEUR/ LE DROIT DES MARQUES	X	X				X ( NOMBRE LIMITE DE TRIBUNAUX COMPETENTS )	
TRIBUNAUX DU COMMERCE	X		X		X		

<sup>25</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>26</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.



TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>25</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>26</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
TRIBUNAUX DE LA FAILLITE	X		X		X		
TRIBUNAUX POUR LES LITIGES FONCIERS "COURS D'ARBITRAGE"				X		X	
COURS POUR LES CRIMES GRAVES/ COURS D'ASSISES	X						
TRIBUNAUX CHARGES DE LA SUPERVISION DES INFORMATIONS JUDICIAIRES (AUTORISENT PAR EXEMPLE LES ARRESTATIONS, LES ECOUTES TELEPHONIQUES, ETC.)	X		X				
TRIBUNAUX CHARGES DE LA SUPERVISION DE L'EXECUTION DES PEINES ET DE LA DETENTION PROVISoire DANS LES ETABLISSEMENTS PENITENTIAIRES AUTRES, VEUILLEZ PRECISER	X		X		X		

Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?

## 2. Spécialisation des juges

a) La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? Veuillez préciser.

Pour les nominations des juges ayant passé le concours d'entrée à l'école nationale de la magistrature, un choix de postes est offert aux candidats à l'issue de leur scolarité à l'école, mais la procédure de nomination au premier poste ne prend pas en compte la nature des études précédemment effectuées. Pour les nominations à certains postes ( par exemple : intégration directe à la Cour de cassation de juges ayant exercé antérieurement une autre profession ), la spécificité des études accomplies est prise en considération.

b) Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? Veuillez préciser.

La procédure de promotion peut prendre en considération la spécialisation acquise dans des fonctions précédentes, mais ce n'est pas une règle générale : dans la procédure de promotion habituelle, tout dépend, d'une part des desiderata exprimés par le candidat à une promotion, d'autre part des postes disponibles dans une juridiction.

c) Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre :

<i>Pour les systèmes judiciaires distincts :</i>	<i>Au sein d'un même système judiciaire :</i>
<input checked="" type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input checked="" type="checkbox"/> en faisant preuve d'une expérience professionnelle ?
<input type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input checked="" type="checkbox"/> en suivant des cours de spécialisation/reconversion ?
<input type="checkbox"/> autre ?	<input type="checkbox"/> en passant un examen de spécialisation ?

d) Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)?

Il est toujours possible d'accéder à des fonctions spécialisées.

e) Quels sont pour les juges les critères d'accès à la spécialisation ?

Le choix personnel du juge et sa volonté de se spécialiser dans un certain domaine sont les critères essentiels.

f) Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ?

Non.

g) Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :

- Oui, au sein de l'institut de formation judiciaire ?

- Oui, organisés par une institution distincte de l'institut de formation judiciaire ?

- Non ?

h) Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ?

Oui : l'école nationale de la magistrature organise, au titre de la formation continue, des programmes de formation consacrés à des fonctions spécialisées.

i) Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ?

Ils peuvent être organisés, soit dans le cadre des programmes de formation de l'école nationale de la magistrature, soit par les juridictions elles-mêmes.

j) Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ?

Certains juges peuvent être chargés de telles fonctions, mais il ne s'agit pas de postes particuliers. Généralement, les juges chargés de services de communication, de développement des TIC, de l'administration de la juridiction conservent une activité juridictionnelle traditionnelle.

k) Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser

Programmes de formation continue de l'école nationale de la magistrature.

l) Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un

système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs).

Non. Les juges de l'ordre judiciaire et les juges de l'ordre administratif relèvent des mêmes grilles de rémunération. Des différences peuvent néanmoins exister, en raison de barèmes de primes particuliers.

m) Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ?

Non.

n) Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ?

Certains postes supérieurs peuvent être attribués par priorité à des juges spécialisés, dès lors que le poste supérieur relève de la même spécialisation, mais ce n'est pas une règle générale. N'importe quel juge peut, à l'occasion d'une promotion, être affecté à une fonction spécialisée.

### **3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice**

a) Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? Veuillez spécifier.

En pratique, les grands cabinets d'avocats sont organisés de manière spécialisée.

b) Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ?

Non en principe, tous les avocats étant a priori admis à se présenter devant n'importe quelle juridiction.

Il faut toutefois préciser :

- que l'accès aux juridictions supérieures est réservé à un corps d'avocats particuliers, les avocats au Conseil d'Etat et à la Cour de cassation ;
- Qu'en pratique, devant les autres juridictions (tribunaux et cours d'appel), pour certains domaines très particuliers (par exemple : le droit des brevets d'invention ou celui des pratiques anticoncurrentielles), seuls les avocats spécialisés dans ces questions interviennent devant les tribunaux spécialisés.

c) Le ministère public est-il organisé de manière spécialisée dans votre pays ? Veuillez préciser.

Dans les tribunaux les plus importants, il existe une spécialisation des magistrats du ministère public.

d) Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public) ?

Ce n'est pas une obligation : au moins en théorie, n'importe quel membre du ministère public peut exercer devant une juridiction spécialisée comme devant une juridiction généraliste.

e) Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? Le cas échéant, ce personnel est-il recruté sur une base *ad hoc* ?

Non

### **4. Spécialisation et gouvernance**

Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? Sinon, veuillez préciser quels sont les juges spécialisés qui ne relèvent pas de la gouvernance de ce Conseil.

Le Conseil de la justice est compétent pour les juges professionnels relevant de l'ordre judiciaire.

Les juges non professionnels des tribunaux de commerce et des juridictions du travail (conseils de prud'hommes) ont leur propre organisation.

Les juridictions de l'ordre administratif ont également un système de gouvernance qui leur est propre.

## 5. Spécialisation, associations professionnelles de juges, déontologie judiciaire

a) Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ?

Oui.

b) Les juges spécialisés ont-ils des «principes de la déontologie judiciaire»<sup>27</sup> communs ou distincts de ceux des juges généralistes ? Si des principes distincts s'appliquent, veuillez préciser (par exemple, des principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).

Les juges de l'ordre judiciaire, qu'ils soient professionnels ou non professionnels, sont soumis aux mêmes principes déontologiques.

## 6. Conclusion

a) Quels sont, selon vous, les avantages et les inconvénients des tribunaux spécialisés

b) Quels sont, selon vous, les avantages et les inconvénients de la spécialisation des juges.

L'institution judiciaire ne peut, de mon point de vue, que trouver avantage à la spécialisation des juges, en raison de la complexité croissante du droit et des questions juridiques ou autres soumises à l'appréciation des juges.

La spécialisation garantit la crédibilité du juge, dont la compétence particulière est de nature à inspirer confiance, et l'efficacité de son action, la spécialisation lui permettant de traiter plus rapidement et avec une plus grande rigueur juridique les litiges dont il est saisi.

La spécialisation doit néanmoins s'accompagner de moyens matériels et intellectuels importants : TIC, assistants spécialisés, programmes de formation.

Elle ne doit pas non plus aboutir à la constitution de corps particuliers de juges : les juges spécialisés, qui seraient privilégiés au point de vue des moyens dont ils disposent et des possibilités de promotion, et les juges « ordinaires », qui seraient traités moins favorablement.

Chaque juge doit, s'il le souhaite, accéder à une étape quelconque de sa carrière aux fonctions spécialisées d'une juridiction, avec une formation adaptée.

La spécialisation peut également conduire à une réduction du nombre de juridictions compétentes ( par exemple : les juridictions françaises territorialement compétentes pour traiter les questions de brevets d'invention ou de concurrence illicite sont en nombre limité ).

La spécialisation peut donc conduire à un éloignement de la justice des justiciables et cet éloignement doit être compensé par un développement des TIC permettant un accès dématérialisé à la justice.

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<sup>27</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).

## Georgia / Géorgie

### 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 <sup>28</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>29</sup>	(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	X (There are specialized judges only in Tbilisi City Court – court of first instance)	X (Yes they are specialized judges within the court of general jurisdiction)					
Juvenile courts	X (There are judges who are specially trained to deal with juvenile cases)	X (Together with juvenile cases they hear other cases as well).					
Administrative courts/council of state	X (there are specialized judges in the first instance courts, while there are specialized chambers in upper courts)	X					
Immigration/Asylum							
Courts of Account							
Military Courts							
Tax Courts							
Labour/social courts							
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts	X (small claims are usually heard by magistrate judges)	X					

<sup>28</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>29</sup> 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.

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 <sup>28</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>29</sup>	(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)
Courts for wills and inheritances							
Patent/copyrights/trademark courts							
Commercial courts							
Bankruptcy courts	X (Only two courts of first instance – Tbilisi City Court and Kutaisi City Court are in charge of hearing such cases)	X					
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.)							

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.

There is no special recruitment procedure of specialized judges. A judge through the ordinary procedure may be appointed in this or that chamber of upper courts based on the decision of the High Council of Judiciary while in the first instance courts the judges are usually appointed by the Council and their specialization is determined based upon the necessity of that particular court.

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.

Specialization may be only one aspect for promotion of the judge but usually the specialization in the wider areas of law such as in civil, administrative or criminal rather than in family law, intellectual property law etc.

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

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input 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)?

In the enlarged first instance courts the judges are specialized either in criminal law or in civil/administrative law. Therefore, all such judges have access to specialization. The only exception are magistrate judges i.e. judges who are in charge of hearing small claims in civil and administrative law and pre-trial issues in criminal law.

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

There are no special criteria for choosing specialisation. Usually the background of the judges play a significant role in selecting specialization.

f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

When transfer to other town the judges are usually remunerated housing and moving expenses and it is not related with the specialization as such.

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?

There is no special course for specialization however, there are frequent seminars and trainings held both by High School of Justice and by other institutions.

h) Are there training courses reserved only to specialised judges?

There are training courses for specialized judges, however, specialized in a wider meaning – civil, administrative and criminal.

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

During seminars for all judges such experience is usually exchanged.

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.)?

Yes, there are speaker judges.

k) If yes, is there a specific training for this type of posts? Please specify.

Speaker judges are specially trained and are in charge of relations with press and electronic media. They prepare press releases and explain the judicial decisions to the general public in the plain language through making statements by TV.

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 specialization does not imply higher compensation. All judges in the same instance are compensated in the same level.

m) Are there special allowances, or benefits in kind, for specialised judges?

No, there are not.

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, specialized judges have no preferential access to the higher courts. The only exception is the broader specialization (civil, administrative or criminal) which may be taken into consideration, however, this is not the only and statutory requirement for promotion.

### **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, there is only one bar and it is organized on a general principle.

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

In order to represent a client in civil and administrative cases in Appeals or Supreme Courts a lawyer should be a member on Bar Association and specialized in either (i) General Specialization or (ii) Civil and Administrative Law Specialization. For representation in criminal cases in all instances the lawyers should be member of Bar Association and specialized in either (i) General Specialization or Criminal Law Specialization.

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

No, it is not. Prosecution in part of Ministry of Judiciary.

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

No, they do not.

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

No, the specialized judges are assisted by ordinary staff recruited ordinarily.

### **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, the High Council of Judiciary competent for all specialised judges.

### **5. Specialisation, professional associations of judges, judicial ethics**



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

No, there are not. There is only one association of judges.

b) Do specialised judges have separate or common “principles of judicial ethics”<sup>30</sup> 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.).

No, the principles of judicial ethics are common for all judges.

## **6. Conclusion**

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

To my mind existence of special court is more bureaucratic rather than general court, for the full realization of access to justice. The general public may have some problems in understanding why there are so many different courts dealing with various issues, when there may be only one court where a court user may have access to all information he/she needs.

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

Specialization is very significant for quality of justice because the growing number of legally binding acts (acts of Parliament or bylaws) and diversity of relations subject to special regulation, provides the basis for specialisation. Specialized judges can provide with much more motivated judgement much faster because the issues, court practices are so familiar for him/her. Therefore, specialization is one of the ways to provide the court users with all the protection Article 6.1 of European Convention of Human Rights requires from the states.

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<sup>30</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

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 <sup>31</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>32</sup>	(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	X	X					X
Juvenile courts	X	X					X
Administrative courts/council of state	X			X	X	X	X
Immigration/Asylum	X	X (in administrative courts)					
Courts of Account							
Military Courts							
Tax Courts	X			X	X	X	X
Labour/social courts	X			X	X	X	X
Courts for agricultural contracts	X	X			X	X	
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances	X	X					X
Patent/copyrights/trademark courts	X	X				X	
Commercial courts	X	X			X		
Bankruptcy courts	X	X				X	X
Courts for land disputes							
"Cours d'arbitrage"							
Serious crimes courts/courts of assize	X	X					
Courts for the supervision of criminal investigations (e.g.	X	X					

<sup>31</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>32</sup> 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.

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 <sup>31</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>32</sup>	(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)
authorising arrest, wire-tappings, etc.)							
Courts for the supervision of criminal enforcement and custody in penitentiaries	X	X					
Other, please specify:							

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

*Explanations: Germany has 5 separate jurisdictions (ordinary courts for civil, family and criminal cases; administrative courts; labour courts; social security courts; tax courts) with their own codes of procedure and appeals system, cf. the attached table. The districts of these specialised courts do not generally coincide with districts of ordinary courts (local and regional courts). Specialised judges or panels within the ordinary courts (e.g. patent courts, bankruptcy courts, agricultural courts) can have a territorial competence different from the local or regional courts of which they are part, if by law their jurisdiction is extended to more than one district (concentration). Within the three great branches of ordinary courts (i.e. civil, family and criminal cases), different codes of procedure apply. Within each court, the work load is for every single year assigned to the judicial staff by a special self-governing body, the presiding committee (Präsidium) which is composed by judges elected by their peers. This committee has the task to assign judges to each adjudicating body or panel and therefore, within the courts of ordinary jurisdiction, also has to decide on whether a judge will do civil, family or criminal cases. In addition, in many courts special panels have been set up for certain fields, e.g. medical malpractice, construction cases, lease, unfair competition etcetera. The idea behind this is to concentrate knowledge and experience so that courts, especially appeal courts, can work at the same level (Augenhöhe, eye-level) as specialised lawyers. On the other hand, it is regarded as essential that flexibility of staff-assignment does not get lost so that fluctuation in incoming caseload can be answered by moving judicial staff at least within a court. Therefore, emphasis is put on keeping a sufficient number of generalist judges and/or on expecting judges to accept being transferred to another field of specialisation and to acquaint themselves with new fields.*

## 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.

*Generally not. Appointment of young career judges to the judiciary is done either by the ministry of justice or by the relevant court of appeal. In this process, certain preferences or experience may be relevant on a case by case basis, e.g. if an applicant has put emphasis in his studies on administrative law, he may have better chances to be appointed to the administrative court.*

- 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.

*Again, specialisation or particular experience may be relevant, as the case may be (e.g. if a position in the panel for law of unfair competition has to be filled at a court of appeal). There is, however, no strict procedure weighing specialisation as against generalists' experience.*

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

<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 checked="" type="checkbox"/> by attending specialisation/reconversion courses?
<input type="checkbox"/> other?	<input type="checkbox"/> by passing a specialisation exam?

*Within the same court system, assignment lies with the presiding committee (cf. 1, above). Showing interest, professional experience and having attended additional courses may be a decisive factor for the independent and responsible decisions of these committees.*

- d) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)?

*Yes, they can show their interest to the presiding committee.*

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

*Cf. c), above: Knowledge, experience, interest, sometimes seniority.*

- 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, 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.)?

*Yes*

- k) If yes, is there a specific training for this type of posts? Please specify.

*There are, as a rule, no structured career plans with structured elements of training and education. Generally, highly qualified younger judges are asked to work in the courts' self-administration as assistants of court presidents. They receive additional training in these functions and gain*

*experience over the years, if they work first in courts of first instance and later in courts of appeal or even for a period of time in the ministry of justice.*

- 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*

- 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?

*There are no rules of law entitling for preferential access. Specialisation may be relevant, if positions in a special field have to be filled. It may be an obstacle, if the specialist is not prepared to change the field or to work as a generalist if such a position has to be filled.*

### **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 as of law, because the bar is organised as one entity. Within the bar, however, groups or associations of specialised lawyers have been formed. In addition, lawyers can ask for certification in certain special fields (Fachanwalt), e.g. in labour law, social security law, administrative law, criminal law, family law etcetera. This requires additional training and exams.*

- b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

*No*

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

*Generally not. Within the prosecution, specialised departments (homicide, juvenile crimes etcetera) are quite common. In some Länder, special central offices or departments have been formed for certain fields (e.g. economic crimes).*

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

*No*

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

*No. Experience and additional training lead to a certain level of specialisation with this staff.*

### **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.

*In Germany, there is no specific council for the judiciary. However, in addition to staff councils existing for the five different jurisdictions the legal safeguard for independence of the judiciary is the judicial service court (Dienstgericht). The scope of jurisdiction of these courts includes questions of dismissal, disciplinary matters and also disputes with respect to an alleged violation of judicial*

independence. Composition of this court takes into account from which of the five jurisdictions the dispute in question arises.

## 5. Specialisation, professional associations of judges, judicial ethics

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

*Yes, following the five different jurisdictions. There is also a widespread practice of professional contacts and interchange of opinions between judges of specialised fields and lawyers (e.g. in family law, criminal law, lease etcetera).*

- b) Do specialised judges have separate or common “principles of judicial ethics”<sup>33</sup> 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.).

No

## 6. Conclusion

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

*The advantages of special courts, i.e. special jurisdictions like the five branches of jurisdiction in Germany, are generally seen in the fact that it is easier to organise court business. All the panels and judges apply similar procedural rules, the composition of the panels is similar, mutual understanding and respect are considered to be granted and to be a solid basis for effective court work.*

*The disadvantage of special courts is evident where the caseload coming to these courts is relatively small and where the courts themselves are small. Flexible assignment of judicial and support staff is increasingly difficult, e.g. in case of illness of a relevant percentage of a small number of judges. In addition, administering small units is less effective.*

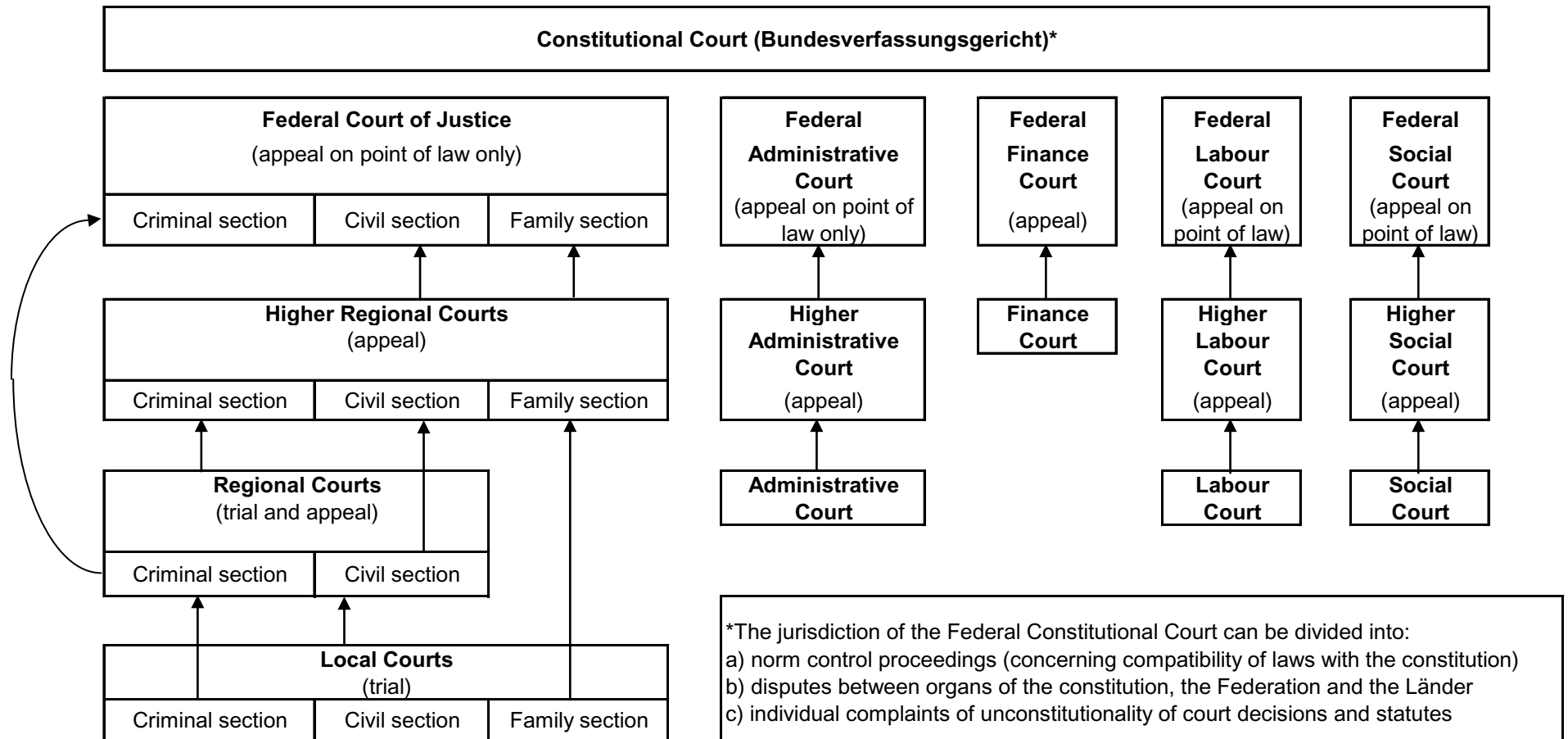
*The German example shows quite well that both systems can exist rather well if the number of staff assigned to a specific jurisdiction is sufficient. Ordinary courts with differently composed panels (e.g. for criminal cases, agricultural cases, commercial cases) and further specialisation show that administering a great amount of diverse specialisations is possible and that mutual understanding and respect can also be present in large courts with many judges and many different specialisations. From this point of view, special jurisdictions do not seem to be necessary. They may, however, be useful if the number of judges and courts would seem sufficient for effective administration of justice; this is no longer the case in all the German Länder.*

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

*A certain level of specialisation appears inevitable, in order to have courts acting on the same level of quality as specialised lawyers. The higher up in the court system (appeal courts, courts of cassation) you look, the more does specialisation seem necessary. On the other hand, it is essential to have judicial staff with generalist knowledge and experience to enable courts to meet the demands of the public and to maintain necessary flexibility in assigning incoming cases to competent judges. From this point, it would be preferable to have a sufficient number of generalists especially in first instance courts. Judges should be expected to be prepared to change their field of work and, if necessary, of specialisation, if needed.*

<sup>33</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

## Court System in Germany



The appeal system in criminal, civil and family cases is complicated:

Criminal cases: Appeals from local courts to regional courts, further appeal to higher regional courts

Appeals from regional courts (trials, first instance) only to federal court of justice

Civil cases: Appeals from local courts to regional courts, no further appeal

Appeals from regional courts (first instance) to higher regional courts, further appeal to federal court of justice

Family cases: Appeals from local courts to higher regional courts, further appeal to federal court of justice

## Greece / Grèce

### 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 <sup>34</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>35</sup>	(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	X	X					
JUVENILE COURTS	X	X					
ADMINISTRATIVE COURTS/COUNCIL OF STATE	X		X				X
IMMIGRATION/ASYLUM COURTS	X		X				X
COURTS OF ACCOUNT	X		X				X
MILITARY COURTS	X		X				X
TAX COURTS							
LABOUR/SOCIAL COURTS	X	X					X
COURTS FOR AGRICULTURAL CONTRACTS							
CONSUMERS' CLAIMS COURTS							
SMALL CLAIMS COURTS	X	X					
COURTS FOR WILLS AND INHERITANCES	X	X					X
PATENT/COPYRIGHTS /TRADEMARK COURTS	X	X					
COMMERCIAL COURTS	X	X					
BANKRUPTCY COURTS	X	X					X
COURTS FOR LAND DISPUTES							
"COURS D'ARBITRAGE"							
SERIOUS CRIMES COURTS/COURTS OF ASSIZE							
COURTS FOR THE SUPERVISION OF CRIMINAL INVESTIGATIONS (E.G.							

<sup>34</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>35</sup> 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.



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 <sup>34</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>35</sup>	(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)
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AUTHORISING ARREST, WIRE-TAPPINGS, ETC.)

**2. Specialisation of judges**

- a) Judges' recruitment depends only on the requirements of the service. Possible specialization is taken into account only with respect to the requirements of the service.
- b) No, the promotion procedure is not related with specialization.
- c) In courts with more chambers (courts in big prefectures) judges use to move from one chamber to another (e.g. from the chamber for labour conflicts to the chamber for car accidents conflicts)

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input type="checkbox"/> by showing professional experience?
<input type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input checked="" type="checkbox"/> by attending specialisation/reconversion courses?
<input type="checkbox"/> other?	<input type="checkbox"/> by passing a specialisation exam?

- d) All judges have access to information about specialization. However, for officious reasons it is not possible for every judge to be specialized in a specific field.
- e) The criteria to access specialization are official requirements, judge's experience and possible specialized studies.
- f) There is not always a financial provision for the attendance of specific specialization courses and the transfer to other towns.
- g) Are there access/reconversion courses to specialised functions:
  - Yes, within the judicial training institute? x
  - Yes, organized by an institution different from the judicial training institute? x
  - No?
- h) Yes, e.g. penal courses, reserved only to public prosecutors.
- i) Yes
- j) There are no specialised positions for organisational purposes only. Judges have to fulfil also their judicial duties. There is no position of a spokesperson for the court.
- k) -
- l) As there are no judges with specific duties, unless the distinction between civil and penal judges and administrative judges, it doesn't exist a higher compensation for specific categories. Military judges are paid different amounts as they belong to the National Armed Forces.
- m) No
- n) No

**3. Specialisation of courts vis-à-vis specialisation of other actors of justice**

- a) Yes, bar associations are organised as separate legal entities at the prefecture of every Court of First Instance.
- b) No, specialization is voluntary.
- c) Yes, as the Public Prosecution Body.
- d) Public Prosecutors serve almost exclusively at penal courts and only exceptionally at civil courts.

- e) Yes, they are assisted by specialised staff, recruited after a special practice and taking into account the specific experience.

#### **4. Specialisation and governance**

Special judicial councils exist for every separate judicial institution (Civil and Criminal justice, Military justice, Court of Audit). The independence of the judiciary is protected by the Greek Constitution.

#### **5. Specialisation, professional associations of judges, judicial ethics**

- a) Yes, there are professional associations consisted of judges of each of the above mentioned judicial institutions.
- b) In the Greek judicial system there are no “principles of judicial ethics”, but disciplinary provisions, separately for civil and criminal justice and for administrative justice.

#### **6. Conclusion**

- a) As advantages of the specialization of both courts and judges are considered the following: a) experience, b) good knowledge of specific issues c) better quality of work d) justice is rendered more quickly.
- b) To the disadvantages belong the following a) that judges, due to specialization, lack of knowledge of law as a whole b) no occupation with generalist issues has also an impact on specific issues.

## Italy / Italie

### 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 <sup>36</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>37</sup>	(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	X	X					X
Juvenile courts	X				X	X	X
Administrative courts/council of state	X			X		X	X
Immigration/Asylum							
Courts of Account	X			X		X	X
Military Courts	X			X		X	X
Tax Courts	X			X	X	X	X
Labour/social courts	X	X					X
Courts for agricultural contracts	X	X			X		X
Consumers' claims courts	X	X				X	
Small claims courts			X		X	X	X
Courts for wills and inheritances							
Patent/copyrights/trademark courts	X	X				X	X
Commercial courts	X	X				X	X
Bankruptcy courts	X	X					X
Courts for land disputes							
"Cours d'arbitrage"							
Serious crimes courts/courts of assize	X	X			X	X	X
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	X	X					X
Courts for the supervision of criminal enforcement and	X		X			X	X

<sup>36</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>37</sup> 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.

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 <sup>36</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>37</sup>	(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)
custody in penitentiaries							
Other, please specify:							

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

*Specialisation of judges in Italy is relevant both to distinguish between separate judiciaries (ordinary judges and special – e.g. administrative – judges) and to establish different branches within the ordinary judiciary. In fact, jurisdiction is subdivided according to the subject matter and/or the type of legal relationship involved. From the organisational point of view, specialisation is relevant for the involvement of specialised judges (both professional and lay judges) in dealing with some relevant topics.*

## 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 recruitment procedure into the ordinary judiciary does not take into account specialised studies, whereas these are somehow relevant for recruitment into administrative and other special jurisdictions.*

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.

*To some extent, promotions are dealt with by the High Council for the Judiciary according to criteria giving weight to specialisation (i.e. in social chambers, juvenile courts, experience in managing a court, etc.).*

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

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input 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 checked="" type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input checked="" 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)?

*Training offered by the High Council for the Judiciary at the national and at the local level provides for specialisation/reconversion. However, the amount of days/per capita of training involved are quite limited as compared to the changes of functions (e.g. civil-criminal) taking place in a unit of time.*

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

*Judges already operating in a specialised sector are usually preferred in admission to specialised training. Most of specialisations, therefore, at an initial stage are acquired "on the field".*

f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

*There are no specific incentives toward specialisation. The incentives provided concern rather transfers to towns that are least requested for transfers, being irrelevant what the subject matter to deal with will be.*

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?

*Occasionally.*

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.)?

*In Italy we have some positions involving specialisations: e.g. judge for the development of IT- The existence of other positions is decided upon by the chief judge.*

k) If yes, is there a specific training for this type of posts? Please specify.

*Yes for IT management.*

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).

*A relevant compensation difference exists between ordinary judges and higher paid administrative and other special judges, the latter being able to access to extra work (arbitration panels, etc.) which is usually deemed not appropriate for ordinary judges. Requests for unification of compensation by the judges association have remained unheard so far.*

m) Are there special allowances, or benefits in kind, for specialised judges?

*See answer to question l).*

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?

*Preference is given, limited to the specialisation field.*

### **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.

*The Bar is a unified body. Of course, free association of lawyers are sometimes organised according to specialisation.*

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

No.

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

*Special prosecutorial bodies exist to appear before some special judges (e.g. military courts or court of accounts). Also, specialised prosecutors' offices operate before separate institutions within the ordinary judiciary (e.g. juvenile prosecutors' office). As to the ordinary prosecution office, it is organised on the basis of specialised teams of public prosecutors, usually by types of crimes. Special sections dealing with mafia cases in the main prosecutors' offices are coordinated by a national specialised anti-mafia prosecution office.*

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

*See answer to question c).*

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

*As to the ordinary jurisdiction, once more, specialisation of staff is acquired "on the field" and there are no separate recruitment procedures. Some staff in juvenile offices and similar courts are however recruited separately. Separate recruitment takes place for staff of special judges.*

#### **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.

*The High Council for the Judiciary is competent only for ordinary judges. Separate self-government bodies exist for administrative and other special judges.*

#### **5. Specialisation, professional associations of judges, judicial ethics**

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

*There is one professional association for ordinary judges, and separate associations for special judges. They frequently operate in co-ordination, by way of a common consultation committee.*

b) Do specialised judges have separate or common "principles of judicial ethics"<sup>38</sup> 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.).

*A general code of ethics is applicable for all professional ordinary judges. Separate codes of ethics are applicable for special judges and some lay judges.*

#### **6. Conclusion**

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

*The Italian Constitution entered into force in 1948 prohibited the establishment of new special judges, while allowing that those already existing would remain. It favoured, on the contrary, the establishment of specialised sections within ordinary courts. According to this option, the best specialisation should take place within a unified judiciary, so as to keep the advantages of specialisation (speedier dealing with cases, sensitivity and experience vis-à-vis delicate subjects, etc.) and eliminating disadvantages (loss of professionalism by the judge, rigidity of case-law, etc.).*

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

<sup>38</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

*The main advantage is certainly in having judges possessing non-legal expertise which is relevant for the subject matter (e.g. notions of psychology for juvenile courts, etc.). The disadvantage is mainly the risk that the judges becomes a member of an in-group, with loss of impartiality and lack of broad views preventing evolution of case-law (e.g. judges remaining too long in a post as bankruptcy judge, etc.).*

# Luxembourg

## 1. La spécialisation des tribunaux

TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ Juges SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>39</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>40</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER) PROCEDURE SIMPLIFIEE, ASSISTANCE PAR UN AVOCAT A LA COUR EST FACULTATIVE, PROCEDURE SIMPLIFIEE, ASSISTANCE PAR UN AVOCAT A LA COUR EST FACULTATIVE, PROCÉDURE ADMINISTRATIVE SPÉCIALE, PROCEDURE SIMPLIFIEE, ASSISTANCE PAR UN AVOCAT A LA COUR EST FACULTATIVE, PROCEDURE SIMPLIFIEE, ASSISTANCE PAR UN AVOCAT A LA
TRIBUNAUX DES AFFAIRES FAMILIALES	X	X					
TRIBUNAUX POUR ENFANTS	X	X					
TRIBUNAUX ADMINISTRATIFS/ CONSEIL D'ÉTAT IMMIGRATION/ASILE COUR DES COMPTES	X			X			
TRIBUNAUX MILITAIRES	X			X	X		
TRIBUNAUX FISCAUX	X			X			
TRIBUNAUX DES PRUD'HOMMES/TRIBUNAUX DES AFFAIRES SOCIALES	X		X		X		
TRIBUNAUX SPECIALISES DANS LES CONTRATS AGRICOLES							
TRIBUNAUX CHARGES DES PLAINTES DES CONSOMMATEURS							
TRIBUNAUX POUR LE REGLEMENT DES PETITS LITIGES	X		X				

<sup>39</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>40</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.



TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>39</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>40</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER) COUR EST FACULTATIVE,
TRIBUNAUX CHARGES DES DOCUMENTS TESTAMENTAIRES ET DES SUCCESSIONS TRIBUNAUX SPECIALISES DANS LE DROIT DES BREVETS/ LES DROITS D'AUTEUR/ LE DROIT DES MARQUES							
TRIBUNAUX DU COMMERCE	X	X					PROCEDURE SIMPLIFIEE, ASSISTANCE PAR UN AVOCAT A LA COUR EST FACULTATIVE
TRIBUNAUX DE LA FAILLITE	X	X					PROCEDURE SIMPLIFIEE, ASSISTANCE PAR UN AVOCAT A LA COUR EST FACULTATIVE
TRIBUNAUX POUR LES LITIGES FONCIERS "COURS D'ARBITRAGE" COURS POUR LES CRIMES GRAVES/ COURS D'ASSISES	X	X					
TRIBUNAUX CHARGES DE LA SUPERVISION DES INFORMATIONS JUDICIAIRES (AUTORISENT PAR EXEMPLE LES ARRESTATIONS, LES ECOUTES TELEPHONIQUES, ETC.) TRIBUNAUX CHARGES DE LA SUPERVISION DE L'EXECUTION DES PEINES ET DE LA DETENTION PROVISOIRE DANS LES ETABLISSEMENTS PENITENTIAIRES AUTRES, VEUILLEZ	X	X					

TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>39</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>40</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
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PRÉCISER

Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?

## 2. Spécialisation des juges

a) *La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? Veuillez préciser.*

Réponse: Non.

b) *Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? Veuillez préciser.*

Réponse: Non.

*Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre :*

<i>Pour les systèmes judiciaires distincts :</i>	<i>Au sein d'un même système judiciaire :</i>
<input checked="" type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input type="checkbox"/> en faisant preuve d'une expérience professionnelle ?
<input checked="" type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input type="checkbox"/> en suivant des cours de spécialisation/reconversion ?
<input type="checkbox"/> autre ?	<input type="checkbox"/> en passant un examen de spécialisation ?

c) *Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)?*

Réponse: Oui.

d) *Quels sont pour les juges les critères d'accès à la spécialisation ?*

Réponse: Aucun.

e) *Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ?*

Réponse: Non.

f) *Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :*

- Oui, au sein de l'institut de formation judiciaire ?

- Oui, organisés par une institution distincte de l'institut de formation judiciaire ?

- Non ?

Réponse: Non.

g) *Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ?*

Réponse: Non.

h) *Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ?*

Réponse: Non.

i) *Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ?*

Réponse: Non.

j) *Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser*

k) *Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs).*

Réponse: Non.

l) *Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ?*

Réponse: Non.

m) *Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ?*

Réponse: Non.

### **3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice**

a) *Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? Veuillez spécifier.*

Réponse: Non.

b) *Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ?*

Réponse: Non.

c) *Le ministère public est-il organisé de manière spécialisée dans votre pays ? Veuillez préciser.*

Réponse: Partiellement. Au Parquet de l'arrondissement judiciaire de Luxembourg il existe une section économique et financière et une section pour les enfants et les tutelles.

d) *Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public) ?*

Réponse: Non.

e) *Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? Le cas échéant, ce personnel est-il recruté sur une base ad hoc ?*

Réponse: Non.

#### **4. Spécialisation et gouvernance**

*Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? Sinon, veuillez préciser quels sont les juges spécialisés qui ne relèvent pas de la gouvernance de ce Conseil.*

Réponse: Au Luxembourg il n'existe pas encore de Conseil de la Justice.

#### **5. Spécialisation, associations professionnelles de juges, déontologie judiciaire**

a) *Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ?*

Réponse: Non.

b) *Les juges spécialisés ont-ils des «principes de la déontologie judiciaire»<sup>41</sup> communs ou distincts de ceux des juges généralistes ? Si des principes distincts s'appliquent, veuillez préciser (par exemple, des principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).*

Réponse: Pas de principes distincts.

#### **6. Conclusion**

a) *Quels sont, selon vous, les avantages et les inconvénients des tribunaux spécialisés*

b) *Quels sont, selon vous, les avantages et les inconvénients de la spécialisation des juges*

Réponse:

Avantages: Excellente connaissance de la matière d'où une maîtrise parfaite des dossiers et un traitement accéléré des dossiers.

Inconvénients: Mobilité réduite des magistrats d'où brassage réduit des idées et risque d'une jurisprudence figée.

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<sup>41</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).

## 1. La spécialisation des tribunaux

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>42</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>43</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
Tribunaux des affaires familiales	OUI	OUI	NON	NON	NON	NON	NON
Tribunaux pour enfants	OUI	OUI	NON	NON	NON	NON	NON
Tribunaux administratifs/ Conseil d'Etat	OUI	NON	OUI	OUI	NON	NON	NON
Immigration/asile	NON						
Cour des Comptes	NON						
Tribunaux militaires	NON						
Tribunaux fiscaux	NON						
Tribunaux des prud'hommes/tribunaux des affaires sociales	OUI	OUI	NON	OUI	OUI	NON	NON
Tribunaux spécialisés dans les contrats agricoles	NON						
Tribunaux chargés des plaintes des consommateurs	NON						
Tribunaux pour le règlement des petits litiges	OUI	OUI	NON	NON	NON	NON	NON
Tribunaux chargés des documents testamentaires et des successions	NON						
Tribunaux spécialisés dans le droit des brevets/ les droits d'auteur/ le droit des marques	NON						
Tribunaux du	NON						

<sup>42</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>43</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>42</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>43</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
commerce							
Tribunaux de la faillite	<b>NON</b>						
Tribunaux pour les litiges fonciers	<b>NON</b>						
"Cours d'arbitrage"	<b>NON</b>						
Cours pour les crimes graves/ cours d'assises	<b>OUI</b>	<b>OUI</b>	<b>NON</b>	<b>NON</b>	<b>OUI</b>	<b>NON</b>	<b>NON</b>
Tribunaux chargés de la supervision des informations judiciaires (autorisent par exemple les arrestations, les écoutes téléphoniques, etc.)	<b>NON</b>						
Tribunaux chargés de la supervision de l'exécution des peines et de la détention provisoire dans les établissements pénitentiaires	<b>NON</b>						
Autres, veuillez préciser							

Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?

## 2. Spécialisation des juges

- a) La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? **NON**
- b) Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? **NON**
- c) Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre : **OUI**

<i>Pour les systèmes judiciaires distincts :</i>	<i>Au sein d'un même système judiciaire :</i>
<input type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input checked="" type="checkbox"/> en faisant preuve d'une expérience professionnelle ?

<input type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input type="checkbox"/> en suivant des cours de spécialisation/reconversion ?
<input checked="" type="checkbox"/> autre ? Par la voie du détachement	<input type="checkbox"/> en passant un examen de spécialisation ?

- d) Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)? **OUI**
- e) Quels sont pour les juges les critères d'accès à la spécialisation ?
- f) Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ? **Sans objet car il n'y a qu'une seule juridiction à MONACO**
- g) Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :  
- Oui, au sein de l'institut de formation judiciaire ?   
- Oui, organisés par une institution distincte de l'institut de formation judiciaire ?   
- Non ?
- h) Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ? **OUI dans le cadre de la formation continue assurée par l'école nationale de la magistrature française**
- i) Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ? **NON**
- j) Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ? **NON**
- k) Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser **NON**
- l) Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs). **NON**
- m) Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ? **NON**
- n) Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ? **NON** ?

### 3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice

- a) Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? **NON**
- b) Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ? **NON**
- c) Le ministère public est-il organisé de manière spécialisée dans votre pays ? **NON**
- d) Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public) ? **NON**
- e) Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? **NON** Le cas échéant, ce personnel est-il recruté sur une base *ad hoc* ?

### 4. Spécialisation et gouvernance

Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? **OUI**

### 5. Spécialisation, associations professionnelles de juges, déontologie judiciaire

- a) Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ? **NON**
- b) Les juges spécialisés ont-ils des «principes de la déontologie judiciaire»<sup>44</sup> communs ou distincts de ceux des juges généralistes ? **NON** Si des principes distincts s'appliquent, veuillez préciser (par exemple, des principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).

## **6. Conclusion**

a) Quels sont, selon vous, les avantages et les inconvénients des tribunaux spécialisés

c) Quels sont, selon vous, les avantages et les inconvénients de la spécialisation des juges

d)

LES PRINCIPAUX AVANTAGES DE LA SPECIALISATION SONT UNE PARFAITE CONNAISSANCE D'UN DOMAINE EN PARTICULIER ET UNE PLUS GRANDE CELERITE DANS LE TRAITEMENT DES PROCEDURES.

**Les principaux inconvénients sont une certaine lassitude dans la pratique d'un même type de contentieux et le risque d'avoir des automatismes qui pourraient s'avérer préjudiciables.**

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<sup>44</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).



# 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 <sup>45</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>46</sup>	(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							
"COURTS D'ARBITRAGE"							
SERIOUS CRIMES COURTS/COURTS OF ASSIZE							
COURTS FOR THE SUPERVISION OF CRIMINAL INVESTIGATIONS (E.G.							

<sup>45</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>46</sup> 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.

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 <sup>45</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>46</sup>	(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)
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AUTHORISING ARREST, WIRE-TAPPINGS, 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**

- f) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify. **NOT**
- g) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)? **NOT**
- h) 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**
- i) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)?
- j) 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”<sup>47</sup> 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**

<sup>47</sup> See principles of judicial ethics as defined in CCJE’s Opinion No. 3 (i.e. rules having no disciplinary impact).

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

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

## Norway / Norvège

### 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 <sup>48</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>49</sup>	(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	X <i>The Labour Court of Norway, Oslo, has jurisdiction only in cases where claims are based upon a collective agreement. In all other matters of labour law, jurisdiction resides with the ordinary courts.</i>						
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances							
Patent/copyrights/tr							

<sup>48</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>49</sup> 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-*êchevins*, justices of the peace, magistrates etc.

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 <sup>48</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>49</sup>	(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)
ademark courts							
Commercial courts							
Bankruptcy courts							
Courts for land disputes	X <i>The land consolidation courts are special courts with jurisdiction established by the Land Consolidation Act. The purpose of land consolidation is to facilitate an efficient exploitation of properties. The land consolidation courts have powers to decide on disputes before reorganizing properties.</i>			<i>The land consolidation court judges are not educated at a law faculty. They have a Master Degree in Property and Land Law from the Norwegian University of Life Sciences.</i>			
“Cours d’arbitrage”							
Serious crimes courts/courts of assize							
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, 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?

*Norwegian courts have a general jurisdiction. Specialization is found to a very small degree. There is no separate jurisdiction for administrative cases. The ordinary courts have a long-standing tradition of judicial review of administrative action.*

**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.

*According to the Norwegian Judicial Appointments Commission, it is more important for a judge to have interest in a wide range of the law, rather than being interested and skilled in a narrow field.*

- 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.*

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

*No.*

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input 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)?

*Not applicable.*

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

*Not applicable.*

- f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

*Not applicable.*

- g) Are there access/reconversion courses to specialised functions:

*Not applicable.*

- 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?

*Not applicable.*

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

*Not applicable.*

- 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, not as special positions, but some judges may have these tasks as a supplement to their ordinary post as a judge.*

- k) If yes, is there a specific training for this type of posts? Please specify.

*No.*

- 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.*

- 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**

- k) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify.

*No.*

- l) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

*No.*

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

*No, but for some areas specialised units are established, such as The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime, which is the central unit for investigation and prosecution of economic and environmental crime.*

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

*Not applicable.*

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

*In the Land Consolidating Courts mapping and other technical work is done by specialized court staff.*

### **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.

*The Norwegian Labour Court is under the governance of the Ministry of Labour. All other courts are under the governance of the Norwegian Courts Administration.*

#### **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”<sup>50</sup> 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.).

*Principles of judicial ethics are the same for all judges.*

#### **6. Conclusion**

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

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

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<sup>50</sup> See principles of judicial ethics as defined in CCJE’s Opinion No. 3 (i.e. rules having no disciplinary impact).

## Netherlands / Pays Bas

### 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 <sup>51</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>52</sup>	(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	x	x					
Juvenile courts	x	x					
Administrative courts/council of state	x	x in first instance	x in appeal: Central Council of Appeal, Administrative high court for Trade and Industry	x in appeal: Council of State			
Immigration/Asylum Courts of Account	x	x					
Military Courts	X	x			x	x in appeal: concentration in one court of appeal	x
Tax Courts	x	x					
Labour/social courts							
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances							
Patent/copyrights/trademark courts	x	x				x	
Commercial courts							
Bankruptcy courts	x	x					
Courts for land disputes	x	x			x	x in appeal: concentration	

<sup>51</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>52</sup> 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.

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 <sup>51</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>52</sup>	(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)
						n in one court of appeal	
“Cours d’arbitrage”							
Serious crimes courts/courts of assize							
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	x investigation judge	x					

Courts for the supervision of criminal enforcement and custody in penitentiaries							
Other, please specify:							
Custom cases	x	x				x	
Enterprises Chamber	x	x			x	x	

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

See under question 6.

## 2. Specialisation of judges

- 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. Not in the general courts, yes in some specialised administrative courts of appeal. The judges in first instance have a “generalist” education and training and can work in different areas of law. In the course of their career, they can develop specialisations.
- 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.
- May a judge from a generalist court move to a specialised court, or from one specialisation to another:

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
x <input type="checkbox"/> by just filing an application examined on the	x <input type="checkbox"/> by showing professional experience?

basis of seniority and other criteria not including previous specialisation?	
<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?

e) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)?

Yes, training in specialised areas of law is available to all judges.

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

It suffices to be motivated to specialise.

g) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

Not relevant.

h) Are there access/reconversion courses to specialised functions:

- Yes, within the judicial training institute ?

- Yes, organized by an institution different from the judicial training institute?

- No?

i) Are there training courses reserved only to specialised judges?

Yes.

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

Yes.

k) 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.)?

Yes, judges as spokespersons for the media, ADR-judges.

l) If yes, is there a specific training for this type of posts? Please specify.

Yes, special training courses at the judicial training institute.

m) 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.

n) Are there special allowances, or benefits in kind, for specialised judges?

No.

o) 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.

There is one public Bar association, but there are many specialised professional associations of lawyers, e.g. for criminal law, administrative law, environmental law, competition law etc.

- b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

No, except (in the near future) for cases before the Court of Cassation.

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

No, except for some types of serious crimes (human trafficking, cybercrime, financial crimes, environmental crimes).

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

At present, there are no specialised criminal courts .

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

No, but the staff gets training 'on the job' and in the judicial training centre.

#### **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, except for the judges of the Court of Cassation and of the Council of State. These two courts do not belong to the competence of the Council for the Judiciary.

#### **5. Specialisation, professional associations of judges, judicial ethics**

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

No, there are no associations of specialised judges, but judges are often member of associations of specialised lawyers.

- b) Do specialised judges have separate or common "principles of judicial ethics"<sup>53</sup> 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.).

No, the same codes of ethics apply.

#### **6. Conclusion**

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

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

For both questions:

Advantages:

- quality of judgments in complex cases;
- unity of law;
- efficiency.

<sup>53</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

Disadvantages:

- (for special courts only:) lesser geographical accessibility;
- possibly lesser development of different legal points of view;
- compartmentalisation of the legal areas;
- lesser overview of the judges on matters and on the law outside the scope of their specialisation.

Some background information to the answers:

In the Netherlands, a further reform of the judicial organisation (the judicial chart/ la carte judiciaire) is being prepared. The existing 19 courts of first instance will merge into 10 and the amount of courts of appeal is reduced from 5 to 4. All these courts will become (even) larger than they are now and they will have a larger territorial jurisdiction. (Decisions of the courts of appeal can be challenged at the court of cassation; the reform provides for the introduction of selection mechanisms for the court of cassation). The 'general' courts of first instance and of appeal are composed of different departments that deal with civil and commercial matters, criminal matters, administrative cases and tax matters. Beside the general courts of first instance and of appeal, 3 different administrative courts of appeal exist (the Council of State, the Central Council of Appeal and the Administrative High Court for Trade and Industry), who have special competences (e.g. asylum, environmental law, social security, competition law and regulated markets). There is discussion (for many years already) to merge the 3 administrative courts of appeal into 1 and, perhaps, to bring these courts under the supervision of the court of cassation.

In the framework of these reforms, the discussion on the topic of specialisation of judges and "concentration" of jurisdiction in specialised courts plays an important role.

On the one hand, the values and advantages of having general courts and 'generalist' judges are recognised. Judges work for a number of years in one department and then change to another, gaining experience in different areas of law. Judges are 'specialists' in analysing and weighting arguments and in deciding cases in all kinds of legal fields. These capacities constitute the most important 'specialisation' of judges. A broad and 'generalist' education is therefore important.

On the other hand, it is recognised that in some specific areas, the complex character of the cases and the relatively small amount of cases in these areas call for a higher level of specialisation. The discussions are not yet finalised; the proposals go into the following direction. About 80% of all cases belong to the jurisdiction of general courts, 15% of the cases call for regional specialisation and 5% of the cases for specialisation in one specialised court, having exclusive jurisdiction. Examples of the second category are: expropriation, human trafficking, cybercrime; examples of the third category (beside the 3 administrative courts of appeal already mentioned): banking law, maritime and transport law, intellectual property law. Research indicates that the stakeholders in these fields (companies, lawyers) value a higher level of specialisation of the courts and of the judges. It is important, however, to pay attention to the possible disadvantages of a high level of specialisation and to compensate for the disadvantages, e.g. by having judges rotate regularly.

**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 <sup>54</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>55</sup>	(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	X	Court divisions (chambers) for family and juveniles' matters	-----	X	YES (in certain cases participation of lay judges, alongside a professional judge, is mandatory)	YES (sometimes a family matters division of one court is competent for the territory of a couple of common courts)	YES (special procedures in cases between spouses as well as cases between parents and their children, separate guardianship procedures – with wider competence for the court to act on its own initiative)
Juvenile courts	X	Departments for family and juvenile matters	-----	-----	YES	YES (sometimes a division of one court is competent for the territory of a couple of common courts)	YES (there is a special Act on the procedure in the juveniles' cases)
Administrative courts/council of state	X	NO	X	X	NO	NO (separately regulated territorial competence)	YES (separate judicial administrative procedure – collecting evidence is limited)
Immigration/Asylum	-----	-----	-----	-----	-----	-----	-----

<sup>54</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>55</sup> For example, composition including lay members: jurors, psychologists, engineers; please specify qualifications and system of recruitment. For exemple composition of only lay members: representatives of labour organisations, aldermen-échevins, justices of the peace, magistrates etc.

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 <sup>54</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>55</sup>	(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)
Courts of Account	-----	-----	-----	-----	-----	-----	-----
Military Courts	X	NO	X	X	(in certain cases participation of lay judges, alongside a professional judge, is mandatory)	NO  (separately regulated territorial competence)	YES  (there are certain distinctions in relation to the normal criminal procedure)
Tax Courts	Tax courts function as an element of administrative justice - Financial Chamber of the Supreme Administrative Court as well as financial division in 16 regional administrative courts	YES (judges in the Financial Chamber of the Supreme Administrative court and judges in the financial divisions [chambers] of regional administrative courts)	NO	NO (they act within the general structure of administrative judiciary)	NO	NO (administrative courts have separate territorial competence, different one compared to common courts)	YES (separate judicial administrative procedure – collecting evidence is limited)
Labour/social courts	X	YES	NO	NO	In certain cases the participation of lay judges is obligatory (alongside the professional judge)	YES  (sometimes one court chamber [division] is competent for the territories of competence of more courts)	YES  ( <i>separate procedures</i> in the cases of labour law and law of social insurances; especially the procedure in the cases pertaining to the social insurances is substantially



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 <sup>54</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>55</sup>	(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)
							different to a <i>normal</i> procedure)
Courts for agricultural contracts	-----	-----	-----	-----	-----	-----	-----
Consumers' claims courts	X	YES The "Court of Competition and Consumers Protection" acts as a division [chamber] of the Circuit Court in Warsaw	NO	NO	NO	YES	YES  (so-called <i>separate proceeding</i> for recognition of provisions of a standard contract as abusive – abusive clauses)
Small claims courts	NO	-----	-----	-----	-----	-----	YES There is no separate court, but there exists a separate procedure pertaining to the recognition of the minor issues in a so-called simplified procedure
Courts for wills and inheritances	-----	-----	-----	-----	-----	-----	-----
Patent/copyrights/trademark courts	X	YES In the Circuit Court in Warsaw there is a separate division (organised as a court chamber) for the cases pertaining to protection of EC trademarks and industrial designs	NO	NO	NO	YES (Its area of competence includes the entire territory of the country)	NO (when taking into account specific rules for each type of cases)
Commercial courts	X	YES	NO	NO	NO	YES (sometimes one court chamber)	NO (when taking into account specific rules)

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 <sup>54</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>55</sup>	(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)
						[division] is competent for the territories of competence of more courts)	for each type of cases)
Bankruptcy courts	X	YES	NO	NO	NO	YES (sometimes one court chamber [division] is competent for the territories of competence of more courts)	YES (bankruptcy procedure differs significantly from the „normal” civil procedure; it has its own Law beside the Code of Civil Procedure; the bankruptcy court undertakes many actions <i>ex officio</i> )
Courts for land disputes	(some courts of first instance [district courts] have separate, non-litigious divisions dealing with land disputes/matters; it is not common, though)	-----	-----	-----	-----	-----	-----
“Cours d’arbitrage”	X	NO	NO	YES The arbitration courts are not state	YES (the composition of the arbitration	NO (the competence of	YES (its procedures do not result from the

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 <sup>54</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>55</sup>	(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)
				courts in Poland	courts comprises arbiters chosen by the parties ( <i>state</i> [ie. professional] judges must not be arbiters)	permanent courts may result from their regulations but the <i>courts ad hoc</i> may also be established)	provisions of law and is determined by the parties in a contractual arbitration clause; the permanent arbitration courts have their own regulations, though)
Serious crimes courts/courts of assize	----- -	-----	-----	-----	-----	-----	-----
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	----- -	-----	-----	-----	-----	-----	-----
Courts for the supervision of criminal enforcement and custody in penitentiaries	X	Penitentiary judge	NO	NO	NO	YES	NO  (taking into account specific rules for each type of cases)
Other, please specify:	SUPREME COURT	NO	YES  It examines extraordinary remedies from final decisions of generalist („common”) and military courts and other matters provided by law	NO	NO	Its area of competence includes the entire territory of the country          Its area of competence	It does not conduct the collecting/hearing of evidence          It does not conduct the

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 <sup>54</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>55</sup>	(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)
	SUPREME ADMINISTRATIVE COURT					e includes the entire territory of the country	hearing of evidence

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

In Poland, there is no common system of specialized courts. The courts are divided into common courts (dealing with following types of cases: civil, criminal, family, labor law and social security cases, economic, bankruptcy, registration cases), military tribunals (which deal with the criminal offences committed by soldiers) and administrative courts (recognizing complaints against administrative decisions issued by the central and local governments). In nationwide terms there is a small number of specialized divisions within common [generalist] courts, which recognize cases of a narrow specialization - such as the Court of Competition and Consumer Protection (operates as a department of the Circuit [2<sup>nd</sup> instance] Court in Warsaw), the court hearing the cases via electronic writ of payment proceeding [so called "E-Court"] (it operates as a department of the Circuit Court in Lublin ). Specialization in common courts is understood as creating court divisions [chambers] competent for various categories of cases, including divisions for civil, criminal, economic, labor and social security, family and registry matters. In addition, there are two instances of separate judicial systems in administrative and military matters functioning.

## 2. Specialisation of judges

o) 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.

During the process of appointment to the post of judge of common court, the candidate is subject to an overall evaluation; conditions for taking part in this contest are: to pass a prior professional examination in legal profession (judge, prosecutor, advocate, legal advisor, notary) and have relevant work experience. Having other additional degrees (PhD, post-graduate, another faculty) and various types of training to one's credit, while they are not required in a mandatory way, may have an impact on the nomination. Only in the case of applying to the post of the judge of administrative court, the candidate needs to stand out with a high level of knowledge in the field of public administration and administrative law, and other areas of law relating to the operation of public administration

p) 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.

The procedure for promotion to a higher instance court provides a comprehensive assessment of the judge's professional achievements. There are no rules that would make the promotion dependent from having a specialist expertise or additional qualifications. Expertise may be a decisive factor, however, during the evaluation of candidates made by the National Council of the Judiciary (KRS), particularly when judges of similar work experience apply for the same post. Given the choice of judges, who previously adjudicated case law in various departments and specialized in a particular field of law, KRS may rather choose a

candidate with more experience in this field, that will be more useful in deciding upon the matters in the particular department, to which the candidate aspires.

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

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
YES <input checked="" type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	YES <input checked="" type="checkbox"/> by showing professional experience?
YES <input checked="" type="checkbox"/> by resigning from original post and participate to a new recruitment?	NO <input type="checkbox"/> by attending specialisation/reconversion courses?
<input type="checkbox"/> other?	NO <input type="checkbox"/> by passing a specialisation exam?

r) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)?

Judges have access to trainings and conferences organised within the justice system (by the National School of Judiciary and Prosecution, supervised by the Ministry of Justice). They may also attend the PhD and/or post-graduate studies.

Information about training courses is usually published in the Internet and announced in courts.

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

There are no special regulations specifying the criteria for access to trainings. Decisions are taken in each case individually, in the administrative manner appropriate to the particular type of court.

t) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

There are no relevant legal provisions.

u) Are there access/reconversion courses to specialised functions:

- Yes, within the judicial training institute ?

National School of Judiciary and Prosecution Office

- Yes, organised by an institution different from the judicial training institute?

(both public universities and private high schools offer post-graduate studies for judges, in many fields, e.g. psychology, economy, forensic techniques)

- No?

v) Are there training courses reserved only to specialised judges?

Sometimes, training or conferences for judges are designed for a narrow audience (such as judges in the economic departments, departments of labour and social security law). The scope of persons having access to it shall be determined in each case individually by the organiser of training or conference.

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

Judges have a possibility to exchange their experiences by participation in trainings and conferences organised within the framework of justice system.

x) 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.)?

Each court has a specific organizational structure. The court presidents and vice-presidents (who manage a court) appointed, as well as the heads of divisions (who direct the work of individual court divisions), the directors of the courts (who manage financial and economic departments), spokespersons (responsible for contacts with the media), the disciplinary attorneys (they conduct disciplinary proceedings against judges), managers of trainings (involved in organizing training for judges and court practice for applicants). In some courts judges have been appointed specifically for the implementation of information systems, or involved in matters pertaining to legal trade with foreign countries. Whether the particular post in the court is mandatory or optional, it results from the law (such as the Law on Common Courts) and is dependent on the type (especially instance) of the court

y) If yes, is there a specific training for this type of posts? Please specify.

Rules do not require organisation of special training for those types of jobs, but in fact such training takes place - such as post-graduate studies in the field of administration of justice for current and future presidents of courts and heads of court divisions, special training for spokespersons of the courts, for the disciplinary attorneys action for judges responsible for the implementation of information systems, etc.

z) 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).

The remuneration of judges is differentiated on the basis of the criterion of the court where the judge holds the office. Consequently, there are differences between the remuneration judges in ordinary courts (district, circuit, appellate), regional administrative courts, military courts and the Supreme Court and the Supreme Administrative Court. There are no wage differences between divisions within the same court. The judges of regional administrative courts (first instance of administrative judiciary), however, have higher salaries than the judges of common courts (district and circuit courts). Additional salary (supplement for the length of service) is received by the judges with more years of service, and performing additional functions (includes allowances of the President and Vice-President of the court, the President of the division, spokesman, the disciplinary attorney, inspecting judge, director of training, the patron of applicants, etc.).

aa) Are there special allowances, or benefits in kind, for specialised judges?

There is no relevant legislation. However, there are no special supplements e.g. for knowledge of foreign languages, doctoral degree or academic title of professor, no additional allowances for completion of another faculty next to the law school, or for completing post-graduate studies. Judges are not rewarded additionally for having specialisation in a particular field of law. The judges, however, are entitled to a financial supplement because of the function exercised. President of the Court has a official car and mobile phone (but acquired for function exercised, not for specialisation).

bb) 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?

There is no relevant legislation. In practice, judges with a particular specialisation may have their promotion to a senior judicial post facilitated, as they will be selected among many other candidates as the candidate most appropriate, taking into account the demands for a specific position - for example, a doctorate in tax law can facilitate a common court judge to be promoted to the administrative court, postgraduate studies in psychology or pedagogy can speak in favour of selection of the candidate to the judicial post in the circuit court in family matters, etc.

### 3. Specialisation of courts vis-à-vis specialisation of other actors of justice

f) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify.

There is no specialisation within particular self-government organisations of legal professionals (lawyers, legal counsels, notaries).

g) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

A person may act before the court as a professional representative, if he/she was admitted to the list of lawyers or legal counsels, and sometimes also a patent attorney or tax advisor. Enlisting on the appropriate list takes place, as a rule, after finishing a post-graduate apprenticeship for a profession of lawyer, legal adviser or patent attorney and then passing a state examination. In exceptional situations (and under strict conditions) entry in the list of legal advisers or lawyers may be made without taking a state examination (it refers, among others, to those who have the appropriate degree or academic title or made such a judicial or prosecutor's exam).

As a rule, lawyers do not need to have a particular specialization, to appear in court on a particular specialization. Tax advisor may occur before the administrative court to practice in tax litigation, but at the same court a lawyer or legal adviser may also do so. For instance, there are no special lists of lawyers, entitled to appear before the court of cassation.

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

One has to distinguish the common and the military prosecution office, but there is no formal specialization within each of them. In practice, within the particular prosecution unit, one establishes departments dealing with particular categories of cases.

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

Prosecutor may appear before the court in each category of matters within the jurisdiction of the prosecution. The rule is that in a given case there should act the same prosecutor, who conducted an investigation and prepared the indictment. In practice there are many exceptions to this rule. In certain individual units of common prosecution office, there are departments that deal with civil (especially family matters) and administrative cases. Prosecutors of these departments act before common courts in civil cases and before administrative courts; however, is not due to the statutory regulations, but only results from the way of the internal organisation of the prosecution.

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

The judges are assisted by assistants who have overall substantial legal knowledge. One of the conditions of employment as an assistant is to accomplish a general apprenticeship run by the National School of Judges and Prosecutors, or taking a judicial, prosecutor's, notary, lawyer's or legal counsel's examination. The judges also benefit from the support of staff offices, working in each division of court. Only in the highest courts (the Supreme Court, the Supreme Administrative Court) assistants are selected taking into consideration the specialisation of particular judges. The common judiciary has no such requirements or practice like that.

### 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.

The National Council of the Judiciary (KRS) has competence in relation to all professional judges - common courts of law, administrative, military and supreme courts (Supreme Court and the Supreme Administrative

Court). The National Council of the Judiciary has no powers only with respect to judges of the Constitutional Tribunal.

## **5. Specialisation, professional associations of judges, judicial ethics**

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

In Poland, the following associations exist: Polish Judges Association IUSTITIA, THEMIS Judges Association and the Association of Judges of Family Courts in Poland. The first two associate the judges of all courts, regardless of their specialisation. The third association brings together judges of family courts. There was once an Association of Judges of Real Estate Registers, but it ceased to exist because duties of taking care of land registers have been taken over by court clerks (court referendaries).

d) Do specialised judges have separate or common “principles of judicial ethics”<sup>56</sup> 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.).

The ethical principles (set out in the Collection of Principles of Judges' Professional Ethics, adopted by the National Council of the Judiciary of Poland) apply to all professional judges, regardless of their specialization.

## **6. Conclusion**

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

Functioning of the specialised courts speeds up the process of deciding on the cases of a specific kind.

Specialization of judges guarantees their higher level of professionalism, commitment in the recognition of those cases in which they feel experts.

Selection of judges in specialized courts is, among others, based on the criterion of expertise, which increases the importance of these courts (in Poland it is considered more prestigious to be a judge in regional administrative court than in the common court of first instance - the district court).

Obstacles to the creation of bigger number of specialized courts are mainly the high costs associated with the establishment and ongoing operation thereof.

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

Specialization of judges allows them for achieving greater satisfaction with their profession. It allows to plan one's personal development, professional career paths. Specialization of judges, however, cannot be imposed by the court administration. It should however be voluntary and additional. Expertise cannot replace or limit the duty of judges to have knowledge of different areas of the law.

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<sup>56</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).



## Romania / Roumanie

### 1. La spécialisation des tribunaux

TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>57</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>58</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
TRIBUNAUX DES AFFAIRES FAMILIALES							
TRIBUNAUX POUR ENFANTS	X		X				
TRIBUNAUX ADMINISTRATIFS/ CONSEIL D'ETAT		X					
IMMIGRATION/ASILE							
COUR DES COMPTES	X			X			
TRIBUNAUX MILITAIRES	X		X				
TRIBUNAUX FISCAUX							
TRIBUNAUX DES PRUD'HOMMES/TRIBUNAUX DES AFFAIRES SOCIALES	X	X			X		
TRIBUNAUX SPECIALISES DANS LES CONTRATS AGRICOLES							
TRIBUNAUX CHARGES DES PLAINTES DES CONSOMMATEURS							
TRIBUNAUX POUR LE REGLEMENT DES PETITS LITIGES							
TRIBUNAUX CHARGES DES DOCUMENTS TESTAMENTAIRES ET DES SUCCESSIONS							
TRIBUNAUX SPECIALISES DANS LE DROIT DES BREVETS/ LES DROITS D'AUTEUR/ LE DROIT DES MARQUES	X	X					
TRIBUNAUX DU							

<sup>57</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>58</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.

TYPES DE JUGES/CHAMBRES	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ Juges SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>57</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>58</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
COMMERCE							
TRIBUNAUX DE LA FAILLITE							
TRIBUNAUX POUR LES LITIGES FONCIERS							
"COURS D'ARBITRAGE"	X			X			
COURS POUR LES CRIMES GRAVES/ COURS D'ASSISES							
TRIBUNAUX CHARGES DE LA SUPERVISION DES INFORMATIONS JUDICIAIRES (AUTORISENT PAR EXEMPLE LES ARRESTATIONS, LES ECOUTES TELEPHONIQUES, ETC.)	X	X					
TRIBUNAUX CHARGES DE LA SUPERVISION DE L'EXECUTION DES PEINES ET DE LA DETENTION PROVISoire DANS LES ETABLISSEMENTS PENITENTIAIRES							
AUTRES, VEUILLEZ PRECISER							

Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?

## 2. Spécialisation des juges

**cc) La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? Veuillez préciser.**

Oui. Pour l'accès en magistrature, il faut passer le concours organisé par l'Institut Nationale de Magistrature. Pour l'avancement, il faut respecter une condition d'ancienneté de 5 ans (pour le Tribunal), 6 ans (pour la Cour d'Appel), 8 ans (pour être procureur au Parquet près la Haute Cour de Cassation et de Justice) et 15 ans pour être juge à la Haute Cour de Cassation et de Justice/ Egalement, pour l'avancement, on tient compte des études spécialisées dans des diverses branches de droit (droit civil, pénal etc.) et dans diverses matières, suite aux certains séminaires, cours d'été, stages de formation organisés par l'Institut National de la Magistrature (INM), mais aussi dans d'autres forme de formation individuelle.

**dd) Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? Veuillez préciser.**

Oui. Pour l'avancement, par ex., dans la fonction de président de la Chambre Civile, la spécialisation est importante. Mais, pour l'avancement dans la fonction de président de Tribunal, la spécialisation (pénaliste ou civiliste etc.) n'a pas d'importance, parce que la fonction s'occupe par concours, dont le Règlement est établi par le Conseil Supérieur de la Magistrature.

**ee) Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre :**

Oui.

<i>Pour les systèmes judiciaires distincts :</i>	<i>Au sein d'un même système judiciaire :</i>
<input checked="" type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input checked="" type="checkbox"/> en faisant preuve d'une expérience professionnelle ?
<input type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input type="checkbox"/> en suivant des cours de spécialisation/reconversion ?
<input type="checkbox"/> autre ?	<input type="checkbox"/> en passant un examen de spécialisation ?

**ff) Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)?**

Oui, en général, par l'intermédiaire de l'INM.

**gg) Quels sont pour les juges les critères d'accès à la spécialisation ?**

Il n'existe pas des critères d'accès pour pouvoir se spécialiser. La loi n'en prévoit pas.

**hh) Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ?**

Oui, les frais de transport et d'hébergement sont pris en charge par le tribunal, selon les ressources budgétaires.

**ii) Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :**

- Oui, au sein de l'institut de formation judiciaire ?
- Oui, organisés par une institution distincte de l'institut de formation judiciaire ?
- Non ?

**jj) Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ?**

Oui, par ex., en matière des droits de l'enfant, droit du travail, propriété intellectuelle, droit européen, droits de l'homme etc.

**kk) Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ?**

Oui, par l'intermédiaire de l'INM ou de l'EJTN, visites d'études etc.

**ll) Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ?**

Non, pour le porte-parole, le juge qui occupe cette fonction est un juge classique, qui n'est pas dégrevé de son travail comme juge de siège.

**k) Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser**

-

**l) Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs).**

Non.

**m) Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ?**

Non.

**n) Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ?**

Non, il n'existe pas un accès préférentiel. Aux juridictions supérieures ils sont spécialisés (civiliste, pénalistes etc.).

### **3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice**

**k) Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? Veuillez spécifier.**

Non.

**l) Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ?**

Non.

**m) Le ministère public est-il organisé de manière spécialisée dans votre pays ? Veuillez préciser.**

Seulement, en matière de la lutte contre la corruption, on a au niveau national, la Direction Nationale Anticorruption (DNA) dans le cadre du Parquet près la Haute Cour de Cassation et de Justice et la Direction d'Investigation des Infractions de Criminalité Organisée (DIICOT), aussi dans le cadre du Parquet près la Haute Cour de Cassation et de Justice. Ces deux directions fonctionnent aussi au niveau territorial, par l'intermédiaire des services et bureaux territoriaux.

**n) Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public) ?**

Non. Seulement, en matière de l'anticorruption, dans des tels litiges, les procureurs appartiennent au DNA ou au DIICOT.

**o) Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? Le cas échéant, ce personnel est-il recruté sur une base *ad hoc* ?**

Oui, ils sont assistés par un personnel spécialisé, qui est sorti de l'Ecole Nationale des Greffiers.

### **4. Spécialisation et gouvernance**

**Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? Sinon, veuillez préciser quels sont les juges spécialisés qui ne relèvent pas de la gouvernance de ce Conseil.**

Oui.

### **5. Spécialisation, associations professionnelles de juges, déontologie judiciaire**

**e) Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ?**

Non.

**f) Les juges spécialisés ont-ils des «principes de la déontologie judiciaire»<sup>59</sup> communs ou distincts de ceux des juges généralistes ? Si des principes distincts s'appliquent, veuillez préciser (par exemple, des principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).**

Ce sont des principes communs.

## **6. Conclusion**

**a) Quels sont, selon vous, les avantages et les inconvénients des tribunaux spécialisés.**

Les avantages : ce sont des solutions meilleures, plus rapides, défense efficace, pratique unitaire dans la solution des problèmes de droit.

**b) Quels sont, selon vous, les avantages et les inconvénients de la spécialisation des juges.**

Les avantages : l'approfondissement des problèmes de droit soulevés par les litiges, un acte de justice accéléré fait par des juges ayant une haute formation professionnelle.

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<sup>59</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).

## Slovakia / Slovaquie

### 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 <sup>60</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>61</sup>	(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	YES	NO	NO	NO	NO	NO
Juvenile courts	NO						
Administrative courts/council of state	YES	YES	NO	NO	NO	NO	NO
Immigration/Asylum Courts of Account	YES	YES	NO	NO	NO	YES	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	YES	NO	YES – Notary Public	YES – Notary Public	NO	NO	NO
Patent/copyrights/trademark courts	NO						
Commercial courts	NO						
Bankruptcy courts	NO						
Courts for land disputes	NO						
“Cours d'arbitrage”	NO						
Serious crimes courts/courts of assize	YES	YES	YES	NO	NO	YES	NO
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	NO						

<sup>60</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>61</sup> 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.

**No, the specialisation and professional experience in specific field of law are not necessary for recruitment.**

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, specialisation is not relevant. However, it is common that – for instance – civil-law-judge after recruitment to higher court will also deal with civil law cases.**

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

**Yes, it is possible.**

<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, it does.**

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

**The need of court and huge scope of field of law or cases that judges deal with are relevant. For instance, in civil law – the specialisation on family law, labour law, commercial law, property law, inheritance law, etc. – or in field of the administrative law – the specialisation on tax law, minor offences law, competition law, patent law, social welfare law, civil service law, refugee law, etc.**

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, organised by an institution different from the judicial training institute?
- No?

h) Are there training courses reserved only to specialised judges?

**No, access is free for all judges.**

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

**Yes, for instance between civil law and administrative law judges or between civil law and commercial law judges.**

- 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, it does 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).

**Nowadays, no.**

- 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**

- f) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify.

**No.**

- g) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

**No.**

- h) Is public prosecution organised on a specialised basis in your country? Please specify.  
**Yes, public prosecution is specialised in criminal law area and non-criminal law area (civil law, administrative law, commercial law).**

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

**Yes, please see answer to previous question.**

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

**All judges, despite their specialisation, are assisted by clerks.**

### **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.**

#### **5. Specialisation, professional associations of judges, judicial ethics**

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

**No.**

p) Do specialised judges have separate or common “principles of judicial ethics”<sup>62</sup> 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.).

**No.**

#### **6. Conclusion**

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

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

**From my point of view, the specialisations of judges and courts are necessary. For instance, field of administrative law seeks such specialisation due to its huge scope of cases, situations and variety of legal acts. The specialisation in field of tax law, environmental law, refugee law, competition law, patent law, social welfare law etc. is an advantage. The same situation is in field of civil / private law – family law, consumers’ law, property law, inheritance law, labour law, commercial law, contract law etc. – where the specialisation of judges is helpful as well. On the other hand specialisation brings reduction of specific knowledge of other branches of law. But it would not be a problem thanks to judicial training institute or Judicial Academy and thanks to plenary sessions of judges.**

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<sup>62</sup> See principles of judicial ethics as defined in CCJE’s Opinion No. 3 (i.e. rules having no disciplinary impact).

## 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 <sup>63</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>64</sup>	(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	x	x					
Juvenile courts	x	x			x		
Administrative courts/council of state	x		x				x
Immigration/Asylum Courts	x			x			x
Military Courts							
Tax Courts	x						
Labour/social courts	x		x		x		
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances	x	x					
Patent/copyrights/trademark courts	x	x					
Commercial courts	x	x					
Bankruptcy courts	x	x					
Courts for land disputes							
"Cours d'arbitrage"							
Serious crimes courts/courts of assize	x	x			x		
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	x	x					

<sup>63</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>64</sup> 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	x	x					
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.

There is no law that would prescribe the relevance of specialised studies in the recruitment procedure, but it is the policy of the judicial council to consider this element in the recruitment procedure.

- 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.

It is the policy of the judicial council to consider this element in the promotion procedure, e.g. management skills when assigning a judge to a post of a chief judge.

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

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input 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 checked="" 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?  
Seniority, professional experience.

- f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?  
There are no special provisions helping judges to acquire specialisation, but there exist general provisions helping judges (financial benefits, special real estate fund) who are assigned to a post in another town.

- 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.)?  
Yes.

k) If yes, is there a specific training for this type of posts? Please specify.

There is special training for some posts (e.g. judges co-operating with ADR services), but not all of them.

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).

There is no such distinction except for judges hearing serious crime cases who enjoy a special status with financial benefits.

m) Are there special allowances, or benefits in kind, for specialised judges?

See l). There are also financial benefits for investigation judges and some other specialised judges when they are on duty outside of regular working hours.

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?

Such access is in practice 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.

Yes. Lawyers with a master's degree from a certain legal field (e.g. intellectual property, labour law, media law) are entitled to a special title ("a lawyer specialist") and an extra fee from the parties.

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

No.

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

According to the Public Prosecution Act there are prosecutors specialised in investigating serious crime.

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

No.

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.

The Council for Judiciary is entrusted with this task except for the recruitment of auditors of the Court of Accounts (Court of Audit) which has a special position outside of the judiciary.

### **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"<sup>65</sup> 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.).

No.

### **6. Conclusion**

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

Special courts exist to serve special or marginalized topics that general courts find difficult to adjudicate easily or fairly. Some courts, such as bankruptcy courts, may require specialised knowledge or rules to handle cases fairly. Their work is transparent and the jurisprudence more predictable. On the other hand, special courts run the risk of encouraging special interest groups to take an undue interest in influencing court decisions. Special forums become dependent on a particular judge, creating problems of succession

<sup>65</sup>

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

when judicial assignments rotate. They may also impose very high costs on generalist courts by tying up resources, generating tensions within the bench.

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

Specialised judges have a greater understanding of issues and are better able to offer fair rulings based on the facts. On the other hand they may become overly deferential to certain interest groups or experts. The perspective promoted by maintaining distance from a subject matter is eroded by specialisation.

## Spain / Espagne

### 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 <sup>66</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>67</sup>	(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	yes					Yes. The dispositive principle does not apply where children are concerned.*
Juvenile courts	yes	yes					Yes. The prosecutor investigates which is not the general rule in other procedures ("juge d'instruction" or "investigating magistrate")
Administrative courts/council of state	yes		yes				Yes, they have a special procedure because the administration is the defendant.
Immigration/Asylum	It is a competency of administrative						

<sup>66</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>67</sup> 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.

**\* The proceedings regarding capacity, kinship, marriage and minors protection , shall be resolved in keeping with the facts that were object of the debate and have been proven, regardless of the moment when they were alleged or otherwise introduced in the procedure. Notwithstanding the evidence submitted at the request of the Public Prosecution Service and the other parties, the Court may order ex officio the examination of any evidence it deems relevant. ( Art. 752 Spanish Civil Procedure Act )**

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 <sup>66</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>67</sup>	(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)
	courts.						
Courts of Account				They do not belong to the judiciary			
Military Courts		yes					
Tax Courts	It is a competency of administrative courts						
Labour/social courts			yes				They have their own procedure
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					no
Bankruptcy courts							
Courts for land disputes	no						
"Cours d'arbitrage"				They do not belong to the judiciary. They are private courts.			
Serious crimes courts/courts of assize	no						
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)	The investigating magistrate or "juge d'instruction" accomplishes these tasks						
Courts for the supervision of criminal enforcement and custody in penitentiaries	Yes	Yes					Yes, they have their own procedure but it is very simple

Other, please specify:							
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To what extent specialisation of courts is relevant in your system?

**2. Specialisation of judges**

- q) 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.

***In general NO . The Access to the judicial career is based on the principles of merit and capacity to perform judicial duties. The selection process to access the judicial career will ensure in an objective and transparent manner that all citizens who meet the necessary conditions and qualifications have equal opportunities and it will provide for the professional capacity and ability of the persons who have been selected for the judiciary. Access to the Judicial Career as a Judge ( Jueces in Spanish word ) requires a public examination and a theory and practical course conducted at the Judiciary School. However, the legal practitioners of acknowledged reputation may also access the Judicial Career as Supreme Court Judges or senior Judges (Magistrados in Spanish word ) in the manner and number established by law. Whoever wishes to access the judiciary as a senior Judge must follow a course at the Judicial School. In this specific case, specialised professional experience is taken into account for the recruitment of judges appointed for specialised courts.***

- r) 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.

***The specialisation has relevance in the merits contests for the provision of Contentious-Administrative ; Labour Courts and Commercial Courts .***

***The general provision of appointments in the judicial career is made by a merits contest in the manner provided in the Spanish Judiciary Act ( LOPJ 6/1985 1 July ), except for Chief Justices of Provincial Courts, High Courts of Justice, the National Court and chamber's Judge Presidents and Supreme Court Judges. These appointments for Chief Justices of High Courts of Justice will be made for five years following a proposal by the Council General of the Judiciary among judges who have held office for ten years in that category and apply for this position provided that they have been fifteen years in the Judicial Career.***

***For the provision of vacancies of Chief Justices of High Courts of Justice or Provincial Courts in those Autonomous Communities which have Special or Regional Statutes and their own official language, the Council General of the Judiciary will consider as a specific merit their specialisation in such Regional or Special law and knowledge of the language spoken in that Community.***

***At the different Court Chambers of the Supreme Court, from each five positions of judges four will be allocated between members of the Judicial Career who have been held office as a senior magistrate for the last ten years and have been at least fifteen years in the Judicial Career, and the fifth vacancy between lawyers and other legal practitioners of acknowledged repute. Of each four positions reserved for the Judicial Career:***

- a) Two will be allocated to judges who reached that category by the appropriate selection tests in the civil and criminal jurisdiction or who have passed them already holding that category or depending on the nature of the jurisdiction, two will be for judges who are specialised in the contentious-administrative or labour law field, or in the latter case who belong to the former Labour Judges Division (Chamber). In this provision of office, fifteen years in the judicial career will be required and only five in that category. To the purposes of vested rights of appointments in the civil jurisdiction, judges who have passed the corresponding commercial law specialisation selective tests will rank equal to the ones who have passed the selection tests in the civil jurisdiction.***

- b) Two judges who meet the general requirements to access the Supreme Court.***

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

As to separate court systems:	Within the same court system:
<input type="checkbox"/> by just filing an application examined on the	<input checked="" type="checkbox"/> by showing professional experience?



basis of seniority and other criteria not including previous specialisation?	
<input type="checkbox"/> by resigning from original post and participate to a new recruitment?	<input checked="" type="checkbox"/> by attending specialisation/reconversion courses?
<input type="checkbox"/> other?	<input checked="" type="checkbox"/> by passing a specialisation exam?

See down the answer question e)

- t) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)?

YES

- u) What are for judges the criteria for access to specialisation?

**The evaluation of the capacity and legal expertise of the candidates and their knowledge of different areas of law (civil and criminal matters ; Contentious-Administrative ; Labour and Commercial Law). They may consist in writing drafts, passing a course, drafting a legal opinion or a decision and defending it before a panel, oral exposition of different subjects and reply to the questions posed by the Panel, or in similar exercises.**

- v) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

NO

- w) 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?

- x) Are there training courses reserved only to specialised judges?

YES

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

YES

- z) 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.)?

**YES , in specifics matters , example judge co-operating with ADR services, specialised judges in the international Judiciary Cooperation .**

- aa) If yes, is there a specific training for this type of posts? Please specify.

**YES ,they are a specific training. Normally the training activities , are developed by the Judiciary School (continuing training section ) , which implement the Training Plan in the Judicial Career and they may conduct training activities in a de-centralised manner within an Autonomous Community or a collaborating with expert bodies and entities , also included the EJTN ,EJN – criminal branch , and civil - commercial matters - and IberRed , to the purpose of conducting training efforts.**

bb) 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

cc) Are there special allowances, or benefits in kind, for specialised judges?

NO

dd) 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?

**See answer supra, paragraph b), this question 2.**

### 3. Specialisation of courts vis-à-vis specialisation of other actors of justice

k) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify.

**Yes, the bar has some specialised committees: civil liability; family law; labour law, fundamental rights, and so on.**

l) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

**No**

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

**Yes: Anti-fraud; gender violence; minors, criminal enforcement ; environment ; anti-draught , and so on.**

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

**Yes, normally**

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

**No, as a general rule**

#### **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, for both and at identical level**

#### **5. Specialisation, professional associations of judges, judicial ethics**

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

**In some cases there are sections inside the associations**

- ff) Do specialised judges have separate or common “principles of judicial ethics”<sup>68</sup> 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.).

**No, there are not specialized principles of judicial ethics**

#### **6. Conclusion**

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

**The main advantage is that this kind of courts allows a more accurate application of the law in the field they are specialised in.**

**These courts can give a better legal answer to questions arisen by advocates or legal firms already specialised in a specific branch of the law.**

**Specialisation also reduces the possibility of contradictory judgements.**

**Excessive specialisation can add rigidity and may hinder the accessibility to the judicial organisation.**

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

**Specialised application of the law produces a focused knowledge of the law. But a judge needs a wide knowledge of legal principles and institutions. A judge who only knows the specialised branch of the law he is dealing with in his daily work can hardly be a good judge.. Sometimes what is need to resolve a difficult case is not the knowledge of the full legal regulation in the specific branch of the law, but of the principle in which the law is based. Sometimes what citizens look for in a judge is not a specialised knowledge, but a general view of the law, common sense, and contact with reality.**

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<sup>68</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

## Sweden / Suède

### 1. Specialisation of courts

There are three kinds of courts in Sweden: the general courts, which comprise district courts, courts of appeal and the Supreme Court; the general administrative courts, that is to say, administrative courts, administrative courts of appeal and the Supreme Administrative Court; and also the special courts, which determine disputes within special areas, for example, the Labour Court and the Market Court. The administrative courts deal with cases, relating among other things to disputes between private persons and the authorities.

If decision with rejection is stated from the Swedish Migration Board, the decision can be appealed to the Migration Courts, which reconsider aliens and nationality matters in full. The Migration Courts are located at three of Sweden's administrative courts.

The Market Court is a special court, which deals with cases relating to issues concerning whether various forms of marketing have been conducted in a proper manner. The Market Court consists of a chairman and a vice chairman plus five special members. The chairman, the vice chairman and one of the special members must be lawyers with experience as judges. The Labour Court is a special court with the function of considering labour law disputes. In the usual seven-member court there are three neutral members plus two members representing the interests of the employer and two representing employee interests. The latter two courts are not included in the organization of the other Swedish courts but are financed from public funds. Members of both courts are appointed by the government and The Code of Judicial Procedure is applicable on the disputes they handle.

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 GENERALIST COURTS	(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 JUDICIAL FORMING A SYSTEM OF THEIR OWN <sup>69</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>70</sup>	(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	X The courts are		X		X In most cases lay		X The

<sup>69</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>70</sup> 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.

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 JUDICIAL FORMING A SYSTEM OF THEIR OWN <sup>69</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>70</sup>	(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)
	general dealing with cases relating, among other things, to disputes between private persons and the authorities.				judges take part in the first instance decisions. If it is a dispute where the legality of a municipal decision is to be reviewed or a dispute concerning real property tax assessment, two so-called 'special members', and in tax assessment cases also a valuation technical expert member, will also participate in the final judgment.		procedure is regulated by the Administrative Court Procedure Act
Immigration/Asylum	X		X		X		X
Courts of Account							
Military Courts							
Tax Courts							
Labour/social courts	X				See the text above		
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts							
Courts for wills and inheritances							
Patent/copyrights/trademark courts							
Commercial courts							
Bankruptcy 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 JUDICIAL FORMING A SYSTEM OF THEIR OWN <sup>69</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>70</sup>	(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)
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.)							
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

- 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 studies and experience are considered when recruiting judges, but not specifically. Instead these circumstances are considered in the assessment of skill and merit.*
- 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. *A special area of knowledge can be considered but the promoted position must be through an open application procedure at the Judges Proposals Board.*

- c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: *The judge does not have to resign before application but has to go through the application system mentioned under b.*

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input 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)? *The Courts of Sweden Judicial Training Academy provides training for all permanent judges. The main purpose of the Academy is to give each judge the best conditions to meet the high quality requirements in his or her judicial capacity. Among other information The Academy publishes a catalogue twice a year to inform about all courses to come the next period.*

- e) What are for judges the criteria for access to specialisation? *There are no special criteria to gain access to specialisation more than the criteria's that can be taken into account when evaluating the criteria's skill and merit.*

- 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, organized by an institution different from the judicial training institute?  *If the Chief Judge accepts it the judge is free to take part of courses given by other institutes such as other authorities.*

- No?

- h) Are there training courses reserved only to specialised judges? *No, but to gain access to some courses the applicant has to have some previous knowledge such as participating in a lower level course.*

- i) Are exchanges of judicial experiences between different specialisations and/or generalist groups of judges organised? *It is different between the courts how experiences are shared.*

- 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 as a certain position for judges but a judge can have such assignments among there other tasks.*

- 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). *There are some judge positions where the specialisation provides higher compensation. In other cases the specialisation can be a factor of skill and other criteria's when deciding the judge's compensation.*

- 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. *All Swedish lawyers, advocates, are members of The Swedish Bar*

*Association. The membership is not dependent on any specialisation, but in many advocates are specialised.*

- b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)? *No*
- c) Is public prosecution organised on a specialised basis in your country? Please specify.

*The Swedish Prosecution Authority is an independent organisation. It is independent from both the courts and the police. The operative prosecution activities are conducted at the country's 39 local public prosecution offices. In the largest cities there are several local public prosecution offices. The authority also has international public prosecution offices with specialist competence in order to combat organized cross-border crime and to permit international co-operation between prosecutors. In addition, there are three national prosecution offices – one for combating corruption, one for dealing with suspected offences committed by the police and one for security-related cases. The Prosecution Authority's three prosecution development centers are tasked with conducting methodological and legal development within different criminal areas. Legal follow-up and inspection are also conducted here.*

*The Swedish Economic Crime Authority is a prosecuting authority where prosecutors, police officers, economic auditors and other experts work together in investigation teams. In this authority the prosecutors work exclusively with economic crime.*

- d) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)? *Sweden does not have specialised courts in these matters.*
- 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.

*The Swedish National Courts Administration does not have a certain mission to protect the judges independence even if that is a fundamental principle in the Swedish Judiciary which shall be considered in all the work of The Administration.*

*The Swedish Association of Judges is an independent organization for permanent and non permanent judges. One of its main tasks is to protect the judges independence.*

#### **5. Specialisation, professional associations of judges, judicial ethics**

- a) Are there in your country professional associations of specialised judges? *There are networks for judges such as those working with family related cases and civil commercial cases.*
- b) Do specialised judges have separate or common "principles of judicial ethics"<sup>71</sup> 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.).  
*No*

#### **6. Conclusion**

- a) Please give your opinion on the advantages and disadvantages of special courts
- b) Please give your opinion on the advantages and disadvantages of specialisation of judges

<sup>71</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).



1. La spécialisation des tribunaux

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ JUGES SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>72</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>73</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
Tribunaux des affaires familiales	oui	X			X		
Tribunaux pour enfants	oui		X			X	
Tribunaux administratifs/ Conseil d'Etat	oui	X	X		X	X	X
Immigration/asile	oui		X			X	
Cour des Comptes	oui			X		X	X
Tribunaux militaires	oui			X		X	X
Tribunaux fiscaux	oui		X				X
Tribunaux des prud'hommes/tribunaux des affaires sociales	oui	X	X		X		
Tribunaux spécialisés dans les contrats agricoles	non						
Tribunaux chargés des plaintes des consommateurs	non						
Tribunaux pour le règlement des petits litiges	oui	X	X				
Tribunaux chargés des documents testamentaires et des successions	oui	X	X				
Tribunaux spécialisés dans le droit des brevets/ les droits d'auteur/ le droit des marques	oui	X	X		X		

<sup>72</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>73</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.

Tribunaux du commerce	oui	X	X		X	X	
Tribunaux de la faillite	oui	X					
Tribunaux pour les litiges fonciers	non						
"Cours d'arbitrage"	non						
Cours pour les crimes graves/cours d'assises	oui	X			X		
Tribunaux chargés de la supervision des informations judiciaires (autorisent par exemple les arrestations, les écoutes téléphoniques, etc.)	oui	X				X	
Tribunaux chargés de la supervision de l'exécution des peines et de la détention provisoire dans les établissements pénitentiaires	oui	X				X	
Autres, veuillez préciser : Tribunaux des baux	oui	X	X		X		

*La Suisse est un Etat fédéral dans lequel la justice n'est pas organisée de façon centralisée. Chaque canton possède sa propre organisation judiciaire. Depuis le 1er janvier 2011, la Suisse possède un code de procédure pénale et un code de procédure civile applicables dans tous les cantons. Les réponses données ci-dessus reflètent la situation telle qu'elle existe dans une majorité de canton.*

*Précisions concernant la colonne (F) :*

*- Concernant les tribunaux pour enfants, les tribunaux administratifs, la cour des comptes, les tribunaux du commerce, les tribunaux chargés de la supervision des informations judiciaires et les tribunaux chargés de la supervision de l'exécution des peines et de la détention provisoire dans les établissements pénitentiaires, la compétence territoriale correspond en règle générale au territoire cantonal dans son entier. Tandis que dans beaucoup de cantons les tribunaux généralistes sont compétents pour un ressort correspondant à une fraction du territoire cantonal (district ou arrondissement judiciaire).*

*- Asile : les cours compétentes en matière d'asile traitent les affaires de la Suisse entière.*

*- Tribunaux militaires: La compétence des tribunaux militaires n'est pas déterminée selon des critères géographiques, mais selon des critères linguistiques : il existe trois tribunaux militaires francophones, 4 tribunaux militaires germanophones et 1 tribunal militaire italophone de première instance.*

*Précisions concernant les règles de procédure applicables mentionnées dans la colonne (G) :*

*- En ce qui concerne les tribunaux administratifs, les litiges entre administrés et administration ne sont pas régis par la procédure civile, mais par la procédure administrative. Chacun des 26 cantons de la Confédération suisse possède sa propre procédure administrative et il existe en outre, au niveau de la Confédération, une loi de procédure administrative pour les litiges avec l'administration fédérale.*

*- Cour des comptes : Quelques cantons possèdent une cour des comptes. Les affaires qui peuvent lui être soumises sont régies par une procédure spécifique.*

*- En ce qui concerne les tribunaux militaires, les affaires traitées par ces tribunaux sont régies par la procédure pénale militaire du 23 mars 1979.*

*- En ce qui concerne les tribunaux fiscaux, ceci revêtent parfois la forme de commissions cantonales de recours en matière d'impôts qui traitent les affaires selon la loi de procédure administrative en vigueur dans le canton concerné.*

**Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?**

En 2010, 7 cantons sur 26 ne possédaient pas de tribunaux spécialisés et, dans les autres cantons, on en comptait 81 au total, dont 27 pour le seul canton d'Argovie.

En 2010, on dénombrait 259 tribunaux « généralistes » de première instance en Suisse, dont 61 dans le canton d'Argovie et 50 dans le canton des Grisons. (Source : réponses de la Suisse aux questions 42 et 43 du questionnaire de la CEPEJ concernant l'évaluation des systèmes judiciaires européens, exercice 2012 fondé sur les données 2010).

## 2. Spécialisation des juges

- o) La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? Veuillez préciser.

*En règle générale, les juges doivent, avant d'être nommés, faire acte de candidature en soumettant leur dossier personnel à l'autorité de nomination. Lorsqu'il s'agit de nommer un juge au sein d'un tribunal spécialisé, les études spécialisées accomplies après les études universitaires et l'expérience professionnelle dans la spécialisation constituent des avantages pour les candidats qui les possèdent.*

- p) Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? Veuillez préciser.

*Voir réponse à la question a) ci-dessus.*

- q) Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre :

<i>Pour les systèmes judiciaires distincts :</i>	<i>Au sein d'un même système judiciaire :</i>
<input checked="" type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input checked="" type="checkbox"/> en faisant preuve d'une expérience professionnelle ?
<input checked="" type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input checked="" type="checkbox"/> en suivant des cours de spécialisation/reconversion ?
<input type="checkbox"/> autre ?	<input type="checkbox"/> en passant un examen de spécialisation ?

*Remarque : Les systèmes de nomination diffèrent passablement d'un canton à l'autre. Dans certains cantons, les juges sont élus par le peuple, dans d'autres par le parlement, dans d'autres encore par le Tribunal cantonal (Cour suprême cantonale). Il n'existe en Suisse, en règle générale, aucun cursus permettant de gravir les différents échelons au sein du système judiciaire.*

- r) Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)?

*En Suisse, il n'existe pas de formation spécifique réservée aux juges pour accéder à une spécialisation. La formation continue, en vue d'une spécialisation, se fonde sur les séminaires et les cours mis sur pied notamment par les facultés de droit des universités. Dans la mesure où ces formations en cours d'emploi sont aussi ouvertes aux juges, ceux-ci ont la possibilité de pouvoir suivre une formation sur un domaine particulier sur leur temps de travail ou sur leur temps libre, aux frais du tribunal ou à leurs propres frais, en fonction de la pratique du canton ou du tribunal concerné.*

*L'organisation spécifique de la formation continue au sein de chaque canton détermine si l'information relative à une formation spécifique est livrée automatiquement aux juges ou si ceux-ci doivent rechercher eux-mêmes les cours qui les intéressent.*

- s) Quels sont pour les juges les critères d'accès à la spécialisation ?

*Il n'existe aucun critère précis défini à l'avance.*

- t) Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ?

*En principe pas.*

- u) Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :

- Oui, au sein de l'institut de formation judiciaire ?

- Oui, organisés par une institution distincte de l'institut de formation judiciaire ?

- Non ?

- v) Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ?

*Non*

- w) Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ?

*Des échanges d'expériences entre les différentes spécialisations et les groupes de juges généralistes peuvent exister au sein des associations de juges, par exemple.*

- x) Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ?

*Non, car il s'agit en règle générale de postes administratifs dont l'activité est exercée par des employés des tribunaux sous le contrôle d'un juge ou d'une commission de juges.*

- y) Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser.

/

- z) Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs).

*Non*

- aa) Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ?

*Non*

- bb) Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ?

*Non*

### **3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice**

- f) Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? Veuillez spécifier.

*Les avocats ont la possibilité de suivre une spécialisation dans les domaines suivants : droit du travail, droit des successions, droit de la construction et de l'immobilier, droit de la famille ou responsabilité civile et droit des assurances. Ces cours sont mis sur pied par la Fédération suisse des avocats. Pour devenir avocat spécialisé, les avocats intéressés doivent suivre des cours intensifs axés sur la pratique, réussir un examen*

et être entendus par une commission d'experts. Par ailleurs, pour être admis aux cours, ils doivent avoir des connaissances particulièrement développées dans la spécialisation choisie et avoir une expérience pratique d'au moins cinq ans comme avocat. (Source: site internet de la Fédération suisse des avocats)

- g) Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ?

Non

- h) Le ministère public est-il organisé de manière spécialisée dans votre pays ? Veuillez préciser.

*L'organisation du ministère public est à l'image de l'organisation judiciaire. Il existe un ministère public par canton et un au niveau de la Confédération. Les ministères publics des cantons importants possèdent des équipes ou des groupes spécialisés, par exemple en matière de criminalité économique. Dans ce cas, des experts comptables ou des spécialistes financiers sont intégrés au sein des équipes du ministère public.*

- i) Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public)?

Non

- j) Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? Le cas échéant, ce personnel est-il recruté sur une base *ad hoc* ?

*Les juges qui travaillent au sein d'une cour ou d'un tribunal spécialisé sont en règle général assistés par du personnel spécialisé, greffiers ou encore par des juges assesseurs spécialisés dans la matière à traiter. Les juges assesseurs sont choisis en fonction de la matière traitée dans l'affaire. En revanche, les greffiers sont engagés avec des contrats de durée indéterminée ou de longue durée.*

#### 4. Spécialisation et gouvernance

Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? Sinon, veuillez préciser quels sont les juges spécialisés qui ne relèvent pas de la gouvernance de ce Conseil.

*La surveillance et la haute surveillance des tribunaux et des juges spécialisés ainsi que des tribunaux et des juges « généralistes » sont exercées par les mêmes autorités.*

#### 5. Spécialisation, associations professionnelles de juges, déontologie judiciaire

c) Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ?

*Non, il n'existe pas d'association spécifique de juges spécialisés. En revanche, il existe des associations de juristes, telles que la Société suisse de droit pénal, la Société suisse de droit pénal des mineurs, l'Association suisse de droit du sport, l'Association suisse de droit aérien et spatial ou encore l'Association suisse du droit public de l'organisation, etc. Ces associations permettent aux praticiens travaillant dans un domaine spécifique d'échanger leurs expériences dans le cadre des activités proposées. Les juges spécialisés n'ont aucune obligation d'adhérer à une association de leur spécialité.*

d) Les juges spécialisés ont-ils des « principes de la déontologie judiciaire »<sup>74</sup> communs ou distincts de ceux des juges généralistes ? Si des principes distincts s'appliquent, veuillez préciser (par exemple, des principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).

*En règle générale, les juges spécialisés n'ont pas des principes déontologiques différents de ceux des juges généralistes.*

#### 6. Conclusion

a) Quels sont, selon vous, les avantages et les inconvénients des tribunaux spécialisés

*Les avantages des tribunaux spécialisés sont notamment une plus grande efficacité par une meilleure connaissance du domaine au moment de commencer le traitement d'une affaire, une jurisprudence plus cohérente, donc une meilleure sécurité du droit puisque les affaires d'un domaine sont traitées par un nombre plus restreint de juges.*

*Les inconvénients sont le risque de voir se développer une culture juridique, voire une pratique propre dans un domaine de spécialisation qui s'écarterait trop de la pratique des tribunaux généralistes.*

b) Quels sont, selon vous, les avantages et les inconvénients de la spécialisation des juges

*Les avantages de la spécialisation des juges sont tout comme pour les tribunaux une plus grande efficacité par une meilleure connaissance initiale du domaine à traiter; la spécialisation du juge lui permet d'acquérir une bonne vue d'ensemble des divers problèmes qui peuvent survenir dans un domaine particulier.*

*Les inconvénients sont une plus grande difficulté à attribuer à un juge spécialiste des affaires dans d'autres matières en cas de fluctuation du volume des affaires, donc un manque de flexibilité dans l'organisation des tribunaux; en outre un juge spécialiste risque de se lasser du domaine qu'il traite s'il statue durant toute sa vie sur un même type d'affaires.*

<sup>74</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).

## The «Former Yugoslav Republic of Macedonia» / L'ex «Républic Yugoslave de la Macédoine»

### 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 <sup>75</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>76</sup>	(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		Specialised departments and judges					
Juvenile courts		Specialised departments and judges and lay judges					
Administrative courts/council of state	Specialised court of first instance for territory of the state and a Higher Administrative Court of second instance						
Immigration/Asylum		Specialised departments in the Administrative Court					
Courts of Account							
Military Courts							
Tax Courts							
Labour/social courts		Specialised departments in the larger courts and specialised judges in the smaller courts					
Courts for agricultural contracts							
Consumers' claims courts							
Small claims courts		Specialised departments and judges					
Courts for wills and		Specialised					

<sup>75</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>76</sup> 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.

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 <sup>75</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>76</sup>	(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)
inheritances		departments					
Patent/copyrights/trademark courts							
Commercial courts		Specialised departments and specialised judges					
Bankruptcy courts		Specialised department					
Courts for land disputes		Specialised departments					
“Cours d’arbitrage”							
Serious crimes courts/courts of assize		Specialised departments and specialised investigative and trial judges					
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, etc.)							

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

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

According to the Constitution and the Law on Courts, within the judiciary, judicial power shall be exercised by the basic courts, the Administrative Court as a court of first instance that is covering the territory of the state, the appellate courts, and the Supreme Court of the Republic of Macedonia. According to amendments from 2011, a Higher Administrative Court has been established as a court of second instance, but this court also has the competence to decide on conflicts of jurisdiction between state bodies, and it is fully operational.

The work in the courts shall be, as a rule, performed in specialised court departments. The specialised court departments are established depending of the type and quantity of the court workload, as follows: criminal area, juvenile criminality, civil and economic area, labour disputes and other characteristic disputes falling within the jurisdiction of the courts. Within the specialised court department, specialization of judges shall be realized.

In the courts in which specialised departments shall be established, judges are allotted according to their specialization in the legal area.

The work of the specialised court department shall be managed by a president of the division. The sessions of the specialised court departments shall address issues of interest to the work of all panels, i.e. judges within the department, in particular, regarding the application of laws in certain areas and the harmonisation of the court practice, and the improvement of the work methods. A session of a court department is



convoked by the president of the respective department at his/her initiative, or at the request of the judges of the department, or at the request of the court president when it is established that there is inconsistency in the application of the law between separate panels of the department.  
The centre, i.e. the IT service, shall be managed by the president of the court or a judge designated by him/her.

#### ORGANISATION AND COMPETENCE OF THE DIFFERENT COURTS

The basic courts, in line with their subject-matter competence, conduct trials in first instance and are established as courts with basic competence and courts with expanded competence.

Within the basic courts with expanded competence, specialised court departments shall be set up to act upon specific types of disputes.

The basic courts may have court divisions, conduct trials outside the seat of the court, as well as have court days outside the seat of the court.

The basic courts having basic competence shall decide in first instance upon criminal cases and misdemeanours, as follows:

- Upon criminal acts which by law are sanctioned by a sentence of imprisonment of up to 5 years, unless it is within the competence of another court to decide on certain criminal acts.
- On criminal acts which by a separate law shall be assigned to a court of basic competence;
- To conduct investigation or investigative actions on criminal acts falling within their competence;
- On all types of misdemeanours, unless it is provided that certain types of misdemeanours are to be decided on by a state administration authority or organisation or another authority exercising public authorisations.

The first instance courts with basic jurisdiction shall be competent to decide in first instance in civil disputes, as follows:

- on property and other civil disputes between persons and legal entities, in the amount of the MKD counter value of 50 000 Euro, unless it is provided by law that another court is competent to decide.
- on disputes related to establishment or disclaiming of paternity, maternity and identifying the existence of marriage, annulling marriage and divorce;
- on alimony provided for by law;
- on parenting and upbringing of children;
- on obstructing possession;
- on life estate;
- on compensation for damages not exceeding 50 000 Euro in MKD counter value;
- on procedures for prevention and enforcement;
- on labour relations;
- on inheritance disputes;
- on non-contentious and inheritance matters;
- on keeping record of deeds; and
- on other matters specified by law.

The basic courts with expanded competence, in addition to the competence specified in Article 30 of the Law on Courts exercised within the territory for which they have been instituted, shall be also competent to decide upon criminal acts as follows:

- Criminal acts which by law are sanctioned with imprisonment of more than 5 years, and on crimes and misdemeanours committed by juveniles;
- To carry out investigation or investigative actions on criminal acts under their scope of competence;
- To decide on extradition;
- To decide on complaints and appeals against the procedures under their competence;
- To decide on proceedings related to international legal assistance specified by law.

The basic courts with expanded competence, shall be also competent to decide on civil cases as follows:

- On property and other civil disputes between persons and legal entities, in the amount of more than 50,000 Euros in MKD counter value, unless the competence of another court has been established by law.
- On commercial disputes in which the parties are legal entities or state bodies, disputes regarding copyrights and related rights and industrial property rights;
- To maintain the court registry of political parties;
- On cases of bankruptcy and termination;
- On disputes related to establishment and ensuring of compulsory enforcement;
- On disputes between domestic legal and foreign entities, deriving from their mutual commercial or trade relations.

These courts are also competent to keep a court registry of all political parties established within their jurisdiction.

According to the organisation of the judiciary stipulated in the Law on Courts, there are two basic courts in Skopje, the capital of the state, that are organised as a Criminal Court (Basic Court Skopje I) and a Civil Court (Basic Court Skopje II), both being the largest courts of first instance in the state.

The Criminal court is a court of ordinary and of expanded jurisdiction.

The court is organised in specialised judicial departments and units, pursuant to the Law on Courts and the internal organisation of the court, as follows:

The work of the Court is organised in departments and units, namely Criminal Departments for:

- adults
- misdemeanours
- investigation
- juveniles
- execution of sanctions
- organised crime and corruption (investigation unit)
- organised crime and corruption (trial unit)

Within the Basic Court Skopje I – Skopje, a specialised court department is created, with competence for trying acts in the area of organised crime and corruption for whole territory of the Republic of Macedonia. The specialised court department has competence for:

- criminal acts perpetrated by a structured group of three or more persons which has existed for a certain period of time and is acting with the intention of perpetrating one or more criminal acts for which a sentence of imprisonment for at least four years is foreseen, with intent to directly or indirectly gain financial or other kind of benefit,

- criminal acts perpetrated by a structured group or criminal enterprise on the territory of Republic of Macedonia or other countries, or when the criminal act has been prepared or planned in Republic of Macedonia or another country,

- criminal acts of misuse of official position and power pursuant to article 353 paragraph 5, receiving bribery in significant amount as per article 357, and illegal mediation pursuant to article 359, all from the Criminal Code, perpetrated by an elected or appointed official or a responsible person within a legal entity, and

- criminal acts of unauthorised manufacturing and distribution of narcotics, psychotropic substances and precursors pursuant to article 215 paragraph 2, laundering of money and other incomes in significant amounts obtained through a criminal act pursuant to article 273, terrorist endangerment of the constitutional order and security pursuant to article 313, giving bribe in significant amounts pursuant to article 358, illegal influence on witnesses pursuant to article 368-a, criminal enterprise pursuant to article 394, terrorist organisation pursuant to article 394-a, terrorism pursuant to article 394-b, criminal acts of trafficking in human beings pursuant to article 418-a, criminal acts of smuggling migrants pursuant to article 418-b, trafficking of minors pursuant to article 418-

# Ukraine

## 1. Specialisation of courts

Types of courts/judges	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 <sup>77</sup>	(E) If yes to (a), tick the box if they have a composition including lay members or only of lay members <sup>78</sup>	(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							
Administrative courts/council of state	Yes		Yes ; Art.3 of Law "On judiciary and status of judges" states that court system of Ukraine includes general courts and Constitutional courts. Administrative courts are the separate branch in general court system		Only professional judges	It depends on dispute subject, and authority - defendant	In case of appealing against act of the Cabinet of Ministers, High Council of Autonomous Republic of Crimea, ministers, local administrations, local authorities court must oblige them to publish the announce of court proceedings in 7 days before hearing (Art.171 Code of Administrative Legal Proceedings). Judge may pass court errand about rendering legal advice (Art.115-2 Code of Administrative Legal Proceedings). The claim may be ensured by two ways only: prohibition to take some actions, stopping action of authority body's decision (Art.117 Code of Administrative Legal Proceedings). Parties have a right to exact losses, caused by ensuring claim. Formal expert examination may be appointed by court by parties' or its own initiative, otherwise in civil proceedings may be cases for the compulsory examination (art.81 , art.1 Code of Administrative Legal

							Proceedings 45 Civil Procedural Code). In administrative proceedings claim must be considered within 1 month (in some cases duration of proceedings is short-cut)and it is possible, acceptedly by parties, to deal with "written" proceedings (art.157,158,183-2 Code of Administrative Legal Proceedings) Court may ser speaking time restrictions for the debates (art.152 Code of Administrative Legal Proceedings). After reversal of a judgment court of appeal may return a case to the first instance court for a new consideration (198 Code of Administrative Legal Proceedings). The cassation court is the Supreme Administrative Court of Ukraine. Proceedings in cases, which arise from election procedure are short-cut (2 days, 5 days etc). Appeal court's judgment in such cases are final (art.176 APC)
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	Yes		Yes	s	Only professional judges	There are common features. The most	Established procedure of pre-court settlement of commercial disputes

						value of differences depends on lawsuit subject, parties etc.	(art.5 Commercial and Procedural Code of Ukraine)/. Compulsory expertise is not established. Court may set preventive measures: summon of proofs, premises examination, arrest of property (ct..43-2 CPC). Considering the case court may fine party for non-execution of court requests. (art..83 CPC). The court of cassation is Supreme Commercial Court of Ukraine (art..108 CPC).
Courts for land disputes							
“Cours d’arbitrage”	Yes, but they’re not included to court system					Consist of non-professional judges	
Serious crimes courts/courts of assize							
Courts for the supervision of criminal investigations (e.g. authorising arrest, wire-tappings, 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?

As it arises from Constitution of Ukraine, Law On Judicial System and Status of Judges specialization of the judiciary is regarded as external. It means that within the system of general courts establishes new separate specialized branches, such as systems of commercial and administrative courts. Also, after establishing the Supreme specialized court for civil and criminal cases, traditional generalist courts were defined by legislators as a kind of specialized courts. Historically, in Ukraine besides generalist courts existed a separate judicial branch – arbitration courts, which were later transformed into commercial ones. So, we consider that external specialization of courts is most suitable and proper for Ukraine..

Law On Judicial System and Status of Judges also provides internal specialization – specialization of judges. It has emerges in division of chambers (civil and criminal) in courts of appeal, in appearance in the commercial courts of separate chambers on bankruptcy issues, IP issues etc.

## **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.

According to Article 64 of the Law On the Judicial System and Status of Judges, a person can be recommended for the position of a judge if they are a citizen of Ukraine, at least twenty-five years old, with a higher education in the legal field, and a minimum of three years of work experience in the legal field, residing in Ukraine for a minimum of ten years and fluent in the national language. Any specialization of education or work experience is not required..

Article 67 of the Law establishes that first appointment of a judge is carried out exclusively according to the procedure established by the Law and among others includes the following stages:

- persons wishing to become judges submit an appropriate application and documents determined by the Law to the Supreme Judge Qualification Commission of Ukraine;
- the Supreme Judge Qualification Commission of Ukraine, based on the documents submitted by judge candidates, inspects the correspondence of the applicants to the requirements for judge candidates, and organizes a special inspection in their respect;
- persons that meet the established requirements to judge candidates take an examination before the Supreme Judge Qualification Commission of Ukraine in order to demonstrate the level of their general theoretical knowledge in the legal field;
- the candidates who have successfully passed the exam and the appropriate inspections are sent to special training;
- the candidates who have successfully completed the special training are allowed to take the qualification exam before the Supreme Judge Qualification Commission of Ukraine (according to Regulation On procedure of passing the qualification exam for judge candidates and evaluating standards establishes that candidates must submit an application with indicated specialization of general court);
- the Supreme Judge Qualification Commission of Ukraine determines the rating of judge candidates based on the qualification exam results and includes them in the reserve for filling vacant judge positions;
- in case vacant judge positions are open, the Supreme Judge Qualification Commission of Ukraine announces a competition for filling such positions among the candidates included in the reserve;
- based on the candidate's rating and according to the number of vacant judge positions, the Supreme Judge Qualification of Ukraine selects a candidate from the number of candidates who took part in the competition, and submits its recommendation on appointing the judge candidate to the Supreme Council of Justice;
- the Supreme Council of Justice, based on the recommendation of the Supreme Judge Qualification Commission of Ukraine, reviews the issue of appointing the judge candidate at its meeting, and, in case of a positive decision, submits a recommendation to appoint the judge candidate, to the President of Ukraine;
- the President of Ukraine makes a decision to appoint the judge candidate to the position of a judge.

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..

President of a local court, President of the Court of Appeal, President of the Supreme specialized court are selected and appointed by the Supreme Council of Justice among judges of this court. (art. 20 Law On Judicial System and Status of Judges). .

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

*As to separate court systems:*

by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?

by resigning from original post and participate to a new recruitment?

other?

*Within the same court system:*

by showing professional experience?

by attending specialisation/reconversion courses?

by passing a specialisation exam?

Judge within 5 years of the first appointment can be transferred to another court after submitting an application to the Supreme Judge Qualification of Ukraine. Transmission to another specialized court is conducted after passing a qualification exam (art..74, 80 Law On Judicial System and Status of Judges).

:

d) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)?

The Supreme Judge Qualification Commission of Ukraine publishes an announcement on its web portal about a call for candidates for the position of a judge, taking into consideration the forecasted number of vacant judge positions in general and specialized courts, information on exams, question list for the exams etc.

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

Similar procedure for all judges.

f) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

No, such compensation is not established..

g) Are there access/reconversion courses to specialised functions:

- - Yes, within the judicial training institute ?

Yes, after passing the exam candidates should complete special training, which is provided by National School of Judges special training. The Supreme Judge Qualification Commission of Ukraine determine institution of higher education, which can promote training for judge (art..69 Law On Judicial System and Status of Judges)

h) Are there training courses reserved only to specialised judges?

No special training programme for specialized judges is provided.

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

There are no regulations for that..

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.)?

It's not provided by law.

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).

Rate of reward is determined in general order for all judges, regardless their specialization. (Chapter IX 69 Law On Judicial System and Status of Judges).

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, judges have an equal right to be chosen to the higher courts.

### **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 Ukrainian legislation provides the free right of attorneys to establish professional associations with their own statute. (art..4 Law On Bar). It means that lawyers are free to choose whether to create an association with or without any specialization. According to latest data there no bar associations of definite specialization.

b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

No, legislation doesn't provide any differences in status of lawyers, they don't have specialization and authorized to participate in court proceedings whether in criminal matters, or civil, or commercial etc.. (art..6 Law On Bar).

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

According to art.13 Law On General Prosecutor's Office, the system of prosecutors office apart from its general departments in districts, cities and regions also includes specialized prosecutor's offices: prosecutors on environment protection, prosecutors dealing with transport offences, military prosecutor's office and others.

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

Support of state accusation in court and representation of interests of citizen or state in court in cases inscribed by law is a basic function of General Prosecutor's Office and it doesn't require definite specialization of a prosecutor, but the proper jurisdiction of general or specialized prosecutor's office it is taken into account while dealing with case.

e) Are specialised judges assisted by specialised staff (clerks, technical staff, etc.) ? If yes, is this staff recruited on an *ad hoc* basis? No, legislation doesn't provide specialization for court staff. Officials are hired under common basis. Judge assistant is hired by proposal of judge and has to respond to next requirements: higher education fluent state language.(art.151 Law On Judicial System and Status of Judges).

#### **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.

The Supreme Council of Justice as an authority responsible for judiciary composing, carries out a disciplinary proceeding in respect of judges of specialized courts and judges of the Supreme Court of Ukraine

According to art.122 Law On Judicial System and Status of Judges bodies of judicial self-government are Council of judges of generalist courts, Council of judges of commercial courts and Council of judges of administrative courts. The supreme body of judicial self-government is the meeting of judges of Ukraine.

#### **5. Specialisation, professional associations of judges, judicial ethics**

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

Currently the major professional associations of the judiciary are Association of Judges of Ukraine, Association of judges and court officials. Establishing of Association of judges of administrative courts still continues.

b) Do specialised judges have separate or common "principles of judicial ethics"<sup>3</sup> 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.).

The Code of professional ethics of judges was approved by meeting of judges and is general for all judges .

#### **6. Conclusion**

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

The most important motivations for the establishment of specialised courts relate to the possibility that these institutions might make the administration of justice more efficient.

This would ensure the rapid and consistent development of the case law, and also ensure that a corps of specialists— on the bench and in the legal profession—would rapidly develop the appropriate skills and experience. Judges with narrow specialization deal with those matters more expertly.

Under these circumstances, the existence of the specialist court in which these matters are concentrated means that a burden is lifted off the generalist courts.

in concentrating all the cases that arise from that legislation in one place, the relevant law develops much more quickly, allowing practice and precedent to emerge.

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

There is a risk that the particular area of law to which the specialist court devotes its attention, may develop in ways that are out of step with the overall development of the law. Moreover, there may be problems with the degree of consistency between specialist and generalist courts, in areas of the law that overlap.



According to Ukrainian legislation cases are distributed between judges in automatic way by special computer programme. This procedure ensures the principle of impartiality of judges, so there is a risk of conflict between specialization of judge and distribution of the case.  
Specialised courts should only be established after appropriate studies of previous court practices, or after the running of a carefully assessed and successful pilot project.  
Establishing of new courts demands significant organisational and financial expenses.

## United Kingdom / Royaume-Uni

### 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 <sup>79</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>80</sup>	(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	*					* (NOT ALL)	* (ADDITIONAL RULES/PROCEDURES)
JUVENILE COURTS	*					*	* (ADDITIONAL RULES/PROCEDURES)
ADMINISTRATIVE COURTS/COUNCIL OF STATE	* (ADMIN CTs)					* (LOCAL)	* (ADDITIONAL RULES/PROCEDURES)
IMMIGRATION/ASYLUM COURTS	*			* (NOT ON APPEAL)	*		* (DITTO)
COURTS OF ACCOUNT							
MILITARY COURTS	*			* (DITTO)	*		* (DITTO)
TAX COURTS	*			* (DITTO)	*		* (DITTO)
LABOUR/SOCIAL COURTS	*			* (DITTO)	*		* (DITTO)
COURTS FOR AGRICULTURAL CONTRACTS							
CONSUMERS' CLAIMS COURTS							
SMALL CLAIMS COURTS	*					* (LOCAL)	* (DITTO)
COURTS FOR WILLS AND INHERITANCES	*						* (DITTO)
PATENT/COPYRIGHTS /TRADEMARK COURTS	*	*					* (DITTO)
COMMERCIAL COURTS	*	*					* (DITTO)
BANKRUPTCY COURTS	*						
COURTS FOR LAND DISPUTES	*				*		* (DITTO)
"COURSD'ARBITRAGE"							
SERIOUS CRIMES COURTS/COURTS OF ASSIZE	*					* (REGIONAL)	* (DITTO)
COURTS FOR THE SUPERVISION OF							

<sup>79</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>80</sup> 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.

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 <sup>79</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>80</sup>	(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)
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CRIMINAL INVESTIGATIONS (E.G. AUTHORISING ARREST, WIRE-TAPPINGS, ETC.)

COURTS FOR THE SUPERVISION OF CRIMINAL ENFORCEMENT AND CUSTODY IN PENITENTIARIES

OTHER, PLEASE SPECIFY: ADMIRALTY COURT (INVOLVING SHIPPING CASES)

\* (FOR SOME TYPES OF CASE ONLY)

\* (ADDITIONAL RULES/PROCEDURES)

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.

**Yes it does. All candidates have to have been practising lawyers for at least 10 years (and for higher positions at least 15 years). Depending on the post to be filled, the candidate will have to demonstrate the relevant specialised professional experience.**

- 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. **Promotion is not based on specialisation but general ability.**

- c) May a judge from a generalist court move to a specialised court, or from one specialisation to another: **Yes. For example: a judge may sit in the Commercial Court or Admiralty Court for part of the time and also deal with criminal trials, civil cases and Administrative law cases – all within the space of 3 months.**

As to separate court systems:	Within the same court system:
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation? <b>No</b>	<input type="checkbox"/> by showing professional experience? <b>Yes</b>
<input type="checkbox"/> by resigning from original post and participate to a new recruitment? <b>No</b>	<input type="checkbox"/> by attending specialisation/reconversion courses? <b>No</b>
<input type="checkbox"/> other?	<input type="checkbox"/> by passing a specialisation exam? <b>No</b>

- d) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)? **Some specialisations will only be open to judges who have had specialist experience as lawyers before being appointed a judge: eg. Family law judges; Intellectual property law judges. Others may gain experience once appointed as judges and then be permitted to do specialist work (but not in the two areas just noted).**
- e) What are for judges the criteria for access to specialisation? **Either previous experience as lawyers or having gained experience as a judge or a willingness to learn new specialisations.**
- 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: **No. No judge would be appointed to a specialist position simply on the basis of having completed a "course" in a specialist subject.**
- 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? **Very few and rarely held.**
- 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.)? **Yes – eg there is a judge in charge of Modernisation and Information Technology.**
- k) If yes, is there a specific training for this type of posts? Please specify. **No – they are volunteers.**
- 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. Remuneration depends on the level in the judicial hierarchy, not on specialisation.**
- 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. **There are specialist associations of both solicitors and barristers eg. The Commercial Bar Association, The Chancery Bar Association, The Technology and Construction Bar Association. There are many others.**
- b) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)? **There is no regulatory requirement.**
- c) Is public prosecution organised on a specialised basis in your country? Please specify. **No.**
- d) In order to practice before specialised courts, have prosecutors to be specialised (e.g. belong to specialised department of the prosecution service)? **They have to be sufficiently experienced in the relevant area.**
- 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. ***The Judges' Council protects all types of judge.***

#### **5. Specialisation, professional associations of judges, judicial ethics**

- o) Are there in your country professional associations of specialised judges? **No**
- p) Do specialised judges have separate or common "principles of judicial ethics"<sup>81</sup> 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.).  
**No**

#### **6. Conclusion**

- a) Please give your opinion on the advantages and disadvantages of special courts
- b) Please give your opinion on the advantages and disadvantages of specialisation of judges

***Specialist Courts are very advantageous because it enables specialist judges and specialist lawyers to deal with specialist types of dispute. This leads to a more efficient procedure and disposal of cases. The advantages are particularly marked in the English Commercial Court and the Patents Court (which deals with all types of IP disputes).***

***The judges of these courts will have practiced in these specialist areas when barristers and so they know the law and procedure very well. The advocates appearing in those courts will also be specialist. There are special rules of procedure to deal with those particular types of cases. The whole system is designed to enable cases to be dealt with as quickly and efficiently as possible.***

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<sup>81</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).

## Appendix

### Questionnaire with a view of the preparation of Opinion No. 15 on specialisation of judges and courts

#### 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 <sup>82</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>83</sup>	(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.)							

<sup>82</sup> For example, appeals on decisions of the specialised court of first instance is filed with a specialised court of appeals, council of state, etc.

<sup>83</sup> 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.

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 <sup>82</sup>	(E) IF YES TO (A), TICK THE BOX IF THEY HAVE A COMPOSITION INCLUDING LAY MEMBERS OR ONLY OF LAY MEMBERS <sup>83</sup>	(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)
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

mm) 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.

nn) 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.

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

<i>As to separate court systems:</i>	<i>Within the same court system:</i>
<input type="checkbox"/> by just filing an application examined on the basis of seniority and other criteria not including previous specialisation?	<input 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?

pp) Does the system ensure that all judges may access specialisation (e.g. by giving them the appropriate information)?

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

rr) Do financial provisions exist helping judges to transfer to other towns where specialisation may be acquired?

ss) 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?

tt) Are there training courses reserved only to specialised judges?

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

vv) 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.)?

ww) If yes, is there a specific training for this type of posts? Please specify.

xx) 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).

yy) Are there special allowances, or benefits in kind, for specialised judges?

zz) 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**

p) Is the bar and/or professional associations of lawyers organised on a specialised basis in your country? Please specify.

q) In order to practice before specialised courts, have lawyers to be specialised (e.g. registered in special bar listings)?

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

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

t) 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.

### **5. Specialisation, professional associations of judges, judicial ethics**

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

h) Do specialised judges have separate or common “principles of judicial ethics”<sup>84</sup> 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

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

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<sup>84</sup> See principles of judicial ethics as defined in CCJE's Opinion No. 3 (i.e. rules having no disciplinary impact).



## Questionnaire en vue de la préparation de l'Avis n° 15 sur la spécialisation des juges et des tribunaux

### 1. La spécialisation des tribunaux

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ Juges SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>85</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>86</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
Tribunaux des affaires familiales							
Tribunaux pour enfants							
Tribunaux administratifs/ Conseil d'Etat							
Immigration/asile							
Cour des Comptes							
Tribunaux militaires							
Tribunaux fiscaux							
Tribunaux des prud'hommes/tribunaux des affaires sociales							
Tribunaux spécialisés dans les contrats agricoles							
Tribunaux chargés des plaintes des consommateurs							
Tribunaux pour le règlement des petits litiges							
Tribunaux chargés des documents testamentaires et des successions							
Tribunaux spécialisés dans le droit des brevets/ les droits d'auteur/ le droit des marques							
Tribunaux du commerce							
Tribunaux de la faillite							

<sup>85</sup> Par exemple, le recours contre les décisions rendues par un tribunal spécialisé de première instance est formé devant une cour d'appel spécialisée, le conseil d'État, etc.

<sup>86</sup> Par exemple, pour une composition qui inclut des personnes non professionnelles: jurés, psychologues, ingénieurs ; par exemple pour une composition uniquement de personnes non professionnelles: des représentants des organisations de travailleurs, des aldermen-échevins, des juges de paix, des magistrats non juristes, etc.

Types de juges/chambres	(A) COCHER LA CASE SI VOTRE PAYS DISPOSE T'IL DES TRIBUNAUX/ Juges SPECIALISES CONCERNANT:	(B) SI OUI A (A), COCHER LA CASE S'IL S'AGIT DE JUGES/CHAMBRES SPECIALISES AU SEIN D'UNE JURIDICTION GENERALISTE	(C) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE INSTITUTION / UN ORGANE DISTINCT AU SEIN DE L'ORGANISATION GENERALE DU SYSTEME JUDICIAIRE	(D) SI OUI A (A), COCHER LA CASE S'IL S'AGIT D'UNE JURIDICTION SEPARÉE, QUI FORME UN SYSTEME PROPRE <sup>85</sup>	(E) SI OUI A (A), COCHER LA CASE SI LA COMPOSITION DE CES JURIDICTIONS COMPREND DES PERSONNES NON PROFESSIONNELLES <sup>86</sup>	(F) SI OUI A (A), COCHER LA CASE S'ILS ONT UNE COMPETENCE TERRITORIALE DIFFERENTE DE CELLE DES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)	(G) SI OUI A (A), COCHER LA CASE S'ILS APPLIQUENT DES REGLES (DE PROCEDURE, RELATIVE AUX PREUVES, ETC.) QUI SONT DIFFERENTES DE CELLES APPLICABLES DEVANT LES TRIBUNAUX GENERALISTES (VEUILLEZ PRECISER)
Tribunaux pour les litiges fonciers							
"Cours d'arbitrage"							
Cours pour les crimes graves/ cours d'assises							
Tribunaux chargés de la supervision des informations judiciaires (autorisent par exemple les arrestations, les écoutes téléphoniques, etc.)							
Tribunaux chargés de la supervision de l'exécution des peines et de la détention provisoire dans les établissements pénitentiaires							
Autres, veuillez préciser							

Dans quelle mesure la spécialisation des tribunaux est-elle pertinente dans votre système ?

## 2. Spécialisation des juges

aaa) La procédure de nomination des juges prend-elle en compte les études spécialisées accomplies après un diplôme universitaire en droit ? Prend-elle en compte l'expérience professionnelle spécialisée ? Veuillez préciser.

bbb) Les juges sont-ils promus à une juridiction de degré supérieur ou nommés à un poste de président de tribunal sur la base d'une procédure accordant de l'importance à la spécialisation ? Veuillez préciser.

ccc) Un juge peut-il être nommé d'un tribunal généraliste à un tribunal spécialisé, ou d'une spécialisation à une autre :

<i>Pour les systèmes judiciaires distincts :</i>	<i>Au sein d'un même système judiciaire :</i>
<input type="checkbox"/> en déposant simplement une candidature examinée sur la base de l'ancienneté et d'autres critères n'incluant pas une spécialisation préalable ?	<input type="checkbox"/> en faisant preuve d'une expérience professionnelle ?
<input type="checkbox"/> en démissionnant de son poste d'origine et en participant à un nouveau recrutement ?	<input type="checkbox"/> en suivant des cours de spécialisation/reconversion ?
<input type="checkbox"/> autre ?	<input type="checkbox"/> en passant un examen de spécialisation ?

ddd) Le système garantit-il à tous les juges la possibilité d'accéder à une spécialisation (en leur fournissant par exemple une information appropriée)?

- eee) Quels sont pour les juges les critères d'accès à la spécialisation ?
- fff) Les juges peuvent-ils bénéficier d'une aide financière s'ils doivent être transférés vers d'autres villes où une spécialisation peut être acquise ?
- ggg) Existe-t-il des cours d'accès/de reconversion à des fonctions spécialisées :  
 - Oui, au sein de l'institut de formation judiciaire ?   
 - Oui, organisés par une institution distincte de l'institut de formation judiciaire ?   
 - Non ?
- hhh) Existe-t-il des programmes de formation exclusivement réservés aux juges spécialisés ?
- iii) Des échanges d'expériences judiciaires entre les différentes spécialisations et/ou les groupes de juges généralistes sont-ils organisés ?
- jjj) Existe-t-il dans les tribunaux des postes spécialisés à des fins d'organisation seulement (par exemple, juge servant de porte-parole pour le tribunal, juge chargé du développement des TI au tribunal, juge coopérant avec les services de modes alternatifs de règlement des litiges, etc.) ?
- kkk) Le cas échéant, existe-t-il une formation spécifique pour ce type de postes ? Veuillez préciser
- lll) Les juges spécialisés ont-ils une rémunération plus élevée que les juges généralistes ? Veuillez faire la distinction, si nécessaire, entre l'appartenance des juges spécialisés à un même système judiciaire ou à un système judiciaire distinct (par exemple, dans certains pays, selon la distinction entre les juges ordinaires et les juges administratifs).
- mmm) Existe-t-il des allocations spéciales, ou des prestations en nature, pour les juges spécialisés ?
- nnn) Les juges spécialisés ont-ils un accès préférentiel aux juridictions d'ordre supérieur ? Le cas échéant, un tel accès est-il limité à son domaine de spécialisation ?

### **3. Spécialisation des tribunaux versus spécialisation des autres acteurs de la justice**

- u) Le barreau et/ou les associations professionnelles d'avocats sont-ils organisés de manière spécialisée dans votre pays ? Veuillez spécifier.
- v) Pour pouvoir exercer devant des tribunaux spécialisés, les avocats doivent-ils être spécialisés (par exemple en étant inscrits sur des listes spécifiques du barreau) ?
- w) Le ministère public est-il organisé de manière spécialisée dans votre pays ? Veuillez préciser.
- x) Pour pouvoir exercer devant des tribunaux spécialisés, les procureurs doivent-ils être spécialisés (par exemple en appartenant à des services spécialisés du ministère public) ?
- y) Les juges spécialisés sont-ils assistés par du personnel spécialisé (greffiers, personnel technique, etc.) ? Le cas échéant, ce personnel est-il recruté sur une base *ad hoc* ?

### **4. Spécialisation et gouvernance**

Le Conseil de la justice ou tout autre organe indépendant équivalent garant de l'indépendance des juges est-il compétent pour les juges spécialisés au même titre que pour les juges non spécialisés ? Sinon, veuillez préciser quels sont les juges spécialisés qui ne relèvent pas de la gouvernance de ce Conseil.

### **5. Spécialisation, associations professionnelles de juges, déontologie judiciaire**

- i) Existe-t-il dans votre pays des associations professionnelles de juges spécialisés ?
- j) Les juges spécialisés ont-ils des «principes de la déontologie judiciaire»<sup>87</sup> communs ou distincts de ceux des juges généralistes ? Si des principes distincts s'appliquent, veuillez préciser (par exemple, des

<sup>87</sup> Voir les principes de la déontologie judiciaire, tels que définis dans l'Avis n° 3 du CCJE (règles qui n'ont pas d'effet disciplinaire).

principes distincts en raison de l'exposition particulière des juges des mineurs, spécialisés dans la famille, spécialisés dans les litiges professionnels, etc.).

## **6. Conclusion**

- a) Quels sont, selon vous, les avantages et les inconvénients des tribunaux spécialisés
- b) Quels sont, selon vous, les avantages et les inconvénients de la spécialisation des juges