



CCJE-BU(2021)1

Strasbourg, 21 January 2021

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Questionnaire for the preparation of the CCJE Opinion No. 24 (2021):

“Evolution of the Councils for the Judiciary and their role for independent and impartial judicial systems”

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

General

1. Is there a Council for the Judiciary in your judicial system?	<input type="radio"/> yes
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2. What is the exact title/denomination of this body? **High Judicial Council**

3. This question should be answered by members from both legal systems with and without a Council for the Judiciary: Which department or body - for example the Council for the Judiciary (often denominated as High Judicial Council (HJC)) or Ministry of Justice (MoJ) - is responsible for or is in position to perform the following tasks? More than one institution might be involved, so more than one box can be ticked.

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board (Court Councils) <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board

	<input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board (Court Councils¹) <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Selection of new judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Evaluation of court performance	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents

¹ The Court Council is composed by the President, Vice-president and Court's Chancellor (Registrar). It is the body responsible for the individual court administration in Albania.

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other: High Justice Inspector
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC: One of the Members responsible for the Media & Public Relations for the whole judiciary <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other: 8 Media Judges, responsible for the Media & Public Relations at each appeal jurisdiction
Providing input on legislative projects	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other: School of Magistrates
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, IT Centre for the judiciary
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other: The salary of a magistrate is determined by the magistrate's affiliation to a salary group and the salary scale. The salary scale (which covers all the civil servants) is approved by the Council of Ministers.

- If there is a Council for the Judiciary in your country, has it other duties not mentioned here? Is it in a position to appoint or remove presidents of courts to and from the office? Is there additional information that would be useful to understand the role of the Council for the Judiciary within your country?

The HJC carries out, in addition to duties mentioned above:

- **an assessment of the judicial districts and the territorial competences of courts at least every five years. Consequently, in cooperation with the Minister of Justice, elaborates a joint proposal for the re-design of judicial districts and the territorial competences of courts.**
 - **proposes the overall number of judges together with the proposal for the judicial system budget.**
 - **is competent for the organisation and functioning of the services related to the judicial administration.**
 - **is the competent authority for the appointment of the Chancellor (Registrar), the Legal Advisors at the High Court and the Legal Assistants at the Courts of Appeal.**
 - **Proposes to the President of the Republic candidates for judges of the High Court, in accordance with the law;**
 - **Directs and manages the administration of the courts, with the exception of the rules for the general state policies on information technology of the justice system, which is regulated by a decision of the Council of Ministers;**
 - **Informs the public and the Parliament on the state of the judiciary.**
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

Legal basis

4. Please explain which legal sources regulate the following aspects of the Council for the Judiciary in your legal system

Existence of a Council for the Judiciary	<input type="radio"/> Constitution <input type="radio"/> Law
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	<input type="radio"/> other, please specify
Composition	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Resources, funding, administration	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Independence	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify

- Are there other formal or informal rules which are necessary to understand the role and functioning of the Council for the Judiciary in your country?

Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

The High Judicial Council is composed of 11 members.

- Are there ex-officio members?

- **No.**

- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?

Six HJC members are elected by the judges of all levels of the judiciary. The judge members are selected from the ranks of judges of high moral and professional integrity, in accordance with an open and transparent procedure that ensures a fair representation of all levels of the judiciary.

Three of the elected judges are first instance courts' judges. At least one of them is a judge of a first instance court outside Tirana; two of the elected judges are appeal courts' judges; at least one of them is a judge in an appeal court outside Tirana; one of the elected judges is a judge at the High Court.

Candidates must meet the following requirements:

- a) **Have performed, at the time of application, the function of a judge for at least 10 (ten) years;**
- b) **Are not, at the time of application, president of any court or members of the governing bodies of groups of interest, such as judges' associations, judges' unions, etc.;**
- c) **Have been evaluated at least "very good" in the last two ethical and professional performance evaluations;**
- d) **Have no disciplinary measure in force;**
- e) **Have not been previously sentenced by a final court decision for committing a criminal offence;**

- f) **Have not been members, collaborators or favoured by the former State Security before the 1990s within the meaning of the Law “On the right to information on documents of the former State Security of the People’s Socialist Republic of Albania”;**
 - g) **Are not collaborators, informants or agents of secret services;**
 - h) **At the time of application, have no family members within the meaning of Law “On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials” and first degree relatives who are incumbent Council members or candidates for members.**
- **Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)**
 - **Five members are elected by the Parliament among the ranks of lawyers who are not judges. The lay members are selected among the ranks of prominent jurists, with at least 15 years of professional experience, of high moral and professional integrity. They should not have held political posts in the public administration or leadership positions in a political party in the last past 10 years before running as candidates.**
 - **The Parliament elects two members of the High Judicial Council from the ranks of advocates, two from the academia, and one from the civil society, who fulfil the criteria foreseen by the Constitution and by the law.**
 - **An Independent Ad Hoc Commission is established for the preliminary verification of fulfilment of the legal criteria by the candidates and for the preliminary assessment of their moral and professional integrity.**

6. Please describe the procedure of appointment:

- **Who nominates the members? (judges or other institutions or authorities – please specify)**
- **Please describe the appointment system**
- **If members are elected by Parliament, are these members elected with a simple or qualified majority?**

Two lay members are elected from the ranks of advocates, two members from the lecturers of law faculties and the School of Magistrates, and one member from civil society. The Secretary General of the Parliament, based on an open and transparent procedure, announces the vacancies in accordance with the law.

The Secretary General of the Parliament, no later than 10 days from the submission of the applications, verifies if the candidates fulfil the criteria foreseen in the Constitution and the law, assesses the professional and moral criteria and prepares the list.

The Standing Committee responsible for Legal Affairs in the Parliament establishes a subcommittee for the further assessment and selection of the candidates no later than three days from the submission of the list. The subcommittee is composed of five members of the Parliament, three members nominated by the parliamentary majority and two by the parliamentary minority. The subcommittee may, with at least four votes, include in the list of candidates even those who have been excluded from the list by the Secretary General of the Parliament for failure to comply with formal requirements. The subcommittee

shall select the candidates with the support of at least 4 members. In case the required majority cannot be reached, the candidates are drawn by lot.

The names of the candidates selected by the subcommittee are listed and sent to the Speaker of the Parliament. Within ten days, the Parliament approves the list of candidates by a two-thirds majority of all the members. In case the list is rejected, the procedure is repeated in the subcommittee, but no more than twice. In case the Parliament shall not approve the presented list, after conducting the procedure for the third time, the candidates of this list shall be deemed elected.

7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
 - a) **The Secretary General of the Parliament and the Ombudsman (for the advocates) verify if the candidates fulfil the criteria, including integrity.**
 - b) **During the exercise of their function, The High Justice Inspector is responsible for the verification of complaints, investigation of violations on its own motion and the initiation of disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, members of the High Prosecutorial Council and the Prosecutor General.**
8. How is the President and/or Vice-President of the Council selected and appointed?
 - a) **The Chairperson and the Deputy Chairperson of the High Judicial Council are elected at the first meeting of the newly elected Council, among the ranks of the 5 lay members, by simple majority of the votes of the members. They hold the office until the end of his/her mandate .**
9. What is the term of office for a member of the Council?
 - a) **5 years**
10. May a member be removed from office against his/her will and, if so, under what circumstances?

HJC member shall be dismissed upon decision of the Constitutional Court when:

- a. **Committing serious professional or ethical misconduct;**
- b. **Sentenced by a final court decision for committing a crime.**

The member of the High Judicial Council shall be suspended from duty upon decision of the Constitutional Court when:

- a) **Upon him/her is imposed the personal security measure of “detention in prison” or “house arrest”, for committing a criminal offence;**
- b) **He/she faces a criminal charge for intentionally committing a serious offence;**
- c) **Disciplinary proceedings have been initiated according to the law”.**

Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input type="radio"/> other, if so specify
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input checked="" type="radio"/> yes

Relations within the Council for the Judiciary and within the judiciary

13. Have there been any severe internal conflicts within the Council for the Judiciary that have seriously affected its functioning? If yes, what was the character of these conflicts and have they been solved?
a) No.
14. Have there been conflicts between the Council for the Judiciary and the judiciary? Have judges felt that the Council for the Judiciary did not represent their interests? If yes, why and has the conflict been solved?
a) No

Relations with other branches of government, governmental bodies, civil society and media

15. Have there been conflicts between the Council for the Judiciary and the executive or legislative? If yes, what was the character of these conflicts and have they been solved?
a) No.
16. What legal and political means may the Council of Judiciary in your judicial system employ if it feels that its constitutional role has been infringed?
a) Constitutional Court
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
a) The HJC continuously cooperates with anti-corruption bodies for the fulfilment of its legal duties and obligations (such as the verification of judge's candidates or judges promotion procedures, etc.)
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
a) NGOs are a constant and important partner of the HJC. NGOs are invited as consultative partners in developing important initiatives (ex. Strategic planning) concerning the judiciary and often as co-partners in the implementation of different projects.
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
a) Associations of judges are considered as important and reliable partners of the HJC, as their aim is to promote and improve the administration of justice, to maintain the independence of the judiciary, and to provide a forum for the continuing education of its members and the public.
20. How does the Council for the Judiciary in your judicial system interact with media?
a) Media is considered by the HJC as a very important factor for ensuring transparency and is always kept informed on the decision-making process of the HJC. One of the members of the HJC is responsible for the

Media and Public Relations, who is in close contact with the media representatives as part of his official duties. Media representatives are always invited to attend HJC plenary meetings (unless otherwise provided by Law) and a press release is always distributed to all media the same day of the plenary meeting. All media have been consulted prior to the approval of the Strategic Plan for the Judiciary and the Strategic Communication Plan for the HJC.

21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?
- a) The HJC, as provided by Law, has a supportive role in the vetting of judges. In support of the vetting process, the HJC, in close cooperation with the Independent Qualification Commission, organizes the lotteries for the selection of the evaluation court files, prepares and submits to the Independent Qualification Commission a detailed and reasoned professional assessment report for each judge going through the vetting process.**

Challenges, developments

22. Does the Council for the Judiciary in your judiciary face particular challenges? If so, what is the character of these challenges? These challenges might have arisen – among other reasons - because of political and economic developments, societal changes, corruption, the Covid-19 pandemic or technological challenges such as the digitalisation of the judiciary.
- a) The HJC is facing a number of challenges related to the implementation of an overarching justice reform, inherited shortfalls related to the case management system, inadequacy of infrastructural and financial resources, an ever-growing case backlog throughout the courts due to an extraordinary number of judges' vacancies, etc.**
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
- a) The role and responsibilities of the Council changed with the legislative package approved in 2016, commencing an overall justice reform, which, among other, established a new Judicial Council, with broader responsibilities and competencies, aiming at a more independent, efficient and integrated governing body of the judiciary. As a result, the current HJC was established in December 2018.**
24. Have there been reforms concerning the Council for the Judiciary in your judicial system recently? If so, what were the objectives of these reforms and have they been successful?
- a) As mentioned above, in the response to question 23, the judicial reform of 2016, part of which is the HJC, aims at improving the independence, integrity, accountability and efficiency of the judiciary.**
25. In case your judicial system does not have one, is there a discussion to introduce a Council for the Judiciary? If so, what are the arguments made in favour and against the introduction of a Council for the Judiciary. Do you think that there are challenges in your judicial system a Council for the Judiciary might help to solve? Is it likely that such a Council will be introduced?

- **N/A**