

Questionnaire for the preparation of the CCJE Opinion No. 19 (2016):

“The role of court presidents”

## Answers GERMANY

### 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 German judicial system comprises three types of courts: Ordinary, specialized (administrative, labour, social, fiscal, and patent law) and constitutional courts. The ordinary courts are organized in four tiers, each of increasing importance. Local courts (*Amtsgericht*), regional courts (*Landgericht*), regional courts of appeal in the states (*Oberlandesgerichte der Länder*) and the Federal Court of Justice (*Bundesgerichtshof*, here defined as Supreme Court). Local and regional courts are first instance courts.

Regional courts and larger local courts have a president. There are 24 courts of appeal and 777 first instance courts, i.e. 661 local courts (*Amtsgerichte*) and 116 regional courts (*Landgerichte*). These are the most recent official data (*Statistisches Bundesamt*), published in 2013.

- 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?)

In most of the *Länder* court presidents are appointed by the government (cabinet decision), in general by the (State) Minister of Justice. There is no distinction between the presidents of the courts of first instance and of the courts of appeal.

In all of the *Länder* a judicial staff council (*Präsidentialrat*) has to be heard before the government decides on the appointment; the government can, however, overrule the vote of the staff council. In a substantial number (about half) of *Länder* also the consent of a parliamentary committee is required (usually on the basis of a proposal of the Ministry of Justice). As a rule, concurring votes of the committee and the Ministry of Justice are necessary; however, in some of the *Länder* where parliamentary committees are involved, the committee may elect the candidate from among the applicants and the government has to appoint the

**person elected. Decisions and/or proposals are largely based on merits, i.e. the results of individual evaluation and experience in court administration.**

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

**Presidents do not get a “confidence vote” (after or before their appointment) from other judges of the court.**

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

**There is an official job posting of the president’s position in the respective official gazette. Each person fulfilling the requirements can apply. The Ministry of Justice examines the applications. The candidate best fitting and showing the best qualifications concerning the criteria of the job posting will be chosen. In this respect we have the same selection process as for all other judges. Legal basis for this process is to be found in the (federal) constitution which, in article 33, prescribes that every German citizen has equal opportunity to access to official positions according to his/her aptitude, ability and professional performance.**

- 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).

**As the president is as well in charge of judicial work there is no difference between judges and presidents regarding experience in judiciary.**

**Additionally, for becoming president a legal and factual qualification is required. In general presidents must have experience in the administration of courts, if possible in different positions/tasks. They should have been part of the administrative organisation of a court before. Presidents have often previously been vice presidents of a higher court or have worked in assignments in the Ministry of Justice.**

**With respect to the demands in court management leadership qualifications are required such as: ability to adapt to criticism, ability to embrace new legal developments, flexibility, ability to delegate, ability to work in teams and to cooperate in those, ability to promote judges and staff, ability to motivate, ability to cope with conflicts and to solve those, ability to work in a structural way.**

**Education/training in institutional management is not mandatory, but in practice a person will normally be selected who has gained significant experience in various fields of court administration. On a voluntary basis there is education/training in management provided.**

- 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.

**In general presidents of courts are not selected from the judges of the same court because they are not qualified according to the conditions required and because, generally, there is a policy to bring in the head of a court from outside in order to avoid controversies among different groups of judges of the court. See also answer 1.5.**

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

**Decisions on appointments are subject to judicial review, although, in case of a vote of a parliamentary committee, it is in practice difficult to challenge it, unless a significant difference in qualifications of candidates can be shown.**

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

**It happens quite rarely regarding the position of a president. I remember one case in North-Rhine-Westphalia during the last 15 years. The case concerned the appointment of the president of the court of appeals in Cologne which, because of legal proceedings, was delayed for about 18 months until the appointment finally took place in 2005; in this case the candidate of the government was appointed in the end. A more prominent case took place several years later in Rhineland-Palatinate. There, the appointment of the president of the court of appeals in Koblenz had been challenged by a contender. After several decisions of administrative courts and of the (federal) Constitutional Court, the (federal) supreme administrative court finally ruled that the appointment of the president had been unlawful. As a result, he lost his position as president of the court of appeal which he had occupied for more than two years. In the course of events, the other applicant was appointed president. The judge who lost his position could not return to his previous position as president of the social security court of appeal of Rhineland-Palatinate because another judge had meanwhile been appointed to this position. The matter was solved by a political compromise; the ousted president agreed to take a position in the ministry of justice instead. The dramatic consequences of this case gave rise to a controversial discussion on the legal consequences. On the other hand, the case shows how effective judicial control of the appointment process can be. Applications for judicial control are frequent with respect to higher purely judicial functions, e.g. in the federal supreme court.**

- 1.9 Is additional training in management, or in other subjects, required after the judge has been selected as court president?

**There is no requirement of training in management or in other subjects after the appointment/selection. There will be – on a voluntary basis – an introduction by the predecessor. There is, however, a wide offer of training programmes for court presidents.**

- 1.10 What is term of office for the president of court (please explain if there are limitations)?

**There is no term of office. Once appointed presidents of courts hold their position until retirement. Generally speaking they get appointed when they are about 50 - 55 years old, so they still have about 10 - 15 years of office before retirement.**

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

**See answer 1.10**

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

**See answer 1.10**

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

**See answer 1.10. There is, of course, the possibility to remove a court president in case of grave disciplinary misconduct. The procedure applicable is the same as for all judges. Dismissal is only possible on the basis of a court decision of the special judicial service court (*Richterdienstgericht*)**

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

**See answers 1.10 and 1.13; the disciplinary action can be initiated by the ministry of justice. What follows is a regular court proceeding by the (independent) judicial service court. As far as I know, no such proceeding has ever been initiated with respect to a court president.**

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

**See answers 1.10 and 1.13; there is also an appeal against a decision of the judicial service court and an appeal as of law to the federal Supreme Court.**

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

**The president is usually the sole person responsible for the decisions given to the competence of the president by law. Generally there is no such thing as a deciding board in matters of the administration of the court.**

**Presidents have an administration department, in which other judges of the court work on certain administrative tasks and prepare the president's decisions allocated by law (e.g. staff matters, budget administration, housing, information technology, complaints management etcetera). These judges assist the president, however they do not decide in their own right in administrative matters. If the president himself is prevented from deciding a matter or cannot attend a meeting the vice president (as his deputy and legal representative) will act in place of him. The vice president is also a judge and a member of the administra-**

tion department. He, too, assists in the decision making of the president but without deciding in his own right.

It is, however, quite common that presidents delegate certain matters to the responsibility of the vice president or to heads of the departments of the court administration. In larger court districts, this is necessary and tradition especially with respect to everyday business.

Usually some decisions (i.e. the more important matters) of the president are taken after discussion and participation of some or all members of the administration department.

In certain cases other committees take part in the decisions of the president, especially concerning personnel decisions. Here, it may be obligatory to include staff councils with respect to non-judicial staff (*Personalrat*) and also with respect to judicial staff (*Richterrat*). The judiciary council (*Präsidialrat*) is only involved in decisions with respect to judicial staff at the level of the ministry (e.g. promotions).

All courts also have a presiding council (*Präsidium*). This body has neither a function of advice nor a function of support with respect to administrative matters although, in practice, court presidents quite often consult the presiding council also in matters of the administrative prerogative of the president. Within its competence, which is limited to questions of allocating judges to panels and of setting up rules for the allocation of cases to judges, the presiding council decides autonomously, without any influence of the president. The presiding council is elected by all judges of the court. This is issue of the principle of judicial independence. The president is a born member of the presiding council. He/she would normally make proposals to the council with respect to allocation of judges and cases but the council is free to make up their own mind in these matters.

- 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?

The local lawyer association or any other authority do not play a role in the decision making process carried out by the court's president. On the other hand, court presidents are well advised to keep in touch with these bodies; quite often court user satisfaction programmes are being used as a basis for decisions at the administrative level.

- 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)?

Court presidents, in their administrative function, are part of an administrative hierarchy which starts at the local and regional level, goes through the presidents of courts of appeal and ends at the ministry of justice. The presidents of the courts of appeal have a reporting obligation to the Minister of Justice. In the same way, the presidents of the courts of first instance have a reporting obligation to the presidents of the respective court of appeal. This official channel is obligatory for all administrative issues (for example the use/spending of the budget, claims in damages, personnel issues, statistics). The Minister of Justice or the president of the court of appeal has the power to issue instructions – in administrative matters.

- 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 remuneration for presidents is higher than the remuneration of the judge's regular salary in the same court. The percentage is about 20.**

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

**No further comments.**

## **2. Tasks, functions, relations**

- 2.1 Are the presidents of the courts adjudicating cases as the other judges or they have a reduction of their caseload fixed by the law or by practice?

**They are adjudicating cases on a reduced basis by law (assignment of cases).**

- 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).

**As far as recruitment of judges and/or administrative personnel there exist differences among the *Länder*. In North-Rhine-Westphalia, the presidents of the court of appeal appoint young career judges, normally after a selection process where members of the judicial staff council (Richterrat) are also involved. Presidents evaluate the work of judges and make proposals for promotions. There is no distinction between full-time/permanent and part-time judges.**

**Recruitment of lay judges differs according to the respective positions (commercial cases, criminal cases, special courts). Presidents of the courts of appeal and president of the first instance court are involved in the recruitment of lay judges.**

- 2.3 Are the presidents involved in the selection and recruitment of the court staff?

**In North-Rhine-Westphalia, presidents recruit all the support staff (including the judicial officers).**

- 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).

**All judges are regularly assessed (evaluated) in their work. These evaluations are the obligation of the respective court president, i.e. judges of regional and local**

**courts are, as a rule, evaluated by the president of the regional court whereas judges of a court of appeals are evaluated by the president of the court of appeal. Details have been reported in preparation for opinion 17.**

- 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).

**Court presidents are in charge of starting a disciplinary procedure against a judge. The procedure is different in the different states (*Länder*). Concerning smaller disciplinary actions (issue a caution) the president can decide and act on his own. In other cases, for example in the case of reducing the remuneration, removal from office, a special court decides (disciplinary court for actions against judges - *Richterdienstgericht*).**

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

**No they can't. See answer 1.13 and 1.14**

- 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 German constitution provides for the so called "legal judge" system to guarantee the impartiality of the decision and avoid "judge shopping". Each case is assigned to a judge, or to a panel, based on pre-established criteria. An independent body, the presiding council (*Präsidium*), consisting of judges elected by their peers, decides on a general yearly plan the assignment of cases in order to avoid arbitrary assignments. See also answer 1.16.**

**Presidents still perform some judicial functions, even though the managerial role takes up the largest part of their activity, depending on the size of the court district. In this respect, i.e. in his judicial capacity, the president is subject to the decision of the presiding council, i.e the presiding council can assign cases to the president. He is, however, by law free to choose which panel he wants to preside over (this is to avoid that the presiding council assigns him e.g. to preside over a criminal panel with lengthy and time-consuming trials with the consequence to prevent him from fulfilling his administrative duties).**

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

**Presidents are prohibited by law to set such priorities of cases to be dealt with. This is considered as the individual responsibility of each judge. Even if judges agree on certain rules of practice (e.g. in child maintenance cases) such rules are at best persuasive authority and do not bind the judges of the court. Consistent interpretation within the court can only be encouraged by promoting joint discussion among the court judges.**

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

**Due to the constitution principle of the “legal judge” it is never admissible to retrieve a single case from a judge and re-assign it. Presidents can initiate to retrieve a case only in really exceptional circumstances (e.g. if, unexpectedly, the workload of one panel exceeds that of other panels). The presiding council (*Präsidium*) is responsible for such a reassignment.**

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

**Court presidents cannot influence the composition of the panels that will deal with specific cases. See also answers 1.16 and 2.7.**

- 2.11 Do presidents select and appoint judges who may coordinate/head a section/division of the court?

**Concerning judicial issues the president has no right to distribute tasks. The president can only choose certain judges to work in the administration department and to support him in his administrative tasks; he has, however, consult the presiding council prior to such decisions.**

- 2.12 Can presidents delegate their functions to other judges?

**The presidents are supported in their administrative work by the judges and the judicial officers, especially the court manager. Often, they prepare the decision of the president. It may be possible that these persons obtain signatory powers for these procedures. In so far there is the possibility to delegate tasks. See also answer 1.16.**

- 2.13 Are presidents supported in their tasks and by whom?

**Concerning the administrative tasks the president gets support by the administration, which prepares his decisions. Each administrative division is headed by judges of his court or by the court manager (*Geschäftsleiter*). The president can influence the choice of these persons.**

- 2.14 Have presidents any supervision on the judgments delivered by other judges of the court?

**Presidents do not have any supervision on the judgements delivered by other judges of the courts. Each judge is independent and impartial. There is only an individual evaluation of judges which ends at the age of 55. Since presidents get their position at about that age, they, as a rule are not formally evaluated themselves. However, there is a general supervision by the presidents of the court of**

appeal and by the Ministry of Justice on the work of the courts presidents. See also answers 2.4 and 1.18.

- 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?

Presidents are not in charge of the uniform application of the law within the court. Each judge is independent and impartial. There is no supervision of the president regarding judicial decisions of the judges of his court. See also answer 2.8

- 2.16 Do presidents set productivity and/or timeframes targets for their court?

They do not set productivity and/or timeframes targets for their court. There has been some discussion about so-called target agreements or target contracts in Germany. Unanimous opinion is, however, that such target contracts with respect to judicial performance or “productivity” would be contrary to general and individual independence and therefore would have to be regarded as unconstitutional. This does not apply to administrative matters; e.g., a target agreement between the ministry of justice and the president of a court of appeal with respect to the number of computers to be set up in a certain time frame would be admissible.

- 2.17 Do presidents set productivity or timeframes targets for each judge or court staff?

They do not set timeframes for each judge or court staff. With respect to non-judicial staff, admissibility of targets would depend on the nature of the position held by the members of staff: If their work was essentially also covered by judicial independence (as is the case with court clerks – *Rechtspfleger* – who have to decide on specific issues like costs, probate, registry cases) targets would not be acceptable. With respect to other members of staff like secretaries, registrar etcetera, this would not be contrary to the principle of independence because their work is not protected by this principle; any such (principally admissible) target agreement, however, would have to be endorsed by the respective staff council (*Personalrat*) under general regulations.

- 2.18 Do presidents monitor the length of judicial proceedings and what kind of actions they can undertake to improve the pace of litigation?

The length of proceedings could be reviewed in context of legal reviews, i.e. on appeal, e.g. if a criminal trial has been unduly delayed. For matters with longer processing time it will be determined if factual reasons for that duration exist.

However, the president cannot initiate procedures or measures to accelerate individual cases. He cannot take any measures to speed up the proceedings. What prevails is the independence of the legal judge. This is guaranteed in the Constitution. The only “tool” available for the president is to approach the presiding council (*Präsidium*) with a view of relieving a judge or a panel from some of their caseload in order to enable them to deal with a backlog.

In the rare case that proceedings are not being dealt within an appropriate time frame and that such delays have been caused by judges neglecting their duties without any objective reason, there may be a basis for disciplinary action (*Dienstaufsicht*). The president may initiate such proceedings because of neglect of duty but for disciplinary measures it would have to be established that there was gross misconduct. Generally speaking the judge is free to decide on the priority of individual cases and the order in which to deal with them as well as the amount of time he/she allocates to the individual case. This is the efflux of his/her judicial independence. Judicial service courts, however, have held that judges should not let cases “run out of time”, e.g. by letting a criminal case reach the limitation period because the judge decided to deal with other cases instead. In any case, a president would have to be prepared to defend before the judicial service court (*Richterdienstgericht*) any steps taken against a judge because the mere allegation that his/her independence has been impaired by the president is sufficient to start these review proceedings. In practice, judges are very conscious of their independent status and quite frequently ask the judicial service court for such review.

- 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.)?

**The president can control and shape the working conditions of the judges and the court staff only in a very limited way.**

Working hours and holidays are settled by law. Judges do not have fixed working hours. Holidays amount to about 30 working days per year. Judges (and other staff) have to approach the administration for having specific holiday periods assigned to them. With respect to judges, this is the responsibility of the president (or a judge to whom the president has delegated this task). Specific wishes for holidays may be refused if there are sufficient grounds (e.g. an ongoing trial which cannot be interrupted). The president can only influence the division of work in the hierarchically organized administrative department, generally only in cooperation with the staff association/committee (*Personalrat*) according to the rules of relevant legislation.

- 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?

**Salaries of judges and court staff differ in the *Länder* but are invariably either regulated by law or (in case of employees) by general agreement between the government and the trade unions. Court presidents have no power or discretion with respect to financial and other incentives or benefits.**

The Ministry of Justice of each state (*Länder*) is responsible for financing and coordinating the administration in the justice field. Presidents of first instance courts prepare the court budgets; they submit it to the president of the court of appeal, who then sends it to the Ministry of Justice. Since Germany is a federal state, some *Länder* grant some more discretion to the presidents of the court of appeal whose budget is directly allocated by the Parliament to the court through

the Ministry of Finance. In some *Länder*, presidents do manage the administration of the allocated budget, court space etcetera, while in some other the Ministry of Justice is in charge of it. There is, however, no discretion with respect to financial benefits to court staff.

- 2.21 Which tasks presidents have in the appropriation of the court budget among the different courts?

**The Ministry of Justice allocates a part of the budget to the court of appeal. The court of appeal administers the staff budget and administers some of the items of the „other expenses“ and assigns a part to the courts below. The exact value is determined according to their applications and their needs as they have been accepted in the budget process. In some of the *Länder* (North-Rhine Westphalia), the presidents of the courts of appeal also administer the staff budget. In doing so, the respective department in their administration is, however, bound to the number of staff positions established by parliament and also bound to the amount of salaries to be paid. Therefore, what remains in terms of flexibility is to decide whether there is a sufficient budget to pay salaries for open positions. In these limits the presidents of the C.A. can decide whether to fill a position or not.**

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

**Within the budgetary limits the presidents are free to spend the allocated budget as long as legal commitments and duties are met. All expenses have to be reported continuously, so that the court of appeal and the Ministry of Justice can verify if overall budget restrictions are met.**

- 2.23 Do presidents manage the court premises and layout?

**The court presidents can invest parts of their budget to improve their premises (renovating court rooms, new paintings etc.). However, this is usually restricted to certain amounts within the limits of the budget.**

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

**The regulations differ from state to state. In North-Rhine-Westphalia most presidents manage information and communication technology implemented in courts. They receive support from the technical personnel and the administrative personnel. Some of them may be located in the own building, others may be located in a central institution somewhere else. Most of the *Länder* have some kind of central agency which deals with general questions of information technology (e.g. introduction of new systems, new hardware, new software, negotiating general contracts with provider etcetera). Responsibility at the local and regional level, therefore, is generally restricted to local support.**

- 2.25 Do presidents have some autonomy about what kind of information and communication technology tools/application should be implemented in their court?

**Presidents dispose only some autonomy concerning the kind of information and communication technology tools to be implemented in the court. The communication technology tools are standardized in the state. In general, state wide standardized hard- and software is used. New acquisitions are being made by a central IT-acquisition center in North-Rhine-Westphalia. Before entering in use, new software products have to be cleared by a special state institution (justice validation center).**

- 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?

**Germany does not really know the position of court manager in the sense it is established, e.g. in the United States, however German courts do have the position of general manager (*Geschäftsleiter*) in every court. That position was established many decades ago.**

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

**The general (court) manager is in charge of the non-judicial staff and all the related activities. Unless the court president has delegated the tasks to a department headed by a judge, the general (court) manager deals with the day-to-day operations, with the administration of the budget of the court, and also with information and communication technology as far as the court is concerned, since the general policy is in the hands of the Ministry of Justice. The general (court) manager has no influence on case assignment, case priorities, and court rules. Disciplinary powers are held by the president. The general (court) managers of the regional courts have supervision and hierarchical powers over the non-judicial personnel of the local courts within their territorial jurisdiction. At the level of the courts of appeal, staff matters of the district are generally dealt with a special department whereas the general (court) manager of the court of appeal usually is only responsible for the court itself.**

- 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.

**General (court) manager (*Geschäftsleiter*) are appointed by the presidents of the courts of appeal, after a selection process based on merit. They have the status of civil servants. Usually, they are recruited from among court clerks with special experience in court administration; there is no separate course of study for court managers. Usually flexibility, versatility and ability to manage staff are decisive elements for the selection process. The function is strictly administrative, under the hierarchic control of the court president; in consequence there is no confidence vote by judges although in practice the presiding council of the court may be consulted.**

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

**Presidents are representing the court in public. They are in so far the "interface" with the media. In regional courts and courts of appeal, there will be one person among the administrative body of the court (a judge) who is in charge of communication with media. These "media spokespersons" invariably have undergone special training in communication matters. Court presidents are well advised not to go before the press in person; as a rule, media information happens via the spokesperson.**

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)?

**There is no specific relation between the presidents of the courts and the president of the Supreme Court. The presidents of the (ordinary) courts of appeal and of the (federal) Supreme Court meet once a year to discuss general matters. Similar meetings take place at the level of the special courts. These discussions never touch questions of individual cases or matters pending in court.**

2.31 Are there other tasks of presidents of the courts in your country, which were not mentioned before?

**No further comments.**

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

**No further comments.**

### **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.)?

**The presidents of the first instance courts report to the presidents of the court of appeal. The president of the court appeal reports to the Ministry of Justice.**

3.2 Do presidents have a different disciplinary responsibility in comparison to the judges?

**The president has the same disciplinary responsibility as normal judges. Concerning administrative issues he does not benefit of the principle of judicial independence. Ultimately, he therefore disposes the same normal disciplinary responsibility as the other judges.**

3.3 Is there any special immunity for presidents?

**No, there is no immunity for presidents of court.**

- 3.4 Which criteria are used for the evaluation of presidents, how often, and by whom?

**Individual evaluation of judges ends at the age of 50 or 55. Since most court presidents have reached that age when they are appointed, an individual evaluation does not take place. Voluntary evaluations – as part of a general court evaluation (staff satisfaction surveys, court user surveys etc.) – are increasingly common.**

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

**See Answer 3.4. Voluntary evaluation has no (legal, official) consequences.**

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

**No further comments.**

**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 (federal) government decides, the federal President appoints.**

- 4.2 Please describe briefly the selection procedure.

**The judges of the Supreme Court/Federal Court of Justice (*Bundesgerichtshof*) are nominated by the Federal Government (Minister of Justice) in cooperation with an election committee, the General Council of Judiciary (*Richterwahlausschuss*). The Federal President then formally appoints them.**

**The General Council of Judiciary includes the state ministers of justice and 16 independent members, which are elected by the federal parliament. The Federal Ministry of Justice or the members of the General Council of Judiciary can suggest candidates. Formal requirements are German nationality and a minimum age of 35. The General Council of Judiciary decides in a secret vote and takes the decision with a majority of the given votes. In practice, prior to the voting, agreements between the Länder, the government coalition and the opposition are sought in order to secure a sufficient majority for a “bundle” of candidates from government and opposition.**

**The president of the Supreme Court, in principal, is appointed by the federal government. If he/she is not yet a judge of the Supreme Court, before being appointed he would first have to be elected to the court in the manner described**

**above. In that case the candidate is usually president of a court of appeal or disposes a leadership position in a Ministry of Justice.**

- 4.3 What kind of qualifications (e.g. specific training in management, previous specific judicial position, seniority, etc.) are required to become president of the Supreme Court? (Please also explain if training is mandatory or on a voluntary basis, if any training is necessary at all, and how much it affects the choice of the president).

**There is no difference between the president of the Supreme Court and the presidents of a court of appeal regarding the kind of qualification and training. The president should have experience in court administration or other administration experience in the ministry. He should have a high reputation as a senior judge.**

**There is no special training in management. An introduction and preparation for the work is usually given by the predecessor.**

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

**There is no official “confidence vote” from other judges of the Supreme Court. The other judges of the Supreme Court are not involved in the process of election and appointment. The president of the Supreme Court is allowed to give an opinion on the suggested candidates of the judges of the Supreme Court. These opinions are not binding. The presidential council (*Präsidentialrat*) of the Court, consisting of judges elected by their peers, has to be consulted prior to election/appointment. The president of the Supreme Court is allowed to give an opinion on the suggested candidates of the judges of the Supreme Court. These opinions are not binding.**

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

**There is no term of office for the president of the Supreme Court. There is no difference to other presidents of courts. He is appointed until retirement.**

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

**See answer 4.5.**

- 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).

**In general, the tasks and functions of the president of the Supreme Court are the same as the functions of other presidents of courts. Besides his judicial tasks (he is presiding one chamber of the court) he is responsible for the administra-**

tion of the court within the budget of the court. Regarding to this function he has to report to the Federal Minister of Justice (*Bundesjustizminister*).

The president of the Supreme Court has no judicial territory and hence is not responsible for the administration of justice in court districts of the *Länder*. He/she is not the chief of all judges. Therefore, his/her administrative functions show more emphasis on representation of the judiciary.

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

**No further comments.**