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CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

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

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

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

Introduction

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

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

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

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

1.1 How many presidents of first instance courts and how many presidents of the court of appeal there are in your country?

In Bulgaria there are 108 Presidents of first instance courts, 6 Presidents of courts of appeal, 22 Presidents of regional courts – which act both as first instance and second instance courts, 28 Presidents of administrative courts.

- 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?)

All Presidents of courts (except Presidents of Supreme Court of Cassation and Supreme Administrative Court) shall be elected by the Supreme Judicial Council.

President of court (except President of Supreme Court of Cassation and President of Supreme Administrative Court) shall be a judge, a prosecutor or an investigating magistrate (former Presidents of Supreme Court of Cassation were an advocate and an university law professor).

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

No. There is no provision for a confidence vote - but it had happened that before the election of a candidate judges/majority of the judges of the court concerned had addressed the Supreme Judicial Council stating that they support a candidate and explaining why.

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

1/ opening of the procedure/publication in State Gazette and on Supreme Judicial Council's internet site

- the election procedure (concerning candidates for administrative heads, excluding those for Presidents of Supreme Court of Cassation and Supreme Administrative Court) shall be launched by Supreme Judicial Council's decision, containing vacancies information;

- the decision shall be published in State Gazette and on Supreme Judicial Council's internet site within one to three months before the term of office expires;

- all candidates shall lodge applications within 14 days following the publication – including curriculum vitae, conceptions, declarations, etc.

2/ public announcement of candidates and documents

- the candidates and the documents lodged by them shall be announced /published on the Supreme Judicial Council's internet site;

- magistrates, NGOs, universities, scientific organizations, candidates' colleagues may lodge with the Supreme Judicial Council opinions - on the candidates' moral and professional characteristics - and questions – to which they shall answer in written;

- magistrates from the courts with administrative heads vacancies may initiate hearing of the candidates and then lodge their opinion with the Supreme Judicial Council;

- the opinions and questions received as well as candidates' written answers shall be published on the Supreme Judicial Council's internet site;

3/ examination of candidates' professional characteristics (by Supreme Judicial Council Attestation and Proposals Commission)

4/ examination of candidates' moral characteristics (by Supreme Judicial Council Professional Ethics and Prevention of Corruption Commission)

5/ interview with Supreme Judicial Council/presentation of conceptions

- the Supreme Judicial Council shall carry out interviews with all candidates – during which they shall present their conceptions;

- after all interviews Supreme Judicial Council members may express their opinion on the presentations;

6/ election by secret vote /majority 50% +1 of Supreme Judicial Council members/

- 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).

The only requirements, prescribed by law, are for number of years of legal service, high professional and moral characteristics and a positive overall score "very good" or "good" from the last periodic appraisal. Continuing (as well as initial) training of judges is organized by National Institute of Justice and participation in it is taken into consideration during appraisal.

- 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.

There is no requirement for service in the same court but the selection is practically from amongst the judges of that court.

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

Yes. The decision may be appealed against before Supreme Administrative Court.

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

Not often (last year two appeals against two successive Supreme Judicial Council's refusals to elect a candidate as a President of Sofia Court of Appeal were lodged with the Supreme Administrative 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 of office for President of court (excluding Presidents of Supreme Court of Cassation and Supreme Administrative Court) is 5 years.

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

The President may be reappointed once again (e.g. the position can be held two successive mandates).

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

The same procedure as for initial appointment. The assessment of the first term served is part of the regular appraisal procedure of an administrative head/of the examination of professional characteristics phase of the election procedure.

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

Upon attainment of the age of 65 years; submission of resignation; entry into force of a sentence imposing a penal sanction of deprivation of liberty for a premeditated offence; sustained actual inability to discharge the duties thereof for a period exceeding one year; grave breach or systematic dereliction of the official duties, as well as actions damaging the prestige of the judiciary; where he has been relieved from office as a judge, prosecutor or investigating magistrate on the abovementioned grounds (Art.175 Judicial System Act, Art.129 (3) Constitution).

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

Supreme Judicial Council, following special procedure (including disciplinary proceedings).

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, but in some courts Presidents give self-government to judges regarding certain questions and then adopt their decisions (ex. appointment of heads of divisions).

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, but Supreme Judicial Council takes into consideration Presidents of courts proposals/opinions on certain matters (ex. number of court clerks – depending on the relevant workload).

1.18 Is there any extra remuneration for presidents, and how much is it in percentage of the regular judge's salary in the same court?

Yes, there are provisions for additional remuneration. The amount varies from court to court (Presidents of courts remuneration is calculated as the salary of a judge of the relevant court is multiplied by certain coefficient /depending on the type of the court/ determined by Supreme Judicial Council) and the average percentage is 18%-20% of the regular judge's salary in the same court. The remuneration of President of the Supreme Court of Cassation and President of the Supreme Administrative Court is defined in law (Article 218 Judicial System Act) – they shall have a basic monthly remuneration equal to 90 percent of the remuneration of the President of the Constitutional Court.

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

No.

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 of courts have a reduction of their caseload.

- 2.2 Are the presidents involved in the selection and recruitment of the judges? (Please make a distinction, if applicable, between full-time/permanent judges, temporary judges, lay judges if it applies in your respective jurisdiction)

No.

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

Yes.

- 2.4 Do the presidents assess the work of the judges of the court? (If this is the case, please describe how often does it happen, what kind of procedure is followed, what are the consequences of this assessment, and if the assessment can be challenged by the judges before a tribunal/court).

No. Supreme Judicial Council is in charge of appraising the performance of judges. However the Presidents of courts (as well as Supreme Judicial Council Proposals and Attestation Commission and Auxiliary assessment commissions (composed by judges from the relevant upper court)) are involved in this process - the Presidents of the courts where the judges who are evaluated work shall give opinion on their activity with regard to the appraisal to the Supreme Judicial Council; their opinions constitute Appendix II of the Appraisal form (Article 30 (2) Judicial System Act).

- 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).

Yes. Presidents of Courts are in charge of lodging with Supreme Judicial Council a proposal for disciplinary sanctions - reduction of basic remuneration by 10 to 25 percent for a term of 6 months to two years; demotion in rank or position at the same judicial system body for a term of one to three years; disciplinary relief from office. The sanction is imposed following a special disciplinary procedure by the Supreme Judicial Council – whose decision can be appealed against before a court (Supreme Administrative Court).

Presidents of Courts are also authorized to impose (by way of reasoned orders) the two lightest sanctions – reprimand and censure. They shall notify the Supreme Judicial Council of the sanction imposed, forwarding the file and the order immediately after its issuance. The Supreme Judicial Council, within up to one month of receiving the order, may uphold, repeal or modify the sanction imposed in pursuance of the general procedure. The President's order for the imposition of a disciplinary sanction may not be separately appealed before court.

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

The President of a court cannot fire a judge. The President may dismiss employees under general grounds set in Labour Code (for example, for violation of labour discipline)

2.7 Which is the procedure of assigning cases to judges? Is there place for discretion of president of the court in this procedure? If yes, is it regulated by law or other kind of regulation?

Cases are assigned to judges at random by automatic computer system.

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

No (priorities are set in law).

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

Presidents do not have such a possibility. A case may be re-assigned to another judge only if the judge who had received it excludes himself/herself as their participation is inadmissible on grounds provided in law. In that case the re-assignment is carried out again by the automatic computer system at random.

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

Yes.

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

The deputy of the President shall be appointed by the Supreme Judicial Council at the proposal of the President. Chairpersons of divisions at the court shall be appointed by the relevant President.

2.12. Can presidents delegate their functions to other judges?

Yes.

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

Yes. Presidents have some administrative support. The extent of that support varies from court to court – court administrator, administrative secretary, deputy administrative head/s, heads of divisions, press attaché/press office, etc., special administration at Supreme Court of Cassation and Supreme Administrative Court (secretary general, administrative secretary, president's cabinet, press office, President's assistant).

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

No. Each judge is independent and impartial. There is no supervision of the Presidents regarding judicial decisions of the judges of their courts.

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. Presidents are not in charge of the uniform application of the law within the court - except the Presidents of Supreme Court of Cassation and Supreme Administrative court. The Presidents of Supreme Court of Cassation and Supreme Administrative court shall make requests for the adoption of interpretative judgements

and of interpretative decrees by their respective courts - which, under Articles 124-125 of Bulgarian Constitution, shall exercise supreme judicial supervision as to the accurate and equal application of the laws by all courts/in administrative justice.

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

No.

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

No.

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

Yes. Presidents monitor the compliance with the time limits prescribed by law and the length of judicial proceedings. In case of backlog cases/lack of judgements within time limits/normal standards, they undertake due steps – discuss the delay with the judges in question, warn them to issue the delayed act, initiate disciplinary proceedings. In case of other length of proceedings difficulties the problems are discussed with the heads of the divisions/judges hearing the particular type of cases and, If necessary, resources are reallocated or new appointments (permanent or temporarily) are sought.

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 of the court authorises holidays for the judges and court staff, determines the operating functions of court staff, etc. The personal orders of the President of the respective court concerning the work organisation of the court shall be binding on all judges and clerks thereat.

2.19. Have presidents any discretion in setting the remuneration (i.e. financial incentives) or other fringe benefits (please explain which one) of judges or court staff?

No.

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

They state the needs of the particular court before Supreme Judicial Council – which shall discuss the draft budget of the Judiciary, as proposed by the Minister of Justice, submit it to the Council of Ministers for incorporation in the draft State Budget of the Republic of Bulgaria Act and control its implementation.

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

The Presidents shall provide for the overall organisational and administrative direction of the courts - including the due and in compliance of law spending of the allocated resources - and represent them. The Supreme Judicial Council shall organise the implementation of the Judiciary budget (the courts, excluding Supreme Court of Cassation and Supreme Administrative Court, do not have their own budget and their Presidents have a very limited discretion, restricted by the fixed costs components as salaries, etc.) and shall

draw up an annual report on its cash implementation based on a full budget classification (Art.365-366 Judicial System Act).

2.22 Do presidents manage the court premises and layout?

No. The Ministry of justice is in charge of court buildings and security.

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

No. The information technologies in courts are provided by Supreme Judicial Council and paid by the budget of the judiciary.

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

No (they may well state the needs of their Court/the weak points of currently used tools).

2.25 Are presidents really the managers of the court or they are supported in their functions by a board (please describe the composition) or by a court manager/administrative director?

Presidents are supported in their functions by a court administrator and administrative secretary or by an administrative secretary who manage the court administration.

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

The court administrator and the administrative secretary undertake the operative management; they deal with administrative matters (plan, organise and manage the clerks of court; be in charge of managing administrative business at the respective court; introduce programme applications for the purposes of long-term planning, budget policy, finance, automation, equipment supplies and public relations – Art.357 Judicial System Act).

The President is a judge and is adjudicating cases as the other judges.

They are appointed differently and are subject to different rules.

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

The appointment of a court administrator and an administrative secretary shall take place after a competition organised by the administrative head of the relevant judicial system body. The competition shall be conducted by a commission comprised of three to five members, appointed by a written order by the administrative head of the relevant judicial system body for which the competition has been announced (Art.357 Judicial System Act).

The President may remove court administrator/administrative secretary under general grounds, set in Labour Code.

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

No. Courts have a special officer – press attaché or a press office.

2.30 Would you please briefly describe what kind of relations there are between presidents of the courts (first instance and appeal) and the president of the Supreme Court (court of last resort)?

They are all independent of each other.

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

Yes. Presidents of courts shall:

- convoke and head the general assembly of the court;
- organise the publication of effective acts on the website of the court;
- publish the annual court progress report on the website of the court;
- carry out in person or assign a judge of the court the carrying out of inspection into the organisation of the business of judges at the respective lower court/courts from the judicial area (as well as of state enforcement agents and recordation judges – Presidents of district courts; Presidents of district courts shall also Inform the Minister of Justice of available positions for state enforcement agents and recordation judges and manage and control the work of state enforcement agents, of criminal record bureaux at the court and of recordation judges);
- organise the improvement of qualifications of judges of the relevant court;
- convene the judges of the relevant courts for a discussion of the annual reports, of the reports from inspections and of the requests for adoption of interpretative judgements or interpretative decrees;
- second judges (state enforcement agents and recordation judges in the area of the regional court – Presidents of regional courts/;
- organise the training of trainee lawyers and be responsible for it (Presidents of Regional courts);
- analyse and summarise the jurisprudence of the appellate court and of the regional courts from the judicial area concerned (Presidents of courts of Appeal)

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

No.

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.)?

Presidents shall prepare:

1/ annual court reports - and submit them (within time limits prescribed by law) to Presidents of respective upper courts for incorporation in their annual reports;

2/ electronic information, enquiries and statistics based on models and within time limits as endorsed by the Supreme Judicial Council, and submit these to the Supreme Judicial Council and the Minister of Justice;

3/ summarised information about the institution, progress and termination of cases, as well as about the acts that have been definitely repealed by higher-standing instances - at the end of each six-month period - and submit it to the Inspectorate at the Supreme Judicial Council and to the Minister of Justice /Presidents' of district (first instance) courts obligation to that respect is broader – they shall prepare, in addition, to

the Minister of Justice - information about the institution, progress and termination of files and cases of state enforcement agents and recordation judges/.

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

No.

3.2 Is there any special immunity for presidents?

No.

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

The criteria are the same as for all judges (e.g. the evaluation of the professional qualifications shall be done on the basis of the criteria for evaluation of a judge) plus additional ones (the evaluation of the ability to occupy a leadership position shall be done on the basis of the criteria to occupy a leadership position) – the ability to work in a team and to distribute assignments therein; the ability to make correct management decisions; behaviour which enhances the authority of the judiciary and ability to defend its independence; skills to communicate with other state authorities, citizens and legal persons.

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

Ranking, promotion, disciplinary measures, dismissal from office, compensation upon relief from office.

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

No

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

4.1 Who appoints (e.g. Judicial Council, Ministry of Justice, Parliament, etc.) the president of the Supreme Court?

The President of the Republic.

4.2 Please describe briefly the selection procedure.

The election procedure concerning candidates for Presidents of Supreme Court of Cassation and Supreme Administrative Court shall be opened by the Supreme Judicial Council 3 to 6 months before the term of office expires.

Nominations shall be made by no less than one-fifth of Supreme Judicial Council members, as well as by the Minister of Justice. A nomination shall be made in writing and a service record abstract for the candidate shall be attached to it based on a template endorsed by the Supreme Judicial Council.

The candidates shall submit conceptions regarding their work as administrative heads.

Nominations, the candidates' service record abstracts and conceptions shall be published on the website of the Supreme Judicial Council within three business days from the date of receipt.

Nominations shall be submitted for examination to the Supreme Judicial Council - which shall hear candidates in the alphabetical order.

No later than 7 days prior to the hearing, non-profit-making legal persons registered to operate in the public interest, higher education institutions and scientific organisations may submit opinions about a candidate to the committee, including questions to be asked. The submitted opinions and questions shall be published on the website of the Supreme Judicial Council no later than three days from the date of submission (specific data that represents classified information and facts related to candidates' personal life shall not be published).

The Supreme Judicial Council shall adopt a resolution for the election of a candidate by a majority of more than two-thirds of its members by secret ballot.

Where in the first round of voting no candidate has gathered votes by more than two-thirds of Supreme Judicial Council members, the election shall be pursued in respect to the two candidates who have gathered the largest number of votes.

In case a new proposal is made where the President of the Republic of Bulgaria has refused to appoint a candidate nominated by the Supreme Judicial Council, election shall take place following the same procedure.

The President may not refuse to decree any such appointment upon a second motion.

- 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 only provides that the President shall be an individual with high professional and moral characteristics and shall comply with the requirements for length of service – at least 12 years service record at a position or in a job for which higher legal education is required.

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

No, there is no provision for “confidence vote”.

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

A single term of seven years (Art.129 Constitution).

- 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).

President of Supreme Court of Cassation and President of Supreme Administrative Court are ex lege members of Supreme Judicial Council.

Judges Chamber of the Supreme Judicial Council shall be chaired by the President of Supreme Court of Cassation.

President of Supreme Court of Cassation is an ex lege Managing Board's Chair of National Institute of Justice.

President of Supreme Court of Cassation and President of Supreme Administrative Court make requests for the adoption of interpretative judgements and of interpretative decrees by their respective courts

President of Supreme Court of Cassation and President of Supreme Administrative Court prepare annual reports on the application of the law and the operation of the courts, which are heard and adopted by Parliament after their submission by Supreme Judicial Council.

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

No.