



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 checked="" type="radio"/> yes <input type="radio"/> no
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2. What is the exact title/denomination of this body?

- The Judicial-Legal Council (hereinafter “the 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 checked="" 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 checked="" type="radio"/> Association of Judges <input type="radio"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" 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 checked="" 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 <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify The judicial functions are administered by the courts of the Republic of Azerbaijan. Administrative functions of the judiciary are carried out by the presidents of the courts and the executive body (MoJ) when relating to courts of first instance and appellate courts.
Selection of new judges	<input checked="" 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 checked="" type="radio"/> other, please specify The Judges Selection Committee, formed by the Council.
Selection of judges for promotion	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Drafting and enforcing a code of ethics	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify The Supreme Court
Training of judges	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify The Justice Academy of the Ministry of Justice
IT, including digitalisation of the judiciary and online hearings	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> other, please specify The Supreme Court
The allocation of financial resources to the judiciary including individual courts	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament

	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> other, please specify Presidential Decrees
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" 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

- 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 Council does not appoint or remove presidents of courts to and from the office. However, their appointments are made by the President of the Republic of Azerbaijan based on the nominations by the Council (except the President of the Supreme Court of the Republic of Azerbaijan and the President of the Supreme Court of the Nakhchivan Autonomous Republic).

In addition to the above-mentioned, the Council has also the following duties:

- submits proposals on establishment of courts;
- takes measures in order to raise the professional level of judges and preparation of candidates to the judicial posts;
- submits proposals on supplying the courts with equipment and funds;
- considers the issues of awarding, promotion and disciplinary liability of judges;
- considers the requests for termination of the office of judges and institution of criminal prosecution against the judges;
- terminates the authority of the judges in the cases provided for in the first part of Article 113 of the Law of Azerbaijan Republic "On Courts and Judges", and prematurely terminates the authorities of judges on the grounds provided for in paragraphs 1 and 3-5 of the second part of Article 113 of the mentioned Law¹,
- considers the applications and complaints, also against the decisions of the Judges Selection Committee;
- carries out other functions provided by the legislation.

- 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?

¹ Article 113. Grounds for termination of judicial authorities

Judges' authorities are terminated by the Judicial-Legal Council on the expiry of their commission term (renewed commission term). Judges' authorities may be terminated prematurely on the following grounds: 1. written application of resignation; 2. dismissal from the office of a judge; 3. upon court ruling declaring disabled or with restricted ability; 4. in case of death; 5. upon court ruling declaring him dead or missing; 6. upon revealing failure to meet requirements defined hereof to candidates to a judicial office; 7. dealing with activity not compatible with his position; 8. on termination of citizenship of the Republic of Azerbaijan, and adopting a citizenship of another country or taking obligations to a different country; 9. for a continuous period of more than six months in case of inability to perform duties in connection with the complete disability; 10. if the disciplinary liability has been applied against the judge twice in a calendar year on the grounds mentioned in Article 111-1; 11. Repeated gross violation of the requirements of the laws when examining the cases; 12. In case professional deficiencies are discovered by repeated evaluation of the judges (except the judges appointed for the first time).

- N/A.

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 checked="" type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Resources, funding, administration	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Independence	<input type="radio"/> Constitution <input checked="" 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?

- No.

Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

According to the Law of the Republic of Azerbaijan on Judicial-Legal Council (hereinafter "the Law"), the Council is composed of 15 members.

- Are there ex-officio members?

Yes, the Minister of Justice of the Republic of Azerbaijan and the President of the Supreme Court of the Republic of Azerbaijan are ex-officio members of the Council.

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

- Nine members must be judges. These are the following:
 - the President of the Supreme Court of the Republic of Azerbaijan;
 - a judge appointed by the Constitutional Court of the Republic of Azerbaijan;
 - two judges of the Supreme Court of the Republic of Azerbaijan selected by that court from among the candidates nominated by the associations of judges;
 - two judges of the appellate courts selected by the Council from among the candidates nominated by the associations of judges;

- a judge of the Supreme Court of the Nakhchivan Autonomous Republic selected by that court from among the candidates nominated by the associations of judges,
 - two judges of the first instance courts, selected by the Council from among the candidates offered by the associations of judges.
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
 - Yes. The following members of the Council are non-judges:
 - the Minister of Justice of the Republic of Azerbaijan;
 - a person appointed by the President of the Republic of Azerbaijan;
 - a person appointed by the Parliament of the Republic of Azerbaijan;
 - a person appointed by the Ministry of Justice of the Republic of Azerbaijan;
 - an attorney appointed by the Presidium of the Bar Association of the Republic of Azerbaijan;
 - a person appointed by the General Prosecutor's Office of the Republic of Azerbaijan;

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)

The following seven members of the Council are selected from the candidates nominated by the associations of judges:

- two judges of the Supreme Court of the Republic of Azerbaijan selected by that court from among the candidates nominated by the associations of judges;
- two judges of the appellate courts selected by the Council from among the candidates nominated by the associations of judges;
- a judge of the Supreme Court of the Nakhchivan Autonomous Republic selected by that court from among the candidates nominated by the associations of judges,
- two judges of the first instance courts, selected by the Council from among the candidates offered by the associations of judges.

The list of nominees may be rejected only once by the body that selects them.

Other eight members are either appointed or ex officio members.

- Please describe the appointment system

The following thirteen members are appointed as follows:

- a judge appointed by the Constitutional Court of the Republic of Azerbaijan;
- two judges of the Supreme Court of the Republic of Azerbaijan selected by that court from among the candidates nominated by the associations of judges;
- two judges of the appellate courts selected by the Council from among the candidates nominated by the associations of judges;
- a judge of the Supreme Court of the Nakhchivan Autonomous Republic selected by that court from among the candidates nominated by the associations of judges,
- two judges of the first instance courts, selected by the Council from among the candidates offered by the associations of judges.
- a person appointed by the President of the Republic of Azerbaijan;
- a person appointed by the Parliament of the Republic of Azerbaijan;
- a person appointed by the Ministry of Justice of the Republic of Azerbaijan;
- an attorney appointed by the Presidium of the Bar Association of the Republic of Azerbaijan;

- a person appointed by the General Prosecutor's Office of the Republic of Azerbaijan;

Other two members are ex officio members.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?
 - One member is appointed by the Parliament. The decision about the appointment is adopted with a simple majority.

7. How is integrity and independence of members ensured in the selection process and during their time on the Council?

- The members of the Council are independent and are bound only by the Constitution and the laws of the Republic of Azerbaijan. They may not be held liable for the activity, voting and opinion expressed at the Council and they shall not be required to give statement or explanation concerning those. Non-judge members of the Council enjoy the immunity emanating from the status of a judge. Criminal prosecution of the members of the Council, suspension of their authorities because of this and later restoration of their authorities shall be carried out in a manner stipulated in respect of judges by Article 101 of the Law on Courts and Judges of the Republic of Azerbaijan. Also, the persons, who have double nationality, who have obligations before the other countries, who are engaged in entrepreneurship or commercial activity, except for scientific, pedagogical and art activity, and clergy figures shall not be members of the Council.

8. How is the President and/or Vice-President of the Council selected and appointed?

- Members of the Council elect the President of the Council from among themselves with simple majority of votes. There is no Vice-President of the Council.

9. What is the term of office for a member of the Council?

The term of office for the members of the Council is five years.

10. May a member be removed from office against his/her will and, if so, under what circumstances?

Yes, a member may be removed from office against their will under the following circumstances:

- in case the criminal proceedings against them are terminated without the grounds for acquittal, and if there is an effective court judgment convicting them or court decision on application of compulsory measures of medical nature;
- in case it is revealed that they do not meet the requirements of Article 6.4 and Article 7 of the Law on Council²;
- in case the judge who represents particular court instance is transferred to another court instance;
- if a court determines that they are disabled or has limited ability;
- in case of their death or in case they are acknowledged as dead or missing by a court;

² According to Article 6.4 of the Law, the members appointed by the President, the Parliament, the Ministry of Justice and the General Prosecutor's Office shall have higher education degree in law and work experience in law for more than five years. According to Article 7 of the Law, the persons, who have double nationality, who have obligations before the other countries, who are engaged in entrepreneurship or commercial activity, except for scientific, pedagogical and art activity, and clergy figures shall not be members of the Council.

- in case of not being able to perform duties in connection with the complete loss of work ability for a continuous period of more than six months;
- in case they fail to participate at the sessions of the Council without good reason three times consecutively or six times during a year;
- in case if they fail to perform duties indicated in Article 27.2 of the Law³;
- in case they commit actions unworthy of the name of a member of the Council;
- in case they are removed from their offices.

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 <input type="radio"/> no

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?

- 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?

- 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?

- 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?

The Council may take necessary measures to protect its legal standing by engaging with the public through the media and/or through other democratic branches of the government, including the President and the Parliament. Pursuant to Article 8 item 4 of the Constitution of the Republic of Azerbaijan, the President of the Republic of Azerbaijan is the guarantor of independence of judicial power.

³ According to Article 27.2. of the Law, in the course of their activity, the members of the Council shall:

1. to comply with the Constitution of the Republic of Azerbaijan, this Law, the Law of the Republic of Azerbaijan on the Courts and Judges and other legislative normative acts of the Republic of Azerbaijan;
2. hold an impartial approach, based on the law and justice, on the issues considered at the sessions of the Council;
3. not skip the sessions of the Council without good reason;
4. participate in the voting on the issues considered by the Council or submit their written separate opinion;
5. not act or speak in a way that may harm the reputation of the name of a member of Council;
6. not express their opinion on the merits of the issue considered by the Council until the decision on it is adopted;
7. not violate the requirements indicated in Article 7 of this Law.

17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?

The Council actively cooperates both with national anti-corruption bodies such as Commission on Combating Corruption and Anti-Corruption Directorate of Prosecutor General and international organizations such as UN, GRECO, OECD in the respective field.

In addition, the Anti-Corruption Division was established in the Office of the Council in 2011 to investigate complaints related to judges about their corruption-facilitated offenses. In 2019, the Division has grown in size with the provision of additional staff and it was renamed to the Anti-Corruption and Judicial Monitoring Division.

Moreover, in case the judges commit the violations indicated in the Anti-Corruption Law of the Republic of Azerbaijan, the anti-corruption authority informs the Council about this and the Council considers the issue of application of disciplinary penalties. Also, it is in the authority of the Council to decide upon the motion of the General Prosecutor of the Republic of Azerbaijan on institution of criminal proceedings against a judge. Only the judge members participate at the voting for such decision.

18. How does the Council for the Judiciary in your judicial system interact with NGOs?

One of the authorities of the Council is to cooperate with mass media and NGOs in order to inform the public about the judicial activity. Thus, from time to time, the Council cooperates with various NGOs in connection with certain projects or events related to the judiciary.

19. How does the Council for the Judiciary in your judicial system interact with associations of judges?

The Council and the associations of judges interact very closely. The presence of the representatives of the associations at the Council meetings is ensured, and their opinions on the matters related to interests of the judges are heard.

Also, as mentioned above, the associations of judges nominate candidates for membership to the Council.

20. How does the Council for the Judiciary in your judicial system interact with media?

One of the authorities of the Council is to cooperate with mass media and NGOs in order to inform the public about the judicial activity. In accordance with this authority, the Council cooperates with mass media and provides them with any news and relevant about the relevant activities.

21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?

The vetting of the judges is carried out by the Council in accordance with the Rules for Evaluation of the Activity of Judges, approved by the Decision of the Council dated 6 March 2020. The evaluation is carried out no less than once in 5 years. The activity of the judges appointed for the first time is evaluated at the end of three years.

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.

There were no major challenges arising out of political and socioeconomic developments. However, the Covid-19 pandemic affected the activities of the Council in 2020, but the Council organized its work taken into account the restrictive working conditions and mostly conducted its meetings online using various social platforms.

23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?

- No.

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?

- Several decisions of the Council have been recently approved. On 29 February 2020 the Rules on Monitoring the Judicial Activities of the Courts and on 6 March 2020 the Rules on Evaluating the Performance of Judges have been adopted. The overarching purpose of these reforms to improve the quality of justice and individual judges in Azerbaijan. It is still in the implementation stage to draw any meaningful conclusions.

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.