

Input for Terms of Reference for the Research Company that will conduct the Satisfaction Survey for the Constitutional Court

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1. Introduction/background

The Constitutional Court (CCK) was established in 2009. It is the final authority for the interpretation of the Constitution and the compliance of laws with the Constitution.

The CCK decided to conduct a **satisfaction survey about the services of the CCK** among its users, that is **parties** in a court case and **lawyers** who assisted in a court case at the CCK.

This survey includes only **closed court cases**, thus excluding pending cases. The total number of closed cases of the CCK **since its installment in 2009** is circa 2050 at the time of this writing.

The survey may be **replicated** sometime in the future; therefore, the questionnaire design, data delivery format, data analysis and reporting have to be in such a way that comparison in the future is possible.

To guarantee the validity of the results and to enhance the response rate, the survey will guarantee **anonymity** of the respondents. Data collection, data storage, data analysis and reporting will not refer to a respondent's personal identity, unless the respondent explicitly gives permission for that. This is also in accordance with the European Data Protection Regulation¹.

2. Questionnaires

There are **two questionnaires**: one for the **parties** and one for the **lawyers**.

The **time** needed to administer a questionnaire should preferably not take more than 10 minutes. The shorter the better for a high response percentage. The wording, lay-out and order of questions will be of influence on the time needed for the respondent to fill in the questionnaire.

Pilots should take place with 5 to 10 respondents in each sample category to test the questionnaires and see if there are unclarities that need to be corrected. This is also true when it is decided that the survey will be held online.

2.1. Parties questionnaire

The parties questionnaire consists of circa 21 closed-ended and 1 open-ended question:

- (a) the court case (closed ended), circa 4 questions
- (b) satisfaction about various topics (5-point scale), circa 10 questions
- (c) suggestions and comments (closed ended), 1 question
- (d) personal data (closed ended) circa 7 questions

¹ General Data Protection Regulation (GDPR) is the European Data Protection Regulation applicable as of May 25th, 2018 in all member states to harmonize data privacy laws across Europe. see <https://gdpr-info.eu/>

One question may need “**routing**” (what means, that one question has to be answered only after a specific answer on another question)

2.2. Lawyers questionnaire

The lawyers questionnaire consists of circa 14 closed-ended and 1 open-ended question:

- (a) satisfaction about various topics (5-point scale), circa 10 questions
- (b) the Court (multiple choice), 1 question
- (c) suggestions and comments (open ended), 1 question
- (d) personal data (multiple choice) 3 questions

3. Sample size and composition

3.1. Parties sample

A first option is to approach all parties of closed cases since the installment of the CCK, which means a bruto sample of $n =$ circa 2050 and strive for a netto sample of at least 400 respondents². This means we want a response rate of at least 20%, which is not unrealistic.

However, as we can expect bias in the type of parties that will respond, we have to control for that. It is therefore recommended to apply stratified sampling³, so to ensure that the netto sample is representative for the whole group of closed cases. In other words, the sample has to proportionally reflect specified characteristics of the whole group, such as:

- period of closure of the case (2009-2012/ 2013-2017/ 2018-2022)
- referral type (KI/KO),
- jurisdiction (civil/criminal/administrative /other)
- decision type (inadmissible/ judgement)
- ethnic background of party as determined by the language used by applicants when filling in the Referral Form

3.2. Lawyers sample

There are circa 1200 lawyers in the Chamber of Advocates. However, we are looking for a selection of lawyers: only lawyers who assisted a party in a court case at the CCK. The Bar Association has experience with surveys among lawyers and they estimate that in general the response rate is at most 12 %.

If the number of lawyers with experience in assisting in a court case at the CCK is much lower than 1200, we may consider including them all in the sample, at least as many as possible. If possible, stratification characteristics may be:

- Jurisdiction specialization
- Gender

² See the attached document *Methodology Satisfaction Survey CCK*, par 2.2 Sample size.

³ See the attached document *Methodology Satisfaction Survey CCK*, par 2.1 Sampling method and data collection method

4. Target groups and how to approach them

The parties in a court case of the Constitutional Court can be categorized into two sub-groups: private individuals or state organisations. This means that together with the lawyers, there are three target groups that may need different approach strategies.

To have a representative sample, its composition should reflect the whole group of closed cases dealt with by the CCK. For that purpose, the CCK can provide the numbers of private individuals, state organisation representatives, and of lawyers that assisted in a case handled by it.

Attention: considering the respondents' right to privacy, their personal data must be protected and therefore a Data Processing Agreement⁴ has to be signed between the CCK and the Council of Europe (CoE) and between the CoE and the research company.

4.1. Private individuals (group 1)

A private individual can bring a case before the CCK after it has first been dealt with by all instances in the line of appeal and cassation: that is, firstly a basic court, secondly an appeal court, and thirdly the Supreme Court. By far most cases at the CCK are individual requests and most of them are found to be inadmissible. The Court can provide numbers of inadmissible and admissible cases.

Sampling frame for private individuals: CCK database

The sampling frame is the CCK database of all private individuals that referred a case to the CCK since its establishment in 2009.

The CCK can deliver the following information to the CoE (> research company) per case:

- Name of the person
- Postal address
- Email address
- Phone number
- Gender: Female / Male
- Language used by the person: Albanian / Servian
- Jurisdiction of the case: Civil / Criminal / Administrative /Other
- Year of closure of the case

Challenge: since the data base of the CCK encompasses 13 years, parties in the older court cases may be difficult to find as they may have been moved, married/divorced (i.e. changed names), or passed away.

- Ideas from the research company how to find current contact details of such parties are welcome.

⁴ According to the GDPR, a Data processing Agreement is mandatory when a party outsources the processing of personal data to another party.

Approaching private individuals

A distinction has to be made between persons on the basis of the available contact details. To enhance representativity of the sample, the persons without an email address or telephone number have to be approached with the same effort – so not only just in second instance. Some examples of strategies to increase the response rate are listed below.

(a) Persons with email address and telephone number:

1. Invitation-email with a link to the online court user satisfaction survey
2. First reminder email
3. Second reminder email
4. Invitation by telephone to participate (by phone or internet link)
5. Second invitation by telephone to participate (by phone or internet link)

(b) Persons with only email address

1. Invitation-email with a link to the online court user satisfaction survey
2. First reminder email
3. Second reminder email
4. Third reminder email

(c) Persons with only telephone number:

1. Invitation by telephone to participate (by phone appointment or internet link)
2. First reminder by telephone to participate (by phone appointment or internet link)
3. Second reminder by telephone to participate (by phone appointment or internet link)

(d) Persons with only post address:

1. Invitation by post letter, to return the filled-in paper questionnaire form
2. First reminder post letter
3. Second reminder post letter
4. Third reminder post letter

- Other ideas from the research company to increase the response rate and/or about more economic ways of approaching the respondents are welcome

4.2. Organisation representatives (group 2)

Several state organisations are authorized by the law to refer matters to the Constitutional Court.

- Institutions: the Assembly, the Government, municipalities, and courts
- Persons who embody an institution: the President, the Speaker of the Assembly, the Ombudsperson
- Group of Assembly deputies (numbers depending on the matter)

Sampling frame for organisation representatives: CCK database

The sampling frame is the CCK database of the representatives of all state organisations that referred a matter to the CCK since its installment in 2009. The survey will try to include in the sample as many as possible of these cases.

Note: in just a few cases, a representative of a state organisation may actually be a lawyer working as an employee within that organisation and hence in such exceptional cases, the target groups of organisation representatives and lawyers overlap. These few cases have to be closely reviewed already during the approach procedure in order to decide: (a) in which of the two target groups the persons would categorize themselves, so to determine (b) which questionnaire has to be administered: the parties questionnaire or the lawyers questionnaire, or perhaps both?

Approaching organisation representatives

The target group of organisation representatives may need signatures and stamps before a filled-in questionnaire is approved by their organisation. This target group may therefore best be approached first by post letter, followed by telephone call and email, perhaps the current right contact person in charge has to be found first. For example:

1. Invitation by post letter, followed by telephone call to participate; offer choice of options: mail, telephone or paper form
2. First reminder by telephone to participate (online/phone/paper)
3. Second reminder by telephone to participate (online/phone/paper)

➤ Other ideas from the research company to increase the response rate are welcome.

4.3. Lawyers (group 3)

Not all lawyers of the Bar Association have assisted in cases that were dealt with by the Constitutional Court. Therefore sampling frame that lists all lawyers who have experience with one or more cases handled by the CCK must be prepared.

Sampling frame: CCK data base

The CCK can provide contact details of lawyers who assisted in one or more court cases handled by the CCK.

Approaching lawyers

The Bar Association has experience with very low response rates among lawyers when they are approached by email (12%). To increase the response rate, several strategies are possible, as described for the other two target groups.

In addition, interviewers could approach lawyers at seminars, meetings, and courses that are organized by the Bar Association regularly during the year in all regions. However, only a selection of lawyers dealt with a case before the Constitutional Court and also, the

permission has to be requested from the Bar Association to approach the lawyers during those trainings.

- Ideas from the research company to approach and increase the response rate of this group of lawyers are welcome.

5. Data collection methods

There are several possibilities to collect the data:

- By an interviewer
 - Face-to-face (paper questionnaire or CAPI⁵)
 - Telephone (paper questionnaire or CATI⁶)
- Self-administered by the respondent
 - Paper questionnaire by post
 - Online questionnaire by a unique link per respondent sent by email

For this survey, the online data collection method seems to be the first choice, not only because the sessions of the CCK are not open to parties, but also taking into account that the Court deals with cases from all areas of the nation and that there is a good internet infrastructure throughout all regions.

Other data collection methods may be used to heighten the response rate in certain categories of the respondents, for example representatives of state organisations may prefer paper questionnaires, while lawyers may be more willing to participate when an interviewer makes an appointment for an interview (face-to-face or by telephone).

- Ideas from the research company to combine data collection methods and/or approach methods to increase the response percentage are welcome

6. Deliverables

The research company delivers the following

- (1) A cleaned datafile in Excel format and in SPSS format with clear coding explanations
- (2) Results per closed-ended question in table format and graphic format, to be defined
- (3) Results of coded open-ended question with clear coding explanations
- (4) Basic cross tables of some specific crossings of variables, to be defined
- (5) Response analysis (analysis of the bruto and netto samples)

⁵ In Computer-Assisted Personal Interviewing (CAPI), the interviewer uses a tablet, mobile phone or computer to record answers during a face-to-face interview

⁶ In Computer-Assisted Telephone Interviewing (CATI), the interviewer uses a computer to record answers during a telephonic interview