

ANSWERS

CROATIA

Questionnaire
“The role of Court Presidents”

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?

There are 18 of court of appeal (15 County Courts, One High Commercial court, One High Misdemeanor Court, one High Administrative Court) 54 Courts of first instance courts (24 Municipal Courts, 8 Commercial Courts, 22 Misdemeanor 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 with exception of president of Supreme Court are appointed by Council for Judiciary. Presidents can be appointed from the judges of the court where president has to be appointed, or from the other court of same rank or from the immediately higher rank.

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

No. Only body of self governance at each Court of second instance evaluates candidates for presidents and their program of work . This evaluation is not binding for the council for Judiciary.

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

- 1. Vacancy is publicly announced 6 month prior to termination of office of the president .**
- 2. Announcement is published by Council of Judiciary.**
- 3. Judges who meet the formal requirements apply.**

4. **Council of judges evaluates candidates in same procedure as judges are evaluated when they apply for the promotion and in addition Council evaluates candidate's suitability for the position.**
5. **Council of judiciary asks president of immediately higher court to give opinion on the candidates in written form.**
6. **Council for Judiciary conducts an interview with the candidates.**
7. **After evaluation of the interview and all other collected data candidate is appointed by decision of the Council of Judiciary by majority vote. At least 6 votes in favor from total of 11 votes.**

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).

Formally none different from the ordinary judge.

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 Presidents.

Please see answer under 1.2.

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

Yes, before the Constitutional Court.

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

Not too often. It is more likely to happen when appointment to higher court is in question. Last year there were no such examples.

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)?

Term of office is 4 years and it can be renewed but not more than once more in the row. Judge can act as a president only two terms and then he/she cannot be appointed as a president.

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

See answer under 1.10.

Same person can be appointed as a president only twice in the row. That does not formally forbids him/her to apply again after four years.

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

New appointment requires same procedure as first time. President of the court has to apply and to be a subject of same procedure and scrutiny as other candidates.

1.13 Under which circumstance can Presidents be removed from their office before the expiration of their term?

Circumstances are the same as for judges:

- **Resignation**
- **Age for retirement,**
- **Removal from office upoun the decision of Council of Judiciary in disciplinary procedure**

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

Council for Judiciary. Regarding the reasons for removal Council delivers a decision. When it is final it comes into force.

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

Yes. Before Constitutional Court.

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

No in general.

Only some orders have to be discussed with the Assembly of all judges before issuing them but opinion of the assembly is not binding (i.e. distribution of tasks for next year, distribution of judges in the panels, distribution of assignments, appointment of heads of departments)

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?

God forbid, No way.

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)

Presidents of Courts are managing the courts. Ministry of justice has right to over decide on every decision delivered by the president in this area of his responsibility. In individual decisions affecting judges they have a right to appeal to president of immediately higher court. In such circumstances president of higher court can over decide the decision of lower president but in practice it never happens.

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?

Yes. Approximately 10% more than judges.

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

The term of office , twice for four years is to long period for those presidents who are only fulfilling organizational and managerial duties in the court.

2. Tasks, Functions, Relations

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

President of the courts depending on the size of the court and a number of judges in the court do not have to adjudicate cases. This is regulated in the Law on Courts. (In court with more than 20 judges president may but are not obliged to adjudicate cases. As every court in Croatia has more than 20 judges there is no presidents who will have to fulfil judge's duties.

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

NO.

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

YES.

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

NO.

- 2.5 Are the Presidents in charge of starting a disciplinary procedure against a judge? (If this is the case please describe briefly the procedure and who is going to make the final decision about the charge).

YES. That is even their duty if such circumstances occur. President of court will initiate procedure before Council of Judiciary, represent the indictment before the Council in accordance with rules in Criminal Procedural Act.

If president of court will fail to initiate the procedure where there was sufficient grounds to do so that could be a ground to initiate disciplinary procedure against the president of the court .

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

NO.

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

Cases are assigned to judges randomly by automatic system. If there is no such system in the particular court cases are assigned by alphabetic order. President of the court can only decide to stop assignation of cases to particular time if there are justified reasons for such decision (i.e. sickness, judge is dealing with huge and complex cases etc.)

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

The priorities are set up in the law. President is not in position to set priorities as an order but can suggest to judges to pay more attention to some cases if circumstances justify such measure (i.e. old cases)

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

In general if judge is not in position to deal with the cases anymore. (i.e. transfer to other division, transfer to the ministry, sick leave, etc.)

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

YES. This authority comes from the law but before deciding president of the court has to obtain opinion of the General Assembly of Judges.

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

YES under same circumstances as above answer.

2.12 Can Presidents delegate their functions to other judges?

NO.

2.13 Are Presidents supported in their tasks and by whom?

YES by secretary of the court ,deputy president and heads of the divisions.

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?

The uniformity of application of the law is taking place only at second instance courts and Supreme Court. In this sense in each court special section within court division is established with a task to check are court decision uniform to case law. If not the case is returned to the panel with an aim to the panel to consider existing case law in the relation to their decision. If the panel stays with its decision after such exercise General Assembly of all judges in the division of the court have to decide is there place to change case law on the particular legal problem. Decision of the Assembly of judges is obligatory to all panels of the court until there will be new decision on the same issue.

This section is under the supervision of the president of the second instance court and head of the division.

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

NO that they would be binding to the judges.

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

NO for judges. Productivity of judges in the quantitative sense is set up in the general by-law delivered by Minister of Justice upon the proposal of General Assembly of the Supreme Court. In that documents criteria for number of cases which should be completed by a judge in one year time are set up taking in consideration type of case, field of law, level of court etc.

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 set up priorities for certain types of cases. Worn judges who are dealing with cases outside of acceptable standards of duration and as ultimate measure they can initiate disciplinary proceedings on the ground of poor or insufficient performance.

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, authorize holidays, moving staff from one function to another, allow extra-judicial activities etc.)?

Authority of the presidents are limited. Working hours of the courts are set p by the decision of the Minister of justice. Office hours of the court are not applied to the presence of the judges in the court with exception to the hearings which have to be scheduled within boundaries of office hours.

President of the court has an authority to authorize absence for holidays and extrajudicial activities have to be reported to the president who has right to forbid it if such activity is not allowed by the letter of the low or it would bring to jeopardy image of the judiciary. Such decision could be appealed to the president of the immediately higher court.

Regarding court staff authority is much vider.

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?

Unfortunately none with exceptions that he/she is making financial plan for the needs of the court for next year.

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

Practically none. All costs have to be approved by the Ministry of Justice. Exception are only minor costs for regular functioning of the court (i.e. small repairs, emergency costs etc.)

2.23 Do Presidents manage the court premises and layout?

YES. If in the same premises more than one court are seated it is duty of the president of highest court in the building.

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

The staff in charge of information and communication technology are under the authority of the President of the Court but as well under the supervision of the MoJ in parts where unified systems are in place for all courts in the county.

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

In only very narrow sense where already unified systems do not occur.

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?

Presidents of courts are autonomous within the court.

2.27 If applicable, please briefly describe the functions and the background of the court manager in comparison to the President of the court?

Court manager helps president of the court in managerial duties but without any autonomy . All actions of the court manager where they exist have to be approved by the president of the court.

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.

Court manager is selected as any other clerk in the court after public announcement for vacant position. Their position has no limitation.

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

YES but in practice president of the courts prefer to avoid such encounters. Each court has spokesperson and they are trained for such duties. Some presidents of courts took such trainings as well.

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)?

President of higher court is higher body of court governance and president of Supreme Court is highest body of court governance.

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

During the court proceedings they have right to decide on recusal request for judge to be excused from the trial (case)

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

3. Accountability and discipline

3.1 What kind of accountability mechanisms (e.g. reporting, auditing, etc.) are in place for the Presidents, and before which authority (e.g. Judicial Council, Ministry of justice, Supreme Court, internal board etc...)?

Accountability of presidents of courts is structured as accountability of judges. On their disciplinary responsibility Judicial Council will decide as when judges are in question. In court governance they have responsibility to the president of higher court and Ministry of justice but without possibility to be removed from the office on their decision.

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

NO. Procedure is the same, body to decide is same, initiation is the same. Only difference is list of disciplinary offences which can be committed only by president of court. Regarding president of courts one more is added:
 - **Failing to initiate disciplinary proceedings against judges where there was ground to do so.**

3.3 Is there any special immunity for Presidents?

NO.

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

Presidents are not evaluated. Their previous work will be evaluated only if they apply for next four years term of office. In such case they will be evaluated by Council of Judges, and Council for Judiciary (Body on the state level consisting of 7 judges, 2 profesors of law and 2 MP-s elected by their pears responsible for appointment, promotion and discipline for judges and presidents of courts).

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

In regard what is already said in 3.4. only concequence can be no appointment for next term of office.

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

Presidents of courts in majority do not see themselves as *primus inter partes* and that they are devoting their time and expertise for benefit of court and judges. Duration of their term of office is to long (4+4) and judges do not have real opportunity to give their opinion to the candidates because their opinion is not binding to the Council for Judiciary.

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 supreme court).

4.1 Who appoints (e.g. Judicial council, Ministry of justice, Parliament, etc.) the President of Supreme Court?

Parliament

4.2 Please describe briefly the selection procedure.

- **Six month before term of office expires President of the Republic proposes to the Parliament person for the office among judges and other distinguished lawyers not necessary judges**

- **Parliament Committee for Judiciary asks General Assembly of the Supreme Court to express their opinion on the candidate,**
 - **General Assembly of Supreme Court reaches the opinion by majority vote of all judges .**
 - **Opinion which is not binding is send to the Parliamentary Commete,**
 - **Parliamentary Committee conducts interview with the candidate,**
 - **Their oppinion with oppinion of General Assembly of Supreme Court with the proposal goes to Parliament for a vote,**
 - **If candidate reaches majority he/she will be elected as President of Supreme Court for 4 years.**
- Mandate can be renewed for indefinite number of terms.**

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).

Same as to become judge of Supreme Court.

If candidate who is not judge od Supreme court is elected as President he/she has to be appointed as judge of that court by Council for Judiciary.

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

NO. Please see answer under 4.2.

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

Four years and there are not limitations how many times same candidate can be appointed.

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

See answers under 4.2, 4.4. and 4.5

4.7 What are the tasks and functions of the President of 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 SC is highest body of court governance, he/she represents judiciary, presides to the General Assembly of Judges, Gives Annual Report about situation in Judiciary to the Parliament and has all other duties as any other president of court regarding management and governance of the SC.

By the letter of the law President of SC is Chairman of the Governing Board of Judicial Accademy and President of State Electoral Commision.

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

There are several issues which have to be mentioned:

- **Appointment of president of SC in completely different procedure than other judges and presidents,**
- **Mandate without any limitations how many times it can be renewed,**
- **Role of General Assembly of SC with any real importance in the election process,**
- **ex officio role of President of SC as chairman of the Electoral Committee.**

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