

Strasbourg, 20 January 2016

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

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

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

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

Introduction

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

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

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

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

- 1.1 How many presidents of first instance courts and how many presidents of the court of appeal there are in your country? The Court of First Instance has a total of 18 Presidents. Civil Appeal Court has a total of 6 presidents. The Court of First Instance for Serious Crimes, 1 President. Court of Appeal for Serious Crimes 1 president. Administrative Courts of First Instance has a total of 6 Presidents. Administrative Court of Appeal's 1 President.

- 1.2 Who appoints (e.g. Judicial Council, Ministry of Justice, Higher court, Parliament, Agency etc.) the presidents of the courts? (Please remember, if applicable, to make a distinction between the presidents of the courts of first instance and of the courts of appeal. Is it possible that presidents of the courts are appointed from other legal professionals than those who are already judges?) Presidents of the courts of first instance and Court of Appeals are elected by the High Council of Justice. The President is elected among judges who are members of the respective courts.
- 1.3 Do the presidents get a “confidence vote” (after or before their appointment) from the other judges of the court? There is no legal provision for a confidence vote.
- 1.4 Please describe briefly the selection procedure for presidents of the courts. Near the end of the term of the President of the court, the High Council of Justice announces the vacancy for the court president. Court judges who meet the criteria and are interested, send with a request to the High Council of Justice. High Council of Justice then decides winning candidate between applications. The elected President has to be decreed by the President of the Republic.
- 1.5 What kinds of qualifications (e.g. specific training, previous specific judicial position, seniority, managerial experience etc.) are required to become president? (Please explain, for example, if training is mandatory or on a voluntary basis, is there training at all, and how much it affects the choice of the president). To be elected president of the court of first instance and the court of appeal, the candidate must meet the following criteria: have worked no less than four years as a judge in the courts of the same level or higher levels; must be assessed "very good" by the High Council of Justice for the last two assessed periods; haven't a disciplinary measure in force; have good organizational and management skills; must not be members of the High Council of Justice.
- 1.6 Are presidents selected among the judges of the same court, or they may or must have served in a different court before taking the position as court president. The President is elected among the members of the court.
- 1.7 Can the candidates, who applied for the position but did not get it, challenge the decision before a court/tribunal? The legislation does not expressly provide any provision. According the general provisions the challenge could be made to the Administrative Courts, considering that the decision of the High Council of Justice meets the criteria of an administrative act.
- 1.8 How often does it happen? (Please give a percentage based on data available or on your personal knowledge). I am not aware that a candidate has challenged the decision of the High Council of Justice for the election for President of the court.
- 1.9 Is additional training in management, or in other subjects, required after the judge has been selected as court president? No.
- 1.10 What is term of office for the president of court (please explain if there are limitations)? The term is 4 year.
- 1.11 How many times the same position of court president can be hold by the same person? The President can stay in office for 2 terms.

- 1.12 Which is the process to confirm presidents in their position (e.g. assessment of the first term served and then renewal)? The confirmation process is conducted through competition.
- 1.13 Under which circumstances can presidents be removed from their office before the expiration of their term? The president of the court of first instance and the appeal court are dismissed when they don't meet functional tasks according to legal provisions. The mandate of the president of the court of first instance and the appeal court president ends prematurely when: when resigns; reaches 65 years, retirement; sentenced by a court decision final for committing a crime; is dismissed; when it is physically unable to exercise the office for more than 3 months; When he/she is elected member of the High Council of Justice;
- 1.14 Who is in charge of the removal procedure, and how it works? Dismissal of the President of the court of first instance and of the court of appeal is made by the decision of the High Council of Justice, when is requested in writing by not less than 5 members of the High Council of Justice, the Deputy Chairman of the High Council of Justice or the Minister of Justice. End of the mandate of the President of the Court is declared by decision of the High Council of Justice, with a reasoned request of any member of the Council.
- 1.15 Can the president removed challenge the decision before a tribunal/court? Yes.
- 1.16 Are the decisions by the presidents shared/negotiated with the other judges or "boards" within the courts? No.
- 1.17 Do the local lawyers association or any other authority play a role in the decision making process carried out by the court's president? No.
- 1.18 Are the organizational decisions taken by the presidents supervised by any other authority (e.g. Ministry of Justice, Judicial Council, Supreme Court, other)? No.
- 1.19 Is there any extra remuneration for presidents, and how much is it in percentage of the regular judge's salary in the same court? The base salary of the president of the court of first instance is equal to 50 percent of the salary of a judge of the Supreme Court. On this base of 50% is given an additional wage of 10 percent. The basic salary of the president of the court of appeal is equal to 70 percent of the salary of a judge of the Supreme Court. On this base of 70% is given an additional wage of 10 percent.
- 1.20 Please add any critical issue or further information that you consider relevant for this section. I have nothing to add.

2. Tasks, functions, relations

- 2.1 Are the presidents of the courts adjudicating cases as the other judges or they have a reduction of their caseload fixed by the law or by practice? Presidents have 30% less files than the other judges.
- 2.2 Are the presidents involved in the selection and recruitment of the judges? (Please make a distinction, if applicable, between full-time/permanent judges, temporary judges, lay judges if it applies in your respective jurisdiction). No.

- 2.3 Are the presidents involved in the selection and recruitment of the court staff? Court staff is chosen by the President of the Court on the proposal of the Chancellor.
- 2.4 Do the presidents assess the work of the judges of the court? (If this is the case, please describe how often does it happen, what kind of procedure is followed, what are the consequences of this assessment, and if the assessment can be challenged by the judges before a tribunal/court). When the High Council of Justice makes assessments, the President of the Court, gives his opinion on the work of judges.
- 2.5 Are the presidents in charge of starting a disciplinary procedure against a judge? (If this is the case, please describe briefly the procedure and who is going to make the final decision about the charge). No.
- 2.6 Can, and under which circumstances, the presidents fire a judge or a court employee? Presidents cannot dismiss a judge. While court staff he/she can fire an employee in cases provided by law.
- 2.7 Which is the procedure of assigning cases to judges? Is there place for discretion of president of the court in this procedure? If yes, is it regulated by law or other kind of regulation? The procedure of appointing the files is conducted through electronic draw. President has no special discretion on this procedure.
- 2.8 Can presidents set priorities in the handling of the cases (e.g. family cases must be dealt with before contracts)? Yes, based in the unwritten rules.
- 2.9 Which are the circumstances that may allow presidents to retrieve cases from judges and re-assign them? There aren't provisions on this question. Reassigning of the case can occur only in circumstances prescribed by law as can be the judge resignation, dismissal of the case, etc, and can be done only by judges based in procedural Code provisions.
- 2.10 Do presidents decide over the composition of court's sections/division and over the composition of judges' panel? Yes.
- 2.11 Do presidents select and appoint judges who may coordinate/head a section/division of the court? Yes.
- 2.12 Can presidents delegate their functions to other judges? Yes, but only for cases expressly provided by law.
- 2.13 Are presidents supported in their tasks and by whom? The vice presidents of courts and the Chancellor.
- 2.14 Have presidents any supervision on the judgments delivered by other judges of the court? No.
- 2.15 Are presidents in charge of the uniform application of the law within the court, and in which way they carry out this function? No.
- 2.16 Do presidents set productivity and/or timeframes targets for their court? No.

- 2.17 Do presidents set productivity or timeframes targets for each judge or court staff? High Council of Justice can set targets for judges. While for the staff may be cases that the President set such conditions.
- 2.18 Do presidents monitor the length of judicial proceedings and what kind of actions they can undertake to improve the pace of litigation? Yes they can monitor but cannot interfere in the work of the judge.
- 2.19 What are the functions of presidents as far as the management of judges and court staff is concerned (i.e. setting working hours, authorising holidays, moving staff from one function to another, allowing extra-judicial activities etc.)? All actions relating to the good administration of work within the court are in competence of the President.
- 2.20 Have presidents any discretion in setting the remuneration (i.e. financial incentives) or other fringe benefits (please explain which one) of judges or court staff? No.
- 2.21 Which tasks presidents have in the appropriation of the court budget among the different courts? The task of the President is to address a draft budget to the Office of Administration of the Judicial Budget. After that the budget office management evaluates this project taking into account also the other criteria set by the law. So in this process they haven't a direct task or decision making because the budget is appointed by the Board of the OAJB on the proposal of the Office of Administration of the Judicial Budget.
- 2.22 Which tasks and how much discretion presidents have in the management of the court budget within the court? After the budget is allocated, the President has the discretion to use it according to the purpose for which it was given. In these phase the President has the main role. Can happen that during the implementation of the budget, the President decides that part of the funds, can be used for a purpose other than that for which it is approved.
- 2.23 Do presidents manage the court premises and layout? Yes.
- 2.24 Do presidents manage information and communication technology implemented in the court? Yes.
- 2.25 Do presidents have some autonomy about what kind of information and communication technology tools/application should be implemented in their court? Yes.
- 2.26 Are presidents really the managers of the court or they are supported in their functions by a board (please describe the composition) or by a court manager/administrative director? The President is also the manager of the court and in the exercise of his functions is supported by the chancellor of the court and the technical staff.
- 2.27 If applicable, please briefly describe the functions and the background of the court manager in comparison to the president of the court. Chancellor primarily exercises his powers in matters pertaining to judicial administration and organization of the administration. Chancellor appointed, is a lawyer, who has work experience of not less than five years in this profession. The court chancellor has the following competencies: appoints and dismisses staff of judicial secretariat and administrative and technical staff of the court; oversees the process of organizing and documenting the allocation of court

cases through the draw and signs litigation practice to judges; It follows the submission of completed case files in judicial secretariat, in accordance with the procedural deadlines provided by law; announces the list of licensed experts, according to relevant areas; supervises the discipline of employees of judicial administration; approves schedule of services to be fulfilled by the structures of judicial administration and sets the schedule for receiving the request from the people.

- 2.28 Please describe briefly the court manager selection process, if they serve for a limited term, and if the president can remove the court manager. Chancellors are appointed and dismissed by the Minister of Justice without any specific term.
- 2.29 Are presidents the "interface" with the media, and are they trained to do it? This process is mainly covered by the Chancellor and the Office of Public Relations.
- 2.30 Would you please briefly describe what kind of relations there are between presidents of the courts (first instance and appeal) and the president of the Supreme Court (court of last resort)? Court presidents mostly are unrelated to each other in the organization of work within the courts. They collaborate on issues related to the judiciary through various organizations that have been created for this purpose.
- 2.31 Are there other tasks of presidents of the courts in your country, which were not mentioned before? No.
- 2.32 Please add any critical issue or further information that you consider relevant for this section. I have nothing to add.

3. Accountability and discipline

- 3.1 What kind of accountability mechanisms (e.g. reporting, auditing, etc.) are in place for the presidents, and before which authority (e.g. Judicial Council, Ministry of justice, Supreme Court, internal board etc.)? Office of Judicial Budget annually audits the financial operations of the courts which are represented by the Presidents.
- 3.2 Do presidents have a different disciplinary responsibility in comparison to the judges? They may have administrative responsibility regarding the work of court administration but not for decision-making as judge.
- 3.3 Is there any special immunity for presidents? No.
- 3.4 Which criteria are used for the evaluation of presidents, how often, and by whom? For chiefs of courts of first instance and courts of appeal, the evaluation of human resources and professional commitments is made by the Inspectorate after they deposit their assessment materials. The High Council of Justice, in November of each year, determines courts, whose judges will be evaluated in the following year and the evaluation period.
- 3.5 Which are the consequences of such evaluation (e.g. ranking, promotion, admonition, removal, salary increase, any other consequence, etc.)? Positive assessments have an impact on advancement of judges in career but not on aspects of salary etc.

3.6 Please add any critical issue or further information that you consider relevant for this section. I have nothing to add.

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

- 4.1 Who appoints (e.g. Judicial Council, Ministry of Justice, Parliament, etc.) the president of the Supreme Court? The President of the Supreme Court is appointed by the Parliament of the Republic of Albania after the proposal of the President of the Republic.
- 4.2 Please describe briefly the selection procedure. Initially the President of the Republic announces vacancy at the end of the mandate of the outgoing President. Each of the current members of the court may apply for the position of President. In conclusion the President of the Republic issue a decree for the chosen name which is sent to the Parliament for approval.
- 4.3 What kind of qualifications (e.g. specific training in management, previous specific judicial position, seniority, etc.) are required to become president of the Supreme Court? (Please also explain if training is mandatory or on a voluntary basis, if any training is necessary at all, and how much it affects the choice of the president). The law does not require special qualifications, to be president of the Supreme Court, but they are an advantage for the applicant.
- 4.4 Does the president get a “confidence vote” (after or before their appointment) from other judges of the Supreme Court? No.
- 4.5 How long is term of office of the president of the Supreme Court (please explain if there are limitations)? The mandate of the judges of the Supreme Court is for 9 years. The mandate of the President of the High Court is calculated within the mandate of the judge, so the mandate of the President ends with the end of the term as a judge.
- 4.6 Can their mandate be renewed, and what is the process (e.g. evaluation of the first term served and then renewal)? No.
- 4.7 What are the tasks and functions of the president of the Supreme Court in comparison to the other courts' presidents? (in particular, please explain the role of the president, if any, in relation to: Judicial Council, Ministry of Justice, legislative power, budget of the judiciary). Compared with the presidents of courts of first instance and the appeal have greater powers. He/she is the President of National Judicial Conference. The President of the Supreme Court is ex officio member of the High Council of Justice, President of the Office of Judicial Budget, and President of the Board of the Magistrate School. The President decides on the judicial colleges, provides the administrative structure and appoints and dismisses the administrative staff, President of the Executive Committee of the National Judicial Conference.
- 4.8 Please add any critical issue or further information that you consider relevant for this section. I have nothing to add.