

Strasbourg, 20 January 2016

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

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

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

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

Introduction

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

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

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

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

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

There are 85 presidents of the first instance courts and 12 presidents of the courts of appeal in the Czech Republic.

1.2 Who appoints (e.g. Judicial Council, Ministry of Justice, Higher court, Parliament, Agency etc.) the presidents of the courts? (Please remember, if applicable, to make a

distinction between the presidents of the courts of first instance and of the courts of appeal. Is it possible that presidents of the courts are appointed from other legal professionals than those who are already judges?)

Presidents of the first instance courts are appointed by the Minister of Justice, presidents of the courts of appeal by the President of Republic.

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

No.

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

The only condition is, that the candidate for president of the court must be judge of this court. The length of this time is not given. Excluding president of the High and Supreme Court, there is compulsory open competition, but it does not means, that the winner will be appointed.

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).

No special qualification is asked, no training is needed.

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.

They are selected from the judges of the same court, but this condition is not strictly kept.

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

No.

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

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)?

Seven years, president of the Supreme Court ten years.

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

Only ones, by law.

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

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

Only by the way of disciplinary proceeding.

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

Deciding is a special tribunal of the Supreme Administrative Court. Proposal can be given by the Minister of Justice or by a president of superior court.

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

No additional hearing or appeal is possible.

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

Yes, there exists "boards" in each courts, but in practice without any powers.

1.17 Do the local lawyers association or any other authority play a role in the decision making process carried out by the court's president?

No.

1.18 Are the organizational decisions taken by the presidents supervised by any other authority (e.g. Ministry of Justice, Judicial Council, Supreme Court, other)?

No.

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

Presidents remuneration is about 15 % higher.

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

Personal questions are fully in the hands of minister of justice and presidents of superior courts. There does not exist any self-government of justice, the Ministers of Justice are very often changed. There does not exist any conception, any guaranty of professional career.

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 the first instance courts have reduced number of cases, other presidents usually don't decide 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).

If speaking only about professional full time judges, selection and recruitment is in practice in hands of presidents of regional (appeal) courts and the Ministry of Justice. Lay judges are recruited and appointed by local non justice authorities.

- 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 formal assessment of judges work exists.

- 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 they are. Final decision is made by a special tribunal of the Supreme Administrative Court.

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

Judge only by way of disciplinary procedure, court employee in respecting general rules given by the law.

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

The rules of assigning cases to judges are done in advance by the public "plan of work". It can be sometimes changed by president of the court, but only I general way, not for concrete case.

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

Yes

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

For example death, long term illness, retirement and huge number of other cases. But the president can decide only about all or part of judges agenda, not about concrete case.

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

Yes, by “plan of work”

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

Yes

2.12 Can presidents delegate their functions to other judges?

Yes

2.13 Are presidents supported in their tasks and by whom?

They can be supported by the “board” of judges.

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?

Formally no, its task of superior courts. Unformally yes, he can provoke discussion on this topic.

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

Yes, by “plan of work”

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

Yes, by “plan of work”

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, especially when deciding about complains of the court users. The only way of improving it is a disciplinary proceeding..

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 most important task is preparing and adopting of a year “plan of work”, which consider agenda of each judges and court staff.

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?

He cannot decide about salary of judges, but can evaluate by money members of court staff. He is authorised decide about other “benefits” e.g. better agenda, room or computer, parking place etc.

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

The Ministry of Justice decides about general amount of finance for the High courts (2) and for the Regional courts (10). Presidents of the Regional courts are responsible for financing of the District courts (85) budgets.

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

Salaries of the judges are given by the law. President of court can decide only about other parts of budget and is limited by amount of money given him by superior court or by the Ministry of Justice.

2.23 Do presidents manage the court premises and layout?

Yes, for example when the law changes agenda of the court and there is need of more judges or court staff.

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

No – Ministry of Justice.

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

They only can ask for it Ministry of Justice.

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?

They can be supported by board of judges. Members of board are elected by the judges and its number depends on number of the judges in a concrete court. They are also supported by a court staff in general. No court manager or director exists.

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

There does not exist such a position. There are only "chiefs of the staff" and "directors of staff" in greater courts.

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.

There are not any special rules for selection of this employees and any time limit for them.

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

Its voluntary. No training is needed.

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)?

No formal relations are given.

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

No.

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

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 president of the court is accounted and evaluated by the authority which appointed him.

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

In general they have the same responsibility but president has more tasks and is responsible for managing of the court.

3.3 Is there any special immunity for presidents?

No

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

Big number of pending cases and the length of proceeding. Controlled if needed by the president of superior court and by the Ministry of Justice.

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

Voluntary, finishing in function of the president or, if not voluntary, disciplinary process.

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

More than 25 years are discussed changes in justice administration, but without any conclusions.

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 Republic.

4.2 Please describe briefly the selection procedure.

No official selection procedure is given.

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).

He must be judge of the Supreme court. No other qualification or training is needed. The President of Republic has no obligation to explain his choice.

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

No.

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

Ten years, by the law.

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

No, by the law.

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).

He has no special tasks.

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

The rules for selection and renewal of the court presidents and vice presidents are often changed under pressure of political interests. The most important person of justice is the Minister of Justice, but he/she is a politician. And duration of his/her stay in the ministry office is approximately 1 year in the last 20 years.