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**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION
(CDCJ)**

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**Council of Europe Plan of Action on strengthening
judicial independence and impartiality (Sofia Action Plan)**

Thematic review focused on the career and training of judges

Draft report

(Item 6 of the draft agenda)

CONTEXT AND EXPECTED ACTION:

At its 100th plenary meeting (30 May – 1 June 2023), the CDCJ agreed to conduct the first thematic review of the Sofia Action Plan focusing on the career and training of judges.

In line with the workplan adopted at its 101st plenary meeting (15-17 November 2023), the secretariat has collected and analysed relevant information from the monitoring and advisory activities of various Council of Europe bodies, as well as from other sources of information (European Commission, United Nations Special Rapporteur on the independence of judges and lawyers, OSCE, etc.), and elaborated a questionnaire for CDCJ and CCJE members to complete the information, necessary for conducting in-depth analysis. The draft report has been supplemented by answers to the questionnaire.

The CDCJ is invited to take note of the draft report and provide any necessary guidance to the secretariat for pursuing its elaboration before its circulation in September 2025 and for the purpose of its examination at the 105th plenary meeting (18-20 November 2025).

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BACKGROUND

1. The Council of Europe Plan of Action on strengthening judicial independence and impartiality adopted on 13 April 2016 (the said Sofia Action Plan) sets out a series of expected results:

- A. Establishing effective mechanisms to fully implement member states' obligations to guarantee access to an independent and impartial tribunal.
- B. Improving or establishing formal legal guarantees of judicial independence and impartiality and putting in place or introducing the necessary structures, policies and practices to ensure that these guarantees are respected in practice.
- C. Safeguarding and strengthening the judiciary in its relations with the executive and legislature by taking action to:
 - ensure the independent and effective working of judicial councils;
 - ensure an adequate participation of the judiciary in the selection, appointment and promotion of judges, whilst limiting excessive parliamentary or executive interference in this process;
 - limit excessive parliamentary and executive interference in the disciplining and removal of judges;
 - ensure that members of the executive and legislature respect the authority of the judiciary and abstain from improper public criticism of individual judges and their judgments, as well as of the judiciary in general;
 - ensure that day-to-day administration of courts is executed in an effective and reasonable manner based on legal regulations, and without undue interference from the executive or the legislature.
- D. Protecting the independence of individual judges and ensuring their impartiality by taking actions to:
 - limit interference by the judicial hierarchy in decision making by individual judges in the judicial process and define the powers of the prosecution service in order to ensure that judges are protected from undue pressure and are able to freely follow or reject the motions of prosecutors;
 - ensure that the rules relating to judicial accountability and the review of court decisions fully respect the principles of judicial independence and impartiality;
 - effective remedies should be provided, where appropriate, for judges who consider their independence and impartiality threatened;
 - combat corruption within the judiciary and shield judges from inducement to corruption;
 - counter the negative influence of stereotyping in judicial decision making;
 - ensure comprehensive and effective training of the judiciary in effective judicial competences and ethics;

- ensure that judges are protected by legal regulations and appropriate measures against attacks on their physical or mental integrity, their personal freedom and safety.

E. Reinforcing the independence of the prosecution service by taking action to:

- provide appropriate legal guarantees for the recruitment, career development and security of employment or tenure of prosecutors;
- ensure that individual prosecutors are not subject to undue or illegal pressure from outside or within the prosecution service and that, more generally, the prosecution service is governed by the rule of law;
- take active measures to prevent and combat corruption within the prosecution service and build public trust in how it works.

F. Building public trust in the judiciary and broader recognition of the value of its independence and impartiality.

G. Taking adequately into account society as a whole in the composition of tribunals and the judiciary in order to increase public trust in the judiciary.

2. The Action Plan is a comprehensive tool containing specific recommendations and proposals to member states on the measures to be adopted to address certain issues and concerns. It also goes further and lists concrete proposals on how the different bodies of the Council of Europe (Group of States against Corruption (GRECO), the European Commission for Democracy through Law (Venice Commission), the Steering Committee for Human Rights (CDDH), the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges (CCJE), the Consultative Council of European Prosecutors (CCPE), and the European Programme for Human Rights Education for Legal Professionals (HELP programme)) can assist member states in addressing their specific needs.

3. The Action Plan provided for implementation within five years, as well as a regular review of the progress of its implementation and the good practices identified, compiled and made available to the member states. At the end of this period, in November 2022, the European Committee on Legal Co-operation (CDCJ) drew up a report on the review of the implementation of the Action Plan, compiling the measures taken by the member states and highlighting the problems and negative trends identified.

4. The CDCJ has been tasked by the Committee of Ministers to produce, by 31 December 2027, a focused thematic review of the implementation of certain aspects of the Sofia Action Plan. At the 99th plenary meeting, CDCJ members identified a number of issues for further in-depth examination. These issues include the selection, promotion and training (initial and in-service) of judges, case allocation and distribution among judges, re-assignment of judges to other courts and disciplinary proceedings for judges and prosecutors. The lines of action in the Sofia Action Plan that address these issues are: "safeguarding and strengthening the judiciary in its relations with the executive and legislature" and "protecting the independence of individual judges and ensuring their impartiality".

5. The first periodic review focuses on the career and training of judges. The issues to be addressed include a review of the rules and regulations governing the selection, appointment and promotion of judges, terms of office, dismissal, relocation or reappointment, and related safeguards from improper external influence, threat or interference in these processes; an

overview of institutions responsible for the training of judges, admissions to judicial training and training itself (initial and in-service), and its role in the career of judges.

6. The first step of the review focuses on the information and resources of other Council of Europe bodies, specifically of the GRECO, the Venice Commission, the CEPEJ, the CCJE, the Commissioner for Human Rights and the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), as well as the relevant case law of the European Court of Human Rights:

- The 4th evaluation round for the prevention of corruption in respect of members of parliament, judges and prosecutors carried out by **GRECO** and its recommendations provide comprehensive information on the independence of judges in member states, including issues related to the selection and appointment procedures of judges, their training on ethical and disciplinary matters and the role of self-governing bodies in the above-mentioned areas. While the evaluation round is complete, monitoring of compliance with GRECO recommendations for each evaluated country is still ongoing and therefore provides information on the evolution of the situation;
- The **Venice Commission** continues to support member states, according to their needs, by advising them on reforms and review of legislation and legal frameworks relating to the independence of the judiciary. Venice Commission opinions provide detailed assessments of proposed legal reforms and contain valuable information on possible problems of non-compliance with European standards on judicial independence. It is therefore important to follow the development of certain draft laws in the member states in order to understand their possible impact on judicial independence;
- Justice Dashboards for Eastern Partnership and Western Balkans countries that are being developed by **CEPEJ** would provide quantitative and qualitative data on the operation of judicial systems, making it easier to measure the results of the judicial reform efforts supported by the European Commission in these countries;
- The ongoing work of the **CCJE**, in particular its recent Opinion No. 24 (2021) on the evolution of the councils for the judiciary and their role in independent and impartial judicial systems, is of particular relevance to this review, as it provides further evidence on the development of the role of judicial councils in the protection of judicial independence at international and national levels and offers further guidance on key aspects of the functioning of judicial councils;
- The publications of the **Commissioner for Human Rights**, and in particular the reports following her country visits, provide valuable information on the independence of the judiciary in these countries;
- The mid-term Horizontal Review of **GREVIO** baseline evaluation report provides a panoramic view of the promising practices and the challenges that GREVIO has identified in implementing the Istanbul Convention, including on women's access to justice, judicial stereotyping and training.

7. Other sources of information analysed include the European Commission's annual reports on the rule of law, the EU Justice Scoreboards published by the European Commission, the annual thematic reports of the UN Special Rapporteur on the independence of judges and lawyers, and the publications of the OSCE Office for Democratic Institutions and Human Rights. and has elaborated a questionnaire for CDCJ and CCJE members to complete

the information, necessary for conducting in-depth analysis. Lastly, the draft report has been supplemented by answers to the questionnaire from CDCJ and CCJE member states.

THEMATIC REVIEW

I. CAREER

1) Selection and appointment of judges

8. According to the [Magna Carta of Judges](#) (Fundamental principles summarising and codifying the main conclusions of the Opinions adopted by the CCJE): “Decisions on selection, nomination and career shall be based on objective criteria and taken by the body in charge of guaranteeing independence”.¹

9. The Court of Justice of the European Union (CJEU) has ruled that, in order to guarantee the independence of the judiciary, the substantive conditions and procedural arrangements governing the appointment of judges must be sufficient to rule out the presence of legitimate doubts as to the imperviousness of those judges to external factors and as to their neutrality as judges.²

10. Ensuring adequate involvement of the judiciary in the selection and appointment of judges, while limiting excessive interference in this process by the executive and legislative powers, is one way of reducing the risk of external influence on the judiciary. While the arrangements for appointing judges vary from one Council of Europe member state to another, any decision relating to the appointment or career of a judge must be based on **objective criteria** and be taken by an **independent authority** or be accompanied by guarantees that it will not be taken on any basis other than those criteria.

- *An independent authority, including judges, to take decisions on the selection and appointment of judges*

11. To guarantee the independence of the judiciary, the authority in charge of judicial recruitment procedures must be independent. The case law of the CJEU recognises that judicial councils are an important guarantor of the independence of the judiciary.³ Some states and entities make a distinction between the formal authority, which may be the appointing authority (e.g. the President of the Republic, the Sovereign Prince (Monaco) or the Minister of Justice), and the authority actually in charge of the recruitment process, which must be independent of the executive in order to guarantee the full independence of the judiciary.

12. In this respect, the Venice Commission and the United Nations Special Rapporteur on the independence of judges and lawyers have pointed to the risks of politicisation when the decisive power in the appointment of judges is entrusted to a political body and the

¹ *Magna Carta of Judges* (2010), paragraph 5. See also Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 44-48; Warsaw Recommendations on Judicial Independence and Accountability (2023, OSCE/ODIHR); and the Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Diego Garcia-Sayan, *Judicial Councils*, A/HRC/38/38, 2 May 2018, para. 97-99.

² See the judgments of the CJEU of 15 July 2021, *Commission v. Poland*, C-791/19, para. 98-108; of 20 April 2021, *Repubblika and Il-Prim Ministru*, C-896/19, para. 66; of 2 March 2021, *AB and Others (Appointment of Judges to the Supreme Court - Action)*, C-824/18, para. 66, 124-125; and of 19 November 2019, *AK and Others*, joined cases C-585/18, C-624/18 and C-625/18, para. 137-138.

³ The CJEU has recognised that when a judicial council participates in an appointment process involving political bodies, it can contribute to the objectification of that process by limiting the room for manoeuvre available to the political bodies in the exercise of their powers, provided that the council is sufficiently independent of the executive and legislative powers and of the body to which it submits an opinion. See, for example, the judgment of 2 March 2021 in Case C-824/18 *AB and Others (Appointment of Judges to the Supreme Court - Action)*, para. 123-125, and the case law cited therein.

involvement of that body is not merely formal. As long as the president or parliament is bound by a proposal made by an independent judicial council, appointment by these bodies does not seem to pose a problem, as their role is purely formal. Care should be taken to ensure that the lead role in the process is given to an independent body.⁴ In Latvia, for example, while the *Saeima* has retained its role of making formal appointments to the judiciary on the basis of the non-binding opinion of the Judicial Council, it has invariably followed its proposal.⁵

13. According to the conclusions and recommendations of CCJE Opinion No. 24 (2021) on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems: members of the Council must be selected according to a transparent procedure which promotes the independent and efficient functioning of the Council and the judiciary and avoids any perception of political influence, self-interest or cronyism (paras. 27, 29, 31 and 34). In several states, the selection and appointment of judges are regulated inter alia by their Constitutions (Andorra, Azerbaijan, Croatia, Czechia, Georgia, Hungary, Lithuania, Monaco, Norway, Serbia, Slovak Republic, Spain, Ukraine, United Kingdom⁶).

14. According to the latest CEPEJ evaluation report on European judicial systems (2024 *evaluation cycle - 2022 data*), in the vast majority of member states and entities, an authority composed of judges and non-judges is responsible for the initial recruitment of professional judges. Only a few member states and entities provide for an authority composed solely of judges or an authority composed solely of non-judges. In most cases, the competent body is the Supreme Judicial Council (or a similar body). In Germany and Switzerland, all models exist depending on the federated entities.

15. Many states have reformed their procedures for appointing judges to strengthen the role of the Judicial Council (Armenia,⁷ Cyprus,⁸ Hungary,⁹ Latvia,¹⁰ Lithuania,¹¹ Malta,¹² Republic of Moldova,¹³ Serbia,¹⁴ Ukraine¹⁵). In light of the enactment of the Irish Judicial Appointments Commission Act, 2023 and in anticipation of its full commencement, the 2024 Rule of Law report of the European Commission noted that Ireland had made “significant progress on ensuring that the reform of the appointment and promotion of judges, as regards

⁴ Venice Commission, *Judicial Appointments* - CDL-AD(2007)028; France - CDL-AD(2023)015; Netherlands - CDL-AD(2023)029

⁵ GRECO, *Second compliance report Latvia*, 3 June 2019, para. 28

⁶ See the replies from these member states to the questionnaire

⁷ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

⁸ GRECO, recommendation x. implemented (*Second Compliance Report Cyprus*, 17 November 2020, para. 56)

⁹ GRECO, recommendation viii. partially implemented (*Fourth compliance report Hungary - interim*, 9 June 2023, para. 43); European Commission Rule of Law Report, 5 July 2023.

¹⁰ GRECO, recommendation vii. implemented (*Second compliance report Latvia*, 3 June 2019, para. 28)

¹¹ GRECO, recommendation vii. implemented (*Second compliance report Lithuania - addendum*, 6 May 2021, para. 32)

¹² *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

¹³ GRECO, recommendation ix. partially implemented (*Second compliance report Republic of Moldova - second interim*, 19 May 2023, para. 48)

¹⁴ GRECO, recommendation v. implemented (*Second compliance report Serbia - interim*, 30 March 2022, para. 28)

¹⁵ See Supervision of the execution of judgments of the Court, H46-38 *Oleksandr Volkov v. Ukraine* (Application no. 21722/11)

the composition of the Judicial Appointment Commission, is taking into account European standards on judicial appointments.”¹⁶.

16. On the other hand, in other states, the Council for the Judiciary is not considered as sufficiently involved in the appointment of all categories of judges (administrative and judicial) (Azerbaijan,¹⁷ Slovenia,¹⁸ Türkiye¹⁹) or the appointment body or procedure is considered problematic (Bosnia-Herzegovina,²⁰ Bulgaria,²¹ Cyprus,²² Spain,²³ Estonia,²⁴ Poland,²⁵ Slovak Republic²⁶).

- *Decisions based on objective criteria*

17. According to the conclusions and recommendations of CCJE Opinion No. 24 (2021): decisions with respect to the careers of judges must not be taken because of loyalty to politicians or other judges, but according to a transparent procedure using objective criteria so far as possible. Such decisions should be reasoned and based solely on merit. Judges who think that their rights have been disregarded must have a right to judicial review (paras. 20-21). The UN Special Rapporteur specifies that decisions must take into account the qualifications, skills and abilities of candidates, as well as their integrity, sense of independence and impartiality. In his view, competitions organised at least in part in writing and on the basis of anonymity can play a significant role in the selection process.²⁷ The Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (2010, OSCE/ODIHR) recommend that a separate commission should organise written and oral examinations (para. 3).

18. In this respect, new precise and objective criteria have been introduced for the selection, appointment, evaluation and promotion of judges in certain states (Cyprus,²⁸

¹⁶ European Commission Rule of Law Report, 24 July 2024, Country Chapter on the rule of law situation in Ireland, p. 2.

¹⁷ GRECO, recommendation vi. partially implemented (*Second compliance report Azerbaijan - Addendum, 19 May 2021, para. 24*)

¹⁸ European Commission Rule of Law Report, 5 July 2023

¹⁹ GRECO, recommendation ix. not implemented (*Fourth Türkiye Compliance Report - Interim, 7 December 2023, para. 19*); Country visit report of the Commissioner for Human Rights on Türkiye "The Turkish authorities must restore the independence of the judiciary and stop targeting and silencing human rights defenders", 19 February 2020.

²⁰ Venice Commission, *Bosnia and Herzegovina - Opinion n° 1015/2021*

²¹ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

²² Ibid.

²³ European Commission Rule of Law Report, 5 July 2023

²⁴ GRECO, recommendation viii. partially implemented (*Second compliance report Estonia, 23 June 2017, para. 43*)

²⁵ Country visit report on Poland by the Commissioner for Human Rights "Polish authorities should protect judges from pressure, actively protect women's rights and strengthen policies to promote gender equality", 28 June 2019; European Commission Rule of Law Report, 5 July 2023

²⁶ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

²⁷ Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Diego Garcia-Sayan, *Councils for the Judiciary*, A/HRC/38/38, 2 May 2018, para. 98

²⁸ GRECO, recommendation x. implementation (*Second Compliance Report Cyprus, 17 November 2020, para. 56*)

Georgia,²⁹ Czechia³⁰). Some states guarantee that decisions on appointment are reasoned (Hungary³¹) and subject to appeal (North Macedonia,³² Georgia,³³ Czechia³⁴). In most countries, the general requirements for applicants include being a citizen of the country in question, being of a certain age, having a degree in law, having a certain amount of professional experience, not having a criminal record, etc. In addition, applicants are assessed on the basis of predetermined criteria, such as work capacity, perseverance, diligence, reliability, decision-making capacity, social skills, communication skills, general conduct in office and with the colleagues and superiors, conduct outside the office having possible consequences on the office work (Austria), quantitative and qualitative results of their work in the last five years (Croatia), possession of theoretical and practical knowledge (Serbia), open-mindedness and independent thinking (Cyprus), and relevant legal experience, which length varies depending on the judicial position (Slovenia). In Azerbaijan, individuals who are ineligible to serve as judges include inter alia those with dual citizenship, those who have obligations to other states and religious officials.³⁵

19. On the other hand, the Venice Commission expressed concern about the lack of criteria of seniority or professional competence on the basis of which judges can be appointed to sit exclusively on the Court of Appeal in Bosnia and Herzegovina,³⁶ the lack of transparent and merit-based criteria for selection, for the selection, appointment and promotion of judges in Slovenia and recommended that Bulgaria specifies in law or the Constitution objective criteria for refusal of appointment to a permanent post, with the same procedural safeguards as for the dismissal of permanent judges in Bulgaria.³⁷ Criteria are vague in Estonia where There is a growing concern about transparency. The regulation is not immune to arbitrary decisions and subjectivity.³⁸

- *A formal appointment procedure for all judges*

20. GRECO welcomed the reforms guaranteeing formalised, uniform and transparent procedures in the Czechia³⁹ and Austria⁴⁰.

21. Certain procedures, at the same time, remain problematic, such as the principle of sequential appointment in Albania⁴¹, the procedure of promotion of a judge of a district court

²⁹ GRECO, recommendation iv. partially implemented (*Second Georgia Compliance Report - Addendum, 13 July 2022, para. 24*)

³⁰ GRECO, recommendation vi. implemented (*Second compliance report Czech Republic, 16 June 2023, para. 38*)

³¹ GRECO, recommendation viii. partially implemented (*Fourth compliance report Hungary - interim, 9 June 2023, para. 43*)

³² GRECO, recommendation viii. implemented (*Second compliance report North Macedonia, 9 August 2018, para. 45*)

³³ GRECO, recommendation iv. partially implemented (*Second compliance report Georgia - Addendum, 13 July 2022, para. 24*)

³⁴ GRECO, recommendation vi. implemented (*Second compliance report Czech Republic, 16 June 2023, para. 38*)

³⁵ See the replies from these member states to the questionnaire

³⁶ Venice Commission, *Bosnia and Herzegovina* - CDL-AD(2023)002

³⁷ Venice Commission, *Bulgaria* - Opinion n° 1002 / 2020

³⁸ See the reply from this member state to the questionnaire

³⁹ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

⁴⁰ GRECO, recommendation x. partially implemented - while regretting the reforms did not apply to administrative court judges (*Second Compliance Report Austria, 16 November 2023, para. 39*)

⁴¹ Venice Commission, *Albania* - Opinion n° 978/2020

to a court of appeals in Georgia⁴² (without competition and not governed by clear and objective criteria), or the procedures for electing, appointing and recruiting members of the Labour Court in Iceland⁴³ (the selection process with respect to judges to the Labour Court to be nominated by the Supreme Court was still not considered as adequately regulated). The procedure needs to be explained in Monaco⁴⁴ and Switzerland⁴⁵.

- *Appointment to the presidency of courts and other high judicial offices*

22. According to the conclusions and recommendations of CCJE Opinion No. 19 (2016)⁴⁶: the minimum qualification to become a court president is that the candidate should have all the necessary qualifications and experience for appointment to judicial office in that court. The skills and abilities for appointment as court presidents should reflect the functions and tasks they will have to carry out. The CCJE considers that the procedures for the appointment of court presidents should follow the same path as that for the selection and appointment of judges in line with standards established in Recommendation CM/Rec(2010)12 and previous CCJE Opinions. Judges of the court in question could be involved in the process of election, selection and appointment of court presidents. An advisory or even binding vote is a possible model.

23. While there are no political appointments of ordinary judges, it is a different matter for the appointment of judges of the Constitutional Court. In Italy, for example, one third of constitutional court judges are appointed by the President of the Republic, one third by the plenary Parliament, one third by the high judiciary and the Council of State, while a quota belongs to the government. In Germany, half of the judges at the Federal Constitutional Court are selected by the Bundestag and half by the Bundesrat, with each vote requiring a two thirds' majority⁴⁷.

24. A number of states has undertaken reforms aimed at guaranteeing transparency in the appointment of judges entrusted with judicial administration functions (Austria⁴⁸ - although the reform does not concern the appointment of presidents of administrative courts -, Cyprus,⁴⁹ Croatia,⁵⁰ Netherlands,⁵¹ Slovak Republic,⁵² Republic of Moldova⁵³) and equal treatment of

⁴² GRECO, recommendation iv. partially implemented (*Second compliance report Georgia – second addendum*, 3 July 2024, para. 28)

⁴³ GRECO, recommendation v. partially implemented (*Second compliance report Iceland - second addendum*, 26 April 2021, para. 18)

⁴⁴ GRECO, recommendation ix. partially implemented (*Second compliance report Monaco*, 30 March 2023, para. 29)

⁴⁵ GRECO, recommendation vi. not implemented (*Second Swiss Compliance Report - Addendum*, 11 May 2023, para. 30)

⁴⁶ CCJE Opinion No. 19 (2016) on the role of court presidents

⁴⁷ See the replies from these member states to the questionnaire

⁴⁸ European Commission Rule of Law Report, 5 July 2023

⁴⁹ Ibid.

⁵⁰ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

candidates (Georgia⁵⁴). GRECO continues to monitor the implementation of reforms in Albania⁵⁵ and Hungary⁵⁶.

25. Reform is needed to introduce objective criteria and assessment rules for appointments to senior judicial posts (Spain,⁵⁷ Greece⁵⁸), to depoliticise the appointment of the President of the Supreme Court (Malta⁵⁹) or to minimise the possibility of political influence (Latvia,⁶⁰ Slovenia⁶¹). The reform of the status of magistrates in Portugal is to apply to the Supreme Court of Justice and the Supreme Administrative Court.⁶² Poland was condemned by the European Court of Human Rights in 2021⁶³ for violating the right to a court established by law due to irregularities in the appointment of judges to the disciplinary chamber of the Supreme Court, while the Commissioner for Human Rights of the Council of Europe expressed concern about the independence and credibility of its Constitutional Court.⁶⁴

- *Integrity requirements in appointment procedures*

26. Better communication between the Appointments Committee of the High Council of Justice and the Council's Committee of Inquiry has been noted in Belgium,⁶⁵ as has the establishment of a Judges' Proposals Council in Sweden,⁶⁶ to protect the independence of courts and judges.⁶⁷

27. In Türkiye, it is necessary to establish sufficiently clear and precise criteria for checking the integrity of candidates for judicial office⁶⁸. In the Slovak Republic,⁶⁹ the Constitutional Court ruled in 2019 that background checks on judges based on information provided by the national security authority were contrary to the principle of judicial independence.

⁵⁴ Venice Commission, *Georgia - CDL-AD(2023)033*; GRECO, *Second Compliance Report Georgia - Addendum*, 13 July 2022, para. 30

⁵⁵ GRECO, recommendation vi. partially implemented (*Second Compliance Report Albania - Addendum*, 6 October 2020, para. 33)

⁵⁶ GRECO, Recommendation viii. partially implemented (*Fourth Compliance Report Hungary - Interim*, 9 June 2023, para. 43); Venice Commission, *Hungary - Opinion No. 1050/202, Judicial Appointments*; Statement by the Commissioner for Human Rights "Commissioner urges Hungarian Parliament to amend bill threatening independence of judiciary", 28 November 2019; European Commission Rule of Law Report, 5 July 2023.

⁵⁷ GRECO, recommendation vi. partially implemented (*Second compliance report Spain - addendum*, 5 December 2022, para. 21); European Commission Rule of Law Report, 5 July 2023.

⁵⁸ European Commission Rule of Law Report, 5 July 2023

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ GRECO, recommendation v. not implemented (*Second compliance report Slovenia*, 5 July 2018, para. 25)

⁶² GRECO, recommendation vii. partially implemented (*Second compliance report Portugal - third interim report*, 15 January 2024, para. 45)

⁶³ ECtHR, *Reczkowicz v. Poland*, No. 43447/19, 22 July 2021

⁶⁴ Country visit report by the Commissioner for Human Rights on Poland "Polish authorities should protect judges from pressure, actively protect women's rights and strengthen policies to promote gender equality", 28 June 2019

⁶⁵ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

⁶⁶ Ibid.

⁶⁷ European Commission report on the rule of law, 5 July 2023

⁶⁸ GRECO, recommendation x. partially implemented (*Fourth compliance report Türkiye - interim*, 7 December 2023, para. 22)

⁶⁹ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

- *Measures to facilitate gender balance in recruitment and promotion procedures*

28. According to the 2024 CEPEJ report, a quarter of states and entities have specific provisions in place to facilitate gender equality in the recruitment and promotion procedures of judges. Nine member states have similar targeted provisions for the appointment procedures of court presidents. Austria, Bosnia and Herzegovina, Denmark, Germany, Montenegro and Spain report having general policies promoting gender equality in the recruitment and promotion of judges and in the appointment of presidents of courts. In France, Germany, the Republic of Moldova, Spain, and England and Wales (UK), studies are being conducted on the reasons for any gender inequalities in the recruitment or promotion of judges. In Ireland, the Judicial Appointments Commission Act, 2023 established a new, independent Judicial Appointments Commission, which will have the objective that membership of the judiciary should reflect the diversity of the population as a whole⁷⁰.

29. There has been notable progress in the average proportion of women among professional judges recruited, which has risen from 49% in 2012 to 57% in 2022. Gender inequalities persist at the higher hierarchical levels, where the proportion of women remains below 50% in many countries. Nonetheless, the average percentage of female court presidents has risen from 33% in 2012 to 42% in 2022.

2) Term of office of judges / Irremovability

- *Irremovability*

30. According to the Venice Commission, the irremovability of judges is an essential guarantee of the independence of the judiciary. It aims to protect judges from the influence of the political majority of the day.

31. The Venice Commission has repeatedly criticised changes to the retirement age or term of office of judges, even as part of a general reform of the judicial system, which affect the independence of judges. This is why international standards of judicial independence explicitly guarantee security of tenure until the mandatory retirement age or expiry of the term of office, and at the same time limit the grounds for dismissal to incapacity or professional misconduct.⁷¹ The Commission suggested abolishing any fixed start and end dates for judges' terms of office in Albania.⁷²

32. According to the 2024 CEPEJ report, the principle of lifetime appointment of judges applies in almost all member states and entities. The CCJE notes that in European practice, full-time appointments until legal retirement age are the rule and that this is the least problematic approach from the point of view of independence.⁷³ The irremovability of judges is guaranteed in principle, although there are often exceptions to this rule. The situation in Switzerland, where judges may be elected by the people or parliament, depending on the canton, or appointed by the court of appeal, is quite specific.

- *Probation periods*

33. The CEPEJ and CCJE have noted that many civil law systems provide for probation periods for new judges.⁷⁴ Probation periods exist in 17 member states. The periods vary from

⁷⁰ See the reply from this member state to the questionnaire

⁷¹ Venice Commission, *Armenia - Opinion n° 988/2020*

⁷² Venice Commission, *Albania - Opinion n° 978/2020*

⁷³ CCJE Opinion No. 1 (2001) on standards concerning the independence and security of tenure of judges, para. 48

⁷⁴ Ibid. para. 49

three months to a maximum of five years in Bulgaria⁷⁵ and Germany⁷⁶. The Venice Commission has always been critical of the very idea of probation periods for judges, insofar as such a status undermines their independence.⁷⁷ The three or five-year probation period for new judges has been abolished in some states (Georgia, Republic of Moldova⁷⁸, Ukraine), introducing a lifetime appointment. Monaco does not apply a formal probation system for judges, but French judges seconded to Monaco serve a non-renewable five-year term of office.⁷⁹

34. The Venice Commission specified that, if they exist, probation periods for young judges must be surrounded by all the necessary safeguards, be based on established international standards and must not be unnecessarily long, and that final appointment after the trial period should be the rule. In Cyprus, the judge has the status of a permanent judge during the probation period, judicial independence is guaranteed and there is protection against unfair dismissal or arbitrary termination.⁸⁰

35. The irremovability of judges should be strengthened in some states (Estonia⁸¹, Türkiye⁸²).

3) Dismissal, relocation and reappointment of judges

- *Dismissal and reappointment*

36. According to the Venice Commission, the criteria for removal from office must be clearly defined without being too vague and weak for both full judges and the President of the Supreme Court.⁸³ It stressed that judges should not be dismissed for a repeated minor offence and that unsatisfactory performance and disciplinary misconduct should not be treated in the same way.⁸⁴ In Cyprus, grounds for dismissal can include incapacity, improper conduct, or disciplinary offenses. In Montenegro, the grounds for dismissal are more precise, such as failure to achieve at least 60% of the required workload in terms of quantity, without a valid reason. Several states reported having an appeal mechanism in place as a safeguard⁸⁵. In France, the dismissal decision is held by the Supreme Council of the Judiciary, after inquiry and hearing of the judge, it is reasoned and subject to appeal⁸⁶. In Lithuania, the Constitutional Court clarified the principles relating to the dismissal of superior court judges, reaffirming the

⁷⁵ GRECO, recommendation vi. partially implemented (*Second compliance report Bulgaria*, 17 January 2020, para. 20) and see the reply from this member state to the questionnaire

⁷⁶ See the reply from this member state to the questionnaire

⁷⁷ Venice Commission, *Bulgaria CDL-AD(2017)018*, *Bulgaria - CDL-AD(2002)015*, *Bulgaria - Opinion No. 1002 / 2020*

⁷⁸ See the reply from this member state to the questionnaire

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² GRECO, recommendation xii. not implemented (*Fourth compliance report Türkiye - interim*, 7 December 2023, para. 35)

⁸³ Venice Commission, *Hungary - Opinion n° 1050 / 2021*

⁸⁴ Venice Commission, *Serbia - Opinion No. 1015/2021*; *Serbia - CDL-AD(2022)030*

⁸⁵ See the replies from these member states to the questionnaire: Albania, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, France, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Republic of Moldova, Monaco, North Macedonia, Poland, Portugal, Romania, San Marino, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, United Kingdom.

⁸⁶ See the reply from this member state to the questionnaire

role of the Judicial Council⁸⁷. In Norway, judges may not be removed from office except by court judgment⁸⁸.

37. The Commissioner for Human Rights expressed serious concerns about the conditions of dismissal and replacement of many court presidents and vice-presidents in Poland.⁸⁹ The European Court of Human Rights ruled that several dismissals of judges in Ukraine were unlawful and called on the respondent state to take a number of general measures to reform the disciplinary justice system.⁹⁰

38. In Andorra, where the term of office of judges is not indefinite, their reappointment is automatic, except in case of disciplinary proceedings or sanctions.⁹¹ In that case, the decision of reappointment is taken by the High Council of justice after hearing the judge, is reasoned and subject to appeal⁹².

- *No relocation of judges without their consent in principle*

39. The principle of irremovability means that judges cannot be reassigned without their consent. This is the case in Armenia, Georgia (unless no judge agrees to be transferred) and Portugal⁹³, but also in Luxembourg, the Republic of Moldova, the Netherlands and Norway⁹⁴.

40. In Germany, a judge at one court may be seconded to another to address temporary, exceptional pressures and to cover for judges who are unable to sit. Such a secondment requires the consent of the judge in question.⁹⁵

- *Exceptions to the principle subject to safeguards*

41. The CEPEJ indicates in its latest report that a transfer may however be carried out without the consent of the judge concerned, but in such cases, attention must be paid to the modalities of this transfer. It may result from a **disciplinary** procedure before an independent body, which is the case for 37% of states and entities. In addition, more than 59% of states and entities allow judges to be transferred without their consent for **organisational** reasons (closure, merger, restructuring of courts, etc.). These transfers are governed by guarantees such as the right to appeal against the decision before a court (Andorra, Croatia, France,

⁸⁷ European Commission report on the rule of law, 5 July 2023

⁸⁸ See the reply from this member state to the questionnaire

⁸⁹ Country visit report by the Commissioner for Human Rights on Poland "*Polish authorities should protect judges from pressure, actively protect women's rights and strengthen policies to promote gender equality*", 28 June 2019

⁹⁰ ECtHR, *Oleksandr Volkov v. Ukraine*, No. 21722/11, 9 January 2013; ECtHR, *Kulykov and Others v. Ukraine*, No. 5114/09, 19 January 2017; ECtHR [GC], *Denisov v. Ukraine*, No. 76639/11, 25 September 2018; ECtHR, *Gumenyuk and Others v. Ukraine*, No. 11423/19, 22 July 2021 - supervision of the execution of this group of ongoing cases.

⁹¹ GRECO, recommendation viii. implemented (*Andorra Compliance Report - interim*, 9 December 2021, para. 49)

⁹² See the reply from this member state to the questionnaire

⁹³ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

⁹⁴ See the replies from these member states to the questionnaire

⁹⁵ Ibid.

Georgia⁹⁶, Hungary,⁹⁷ North Macedonia⁹⁸, Poland⁹⁹, Romania, Slovenia¹⁰⁰) or salary maintenance (Czechia, France, Germany, Hungary, Lithuania¹⁰¹, Montenegro¹⁰², North Macedonia¹⁰³). In Cyprus, the Supreme Council of Judicature takes into account the judge's city of residence before making a decision, demonstrating sensitivity to personal circumstances. In Czechia, a judge may be transferred only to another court of the same level within the same judicial district. In Finland and in Ukraine, if a judge is being transferred (in the event of liquidation or reorganisation of the court in Ukraine) and refuses to accept a position assigned to him or her without a valid reason, the judge may be relieved from office. In Finland, the matter is considered by the Supreme Administrative Court on the application of the National Courts Administration. The matter shall be considered as an urgent judicial matter. In Slovenia, judges may be transferred without their consent for organisational reasons, but their consent is required if the court to which the judge is assigned is more than 70 kilometres or more than one hour's travel by public transport from the court to which the judge is appointed, and if the judge is pregnant or caring for a child under the age of three¹⁰⁴.

42. According to the Warsaw Recommendations, in the context of closure of a court, all existing members of that court should, in principle, be transferred to another court.¹⁰⁵

43. According to the CEPEJ's 2024 report, the transfer of judges is sometimes possible for reasons **other** than disciplinary or organisational. In Austria, judges must be transferred if non-professional circumstances (through no fault of their own) damage their reputation and ability to perform their duties in such a way that they would no longer be able to act as a judge in that court. In Germany, in addition to disciplinary and organisational reasons, judges may be transferred without their consent in the context of *impeachment* proceedings for violation of the constitutional order or if facts external to their judicial activity imperatively require such a measure in order to avoid serious harm to the administration of justice. In Poland, judges can be transferred in case of statutorily defined personal links, i.e. situations where lineal relatives by blood or marriage, adoptive relatives, spouses or siblings are judges, assistant judges or officers of justice within the same division of the court.¹⁰⁶

44. According to the CEPEJ's 2022 report, in some states, a temporary transfer may be decided without the judge's consent in the interests of the **proper administration of justice** (e.g. Belgium, Bosnia-Herzegovina, Germany, Iceland, Ireland, Lithuania, Northern Macedonia and Slovenia). Here again, specific safeguards govern this type of reassignment through strict regulations concerning the duration, the authorities competent to decide, the possibility of appealing against the decision, the level of salary and inherent benefits, etc. In Germany, the individuals affected must be notified, and heard, before a planned transfer or discharge.¹⁰⁷

⁹⁶ See the replies from these member states to the questionnaire

⁹⁷ GRECO, recommendation x. partially implemented (*Fourth compliance report Hungary - interim*, 9 June 2023, para. 48)

⁹⁸ See the reply from this member state to the questionnaire

⁹⁹ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

¹⁰⁰ See the replies from these member states to the questionnaire

¹⁰¹ Ibid.

¹⁰² Venice Commission, *Montenegro - CDL-PI(2024)007*

¹⁰³ See the reply from this member state to the questionnaire

¹⁰⁴ See the replies from these member states to the questionnaire

¹⁰⁵ Warsaw Recommendations on Judicial Independence and Accountability (2023, OSCE/ODIHR), para. 33

¹⁰⁶ See the reply from this member state to the questionnaire

¹⁰⁷ Ibid.

- *Problematic cases of relocation without consent*

45. The principles of the irremovability of judges and the independence of the judiciary are infringed when the cases in which a judge may be transferred without his or her agreement are not limited to exceptional cases and are not justified by a legitimate and transparent reason (Türkiye, Poland¹⁰⁸).

46. In *Bilgen v. Türkiye*,¹⁰⁹ the European Court of Human Rights found a lack of access to a court, resulting in the impossibility for a judge to obtain judicial review of an allegedly unjustified decision to transfer without consent to a lower judicial district. Following this judgment, an action plan/report on the measures planned/adopted was expected, with a particular focus on legislative measures, introducing procedural safeguards to protect the judicial autonomy of judges from undue external or internal influences and, thus, to strengthen public confidence in the functioning of the judiciary.

4) Judges' remuneration

47. According to the Magna Carta of Judges: "In order to avoid undue influence, judges shall receive appropriate remuneration and be provided with an adequate pension scheme, to be established by law" (*Magna Carta of Judges (2010), paragraph 7*).

48. According to Recommendation CM/Rec(2010)12 of the Committee of Ministers on judges: independence, efficiency and responsibilities (paras. 53 and 54), the level of judges' salaries contributes to their independence. Judges should be offered a level of remuneration commensurate with their status and responsibilities. The Venice Commission reiterated the importance of appropriate salaries from the point of view of both the attractiveness of a judicial career and the prevention of corruption.¹¹⁰

49. The CJEU has mentioned, *inter alia*, that protection against the dismissal of judges and the payment of remuneration commensurate with the importance of their duties are essential guarantees of the independence of the judiciary.¹¹¹

50. The United Nations Special Rapporteur on the independence of judges and lawyers has noted that the reality on the ground is far from complying with the principle of legally guaranteed and appropriate remuneration for judges. In several of his country mission reports, he noted the low level of judges' salaries. He also highlighted the fact that, even where there are legal provisions in this area, the salaries actually paid to judges are inadequate. He recommends that states pay judges properly and without delay, taking into account the responsibilities and nature of their duties.¹¹²

51. Judges' remuneration is increasingly interpreted and regulated as a guarantee in itself of the status and independence of the judiciary.¹¹³ In a number of member states, the remuneration of judges has been increased and guaranteed in accordance with the principle

¹⁰⁸ Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary, CDCJ, November 2022

¹⁰⁹ ECtHR, *Bilgen v. Türkiye*, No. 1571/07, 9 March 2021

¹¹⁰ Venice Commission, *Serbia - Opinion n° 1088 / 2022*

¹¹¹ CJEU, *Associação Sindical dos Juizes Portugueses*, No. C-64/16, 27 February 2018, § 45

¹¹² Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, *Guarantees of judicial independence*, A/HRC/11/41, 24 March 2009, para. 73-74 and 99

¹¹³ CCJE Opinion No. 18 (2015) on the position of the judiciary and its relation with the other powers of state in a modern democracy, para. 36

that their salary should be commensurate with their status and ensure their material independence.

52. The question of judges' salaries requires a global approach which, beyond the purely economic aspect, looks at the impact this may have on the efficiency of justice, as well as on its independence in relation to the fight against corruption within and outside the judicial system. Justice policies should also take into account the salaries of other legal professions in order to make the judicial profession attractive to highly qualified legal practitioners.

53. The CEPEJ makes comparisons of salaries that are based on two indicators: firstly, the remuneration of a judge/prosecutor at the beginning of his or her career, and secondly, the average salary of judges/prosecutors at the Supreme Court, which constitutes the top of the judicial hierarchy. It should be noted that, in some systems, the salaries of judges and prosecutors do not depend on the position held (first instance or highest instance) but rather on experience (i.e., years of service). Thus, the salary of a judge working in courts of first instance may be the same as that of a judge working at the highest court level (as is the case in Italy, for example).

54. Judges' remuneration is guaranteed in Latvia and Germany, and judges' salaries have been upgraded in certain states (Lithuania, Republic of Moldova, Portugal, Estonia and Ukraine, where there is, however, a significant difference in remuneration with judges who have not yet passed the skills assessment, in particular for reasons beyond their control).

55. In some states, the remuneration of judges is problematic, either because of the risk of undue influence implied by a system of applying supplementary remuneration without clear guidance (Bulgaria¹¹⁴), chronic underfunding of the judicial system (Greece¹¹⁵), substantial differences between the salaries of judges and other civil servants (Slovenia¹¹⁶) or a lack of financial independence of the judiciary (Slovak Republic¹¹⁷).

5) Promotion of judges

56. The United Nations Special Rapporteur on the independence of judges and lawyers and the Human Rights Committee recommend that states adopt clear procedures and objective criteria for the promotion of judges. The Special Rapporteur stresses that it is preferable that an independent body responsible for the selection of judges, made up of at least a majority of judges, should be able to take the final decisions on promotion.¹¹⁸

57. According to the CEPEJ's 2024 report, in 28 member states and entities, the same authority competent for the initial recruitment is also competent for the promotion of judges. In five of these states, it is an authority composed solely of judges, in one state, an authority composed solely of non-judges, and in 24 states, an authority composed of judges and non-judges. In Germany, all models exist, depending on the Länder. In many states, the competent

¹¹⁴ GRECO, recommendation ix. partially implemented (*Second compliance report Bulgaria*, 17 January 2020, para. 26)

¹¹⁵ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

¹¹⁶ Opinion of the Bureau of the CCJE following a Declaration of Protest by the Slovenian Association of Judges concerning the non-execution of a decision of the Constitutional Court of Slovenia aimed at remedying established unconstitutionality concerning substantial differences between the salaries of judges and other civil servants, February 2024

¹¹⁷ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

¹¹⁸ Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, *Guarantees of judicial independence*, A/HRC/11/41, 24 March 2009, para. 69-71

body is the Supreme Judicial Council or a similar body, or at least it is involved in the decision. In Slovak Republic, for instance, the evaluation of judges in the regional court circuit is carried out by a three-member evaluation commission composed of judges. The evaluation of a judge of the Supreme Court and a judge of the Supreme Administrative Court is carried out by the president of the college of which the evaluated judge is a member. The president of the college is evaluated by another member of the college designated by the college¹¹⁹.

58. In most states, promotion decisions are based on appraisals. Germany notes that appraisals must comply with the constitutional principle of judicial independence. An appraisal violates the principle of judicial independence if it effectively, either directly or indirectly, instructs the judge how to proceed or to decide in future. In addition, appraisals cannot take account of a judge's rulings.¹²⁰ Interviews are also conducted in some cases, and seniority is sometimes required. Only a few states provide for a competition or examination for promotion (internal competition in Andorra and open competition in Sweden¹²¹ and Northern Ireland (UK)). In some states, the normal application procedure applies (Denmark, Estonia, Ireland, Iceland, Norway, Switzerland).

59. Most states use a wide range of criteria for the promotion of professional judges. The most common are professional competence (and/or qualitative performance) and years of experience, used by 41 and 39 member states and entities respectively. Not a single state uses only subjective criteria (integrity, reputation, etc.), but 30 member states and entities use them among others. Where other criteria are used, these are mainly evaluation results.

60. The procedure for promoting magistrates must meet the necessary guarantees of objectivity and transparency, as in Luxembourg.¹²² In some countries, GRECO has regretted the absence of clear and objective criteria (Estonia,¹²³ Georgia¹²⁴). In Hungary, the Commissioner for Human Rights stressed the need to streamline procedures for the promotion of judges, with a greater role to be played by self-regulatory judicial bodies.¹²⁵

6) Judges' assessment

61. According to CCJE Opinion No. 17 (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence (para. 49.6): "Evaluation must be based on objective criteria. Such criteria should principally consist of qualitative indicators but, in addition, may consist of quantitative indicators. In every case, the indicators used must enable those evaluating to consider all aspects that constitute good judicial performance. Evaluation should not be based on quantitative criteria alone".¹²⁶ Assessments should be carried out

¹¹⁹ See the reply from this member state to the questionnaire

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² GRECO, recommendation vi. implemented (*Second compliance report Luxembourg - addendum, 6 December 2023, para. 32*)

¹²³ GRECO, recommendation viii. partially implemented (*Second compliance report Estonia, 23 June 2017, para. 43*)

¹²⁴ GRECO, recommendation iv. partially implemented (*Second Georgia Compliance Report - Addendum, 13 July 2022, para. 24 and 29*)

¹²⁵ Statement by the Commissioner for Human Rights "Commissioner urges Hungarian Parliament to amend bill threatening independence of judiciary", 28 November 2019

¹²⁶ See also Warsaw Recommendations on Judicial Independence and Accountability (2023, OSCE/ODIHR), para. 26 and 38

locally, by other judges.¹²⁷ Judges should be informed of the outcome of their assessment, and of the possibilities for appeal.¹²⁸

62. Italy notes that the sensitive nature of the functions performed by magistrates requires constant checks to ensure that the skills assessed at the beginning of the competition remain throughout the period of service. Thus, in Italy, all magistrates are subject to in-depth periodic evaluations of their professional abilities, every four years, seven times, starting from their entry into the judiciary and up to the 28th year of their career¹²⁹.

63. In Latvia, there is an evaluation system used among judges, which aims to promote the continuous professional growth of a judge throughout his or her career, thereby improving the quality of the work of the judge and the court. The Judicial Qualification Committee shall make the regular assessment of the professional activities of a judge once every five years and analyses several professional activities of a judge and their results, such as the structure of the prepared rulings, the legal reasoning provided therein, the application of material and procedural norms, and the use of ancillary legal sources¹³⁰.

64. Some states where judges have to undergo a probatory period have adopted reforms to improve the assessment of judges before they are appointed for life (Bulgaria¹³¹) or to extend the assessment system to all magistrates (Monaco¹³²). Some states have also changed the way judges are assessed, placing less emphasis on the quantitative aspects of their work and more on the qualitative aspects, and have abolished demotions or dismissals in the event of an unsatisfactory assessment (Northern Macedonia,¹³³ Serbia¹³⁴).

65. In other states, GRECO continues to follow the developments on the implementation of reforms in the evaluation of judges (Azerbaijan,¹³⁵ Bosnia-Herzegovina¹³⁶), the formalisation of the procedure (Portugal¹³⁷) or the evaluation criteria, that must be precise and objective (Türkiye,¹³⁸ Ukraine¹³⁹). In Spain¹⁴⁰, the evaluation criteria are exclusively quantitative. The

¹²⁷ CCJE Opinion No. 17 (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence, para. 36-38

¹²⁸ See in particular ECtHR (GC), *Guðmundur Andri Ástráðsson v. Iceland*, No. 26374/18, 1 December 2020, § 218 and following.; ECtHR (GC), *Grzęda v. Poland*, No. 43572/18, 15 March 2022, §343; ECtHR, *Gloveli v. Georgia*, No. 18952/18, 7 April 2022, §§ 56-59; CM/Rec(2010)12 on judges: independence, efficiency and responsibilities, §58.

¹²⁹ See the reply from this member state to the questionnaire

¹³⁰ Ibid

¹³¹ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

¹³² GRECO, Recommendation x. implemented (*Monaco Compliance Report - Interim*, 8 October 2021, para. 60)

¹³³ GRECO, recommendation ix. implemented (*North Macedonia Compliance Report*, 9 August 2018, para. 51)

¹³⁴ GRECO, recommendation vi. implemented (*Second compliance report Serbia - interim*, 30 March 2022, para. 35)

¹³⁵ GRECO, recommendation vi. partially implemented (*Second compliance report Azerbaijan - Addendum*, 19 May 2021, para. 26)

¹³⁶ GRECO, recommendation ix. partially implemented (*Second compliance report Bosnia-Herzegovina - second interim*, 8 June 2023, para. 47)

¹³⁷ GRECO, recommendation viii. partially implemented (*Third compliance report Portugal - interim*, 15 January 2024, para. 50)

¹³⁸ GRECO, recommendation xi. not implemented (*Fourth compliance report Türkiye - interim*, 7 December 2023, para. 28)

¹³⁹ GRECO, recommendation xvii. not implemented (*Second Ukraine Compliance Report - Interim*, 24 March 2023, para. 92)

¹⁴⁰ See the reply from this member state to the questionnaire

Venice Commission considered that the rate of reversal of decisions on appeal was not a satisfactory criterion for judges' assessment.¹⁴¹ GRECO has specified that the professional evaluation process and the integrity evaluation process should be two separate processes.¹⁴²

66. It should be noted that some states do not have a system for periodically assessing judges (Andorra, Czechia, Denmark, Iceland¹⁴³, Luxembourg¹⁴⁴, Norway, Poland, Sweden, Northern Ireland and Scotland (UK)¹⁴⁵).

¹⁴¹ Venice Commission, *Montenegro - CDL-PI(2024)007*

¹⁴² GRECO, recommendation vi. partially implemented (*Second Compliance Report Albania - Addendum, 6 October 2020, para. 34*) ;

¹⁴³ See the replies from these member states to the questionnaire

¹⁴⁴ Ibid. and GRECO, *Second compliance report Luxembourg - addendum, 6 December 2023, para. 32*

¹⁴⁵ See the replies from these member states to the questionnaire

II. TRAINING

67. According to the Magna Carta of Judges: “Initial and in-service training is a right and a duty for judges. It shall be organised under the supervision of the judiciary. Training is an important element to safeguard the independence of judges and the quality and efficiency of the judicial system.” (*Magna Carta of Judges (2010), paragraph 8*)

1) Institutions responsible for the training of judges

68. According to the CEPEJ’s latest report, 40 member states and entities have specific training institutions. Almost all of these institutions offer both initial and in-service training. Half of the states and entities have common institutions for judges and prosecutors. Some states do not have their own training institution because of the small number of judges and prosecutors: Luxembourg, for example, has arranged for judges to attend training courses at the French ENM (*École nationale de la Magistrature*), the Belgian IFJ (*Institut de formation judiciaire*) and the international ERA (Academy of European Law) in Trier (Germany).

2) Admissions to judicial training

69. According to the CEPEJ report, the vast majority of states and entities provide for compulsory initial training for judges. Only in Cyprus, Finland, Malta, Serbia and Sweden and Switzerland initial training is optional. In Cyprus, the initial training takes place in the two years following the appointment of the judges. Although in Serbia, training is mandatory based on the law or a decision of the High Judicial Council, in cases of specialisation changes, significant legal changes, the introduction of new working techniques, or to address deficiencies in the judge's work identified during the evaluation. Attending training is one of the criteria when deciding on the election of a judge¹⁴⁶. As regards access to training, the Venice Commission encourages the authorities to facilitate it for young professionals from all regions of the country,¹⁴⁷ bearing in mind that access to the judiciary should be guaranteed to all qualified persons from all sectors of society, since diversity within the judiciary strengthens public confidence in it.¹⁴⁸

70. In-service training is mostly optional. This could be explained by the fact that compulsory in-service training is sometimes regarded as problematic in terms of judges' independence. The CCJE also recommends that in-service training should normally be voluntary for judges and that mandatory in-service training should only take place in exceptional cases.¹⁴⁹ For instance, in Latvia judges are required to complete training on child rights protection to handle cases involving minors. In Belgium, training in sexual and domestic violence is compulsory for certain judges, as is training in conciliation and mediation. In Lithuania, judges must follow training when they are appointed or transferred from a court of general jurisdiction to a court of special jurisdiction and also in other cases when the judge's specialisation undergo a change. In Serbia, training is mandatory in the event of a change of specialisation, significant changes in the law, the introduction of new working techniques, or to remedy shortcomings in the judge's work identified during the assessment. In England and Wales (UK), judges must attend induction training before sitting in a new jurisdiction, and then regular continuation training, with some courses and modules being mandatory. However, some states make in-service training compulsory (Albania, Andorra, Austria, Bosnia and

¹⁴⁶ See the replies from these member states to the questionnaire

¹⁴⁷ Venice Commission, *Montenegro - CDL-PI(2024)007*

¹⁴⁸ Venice Commission, *CDL-AD(2010)004, Report on the independence of the judiciary Part I: The independence of judges*, para. 26

¹⁴⁹ Opinion No. 4 (2003) of the CCJE on appropriate initial and in-service training for judges at national and European levels, para. 37

Herzegovina, Croatia, Estonia, France, Georgia, Republic of Moldova, Monaco, Poland, Slovak Republic, Türkiye¹⁵⁰).

3) Initial and in-service training programmes

71. The Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (2010, OSCE/ODIHR) state that training programmes should complement university education by focusing on what is needed in the judicial service (paragraph 19). They should include aspects of ethics, communication skills, dispute resolution, management skills and legal writing.

72. As the European Commission points out,¹⁵¹ judicial training makes an important contribution to the quality of judicial decisions and justice services provided to citizens. In its 2024 EU Justice Scoreboard, it notes that to improve communication with vulnerable groups, all EU member states offer training on communicating with asylum seekers and/or people from different cultural, religious, ethnic or linguistic backgrounds. In addition, 20 member states offer training on the use of social media and communication with the media (a slight increase compared to 2023), and 13 provide awareness-raising and training on combating disinformation (a slight increase compared to 2023). The Commission had also identified the usefulness of training courses on communicating with victims of violence against women and domestic violence, the elderly, LGBTIQ people and children.

73. The replies to the questionnaire provide an overview of the training programmes offered in the member states of the Council of Europe:

Training programmes	Initial training	In-service training
communication skills, particularly with vulnerable persons (e.g. asylum seekers, children, victims of domestic violence, victims of trafficking, etc.)	Andorra, Austria, Belgium, Denmark, France, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Poland, Romania, Spain, Sweden, Ukraine	Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, France, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Ukraine, United Kingdom
use of social media and communication with the media, fight against disinformation	Austria, Belgium, Cyprus (only on use of social media), Denmark, France, Italy, Latvia, Lithuania, Montenegro, Netherlands, Norway, Poland, Romania, Spain, Sweden, Ukraine	Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Finland, France, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine

¹⁵⁰ See the replies from these member states to the questionnaire

¹⁵¹ Scoreboard on Justice in the EU, 12th edition, European Commission, 11 June 2024

ability to resolve disputes	Austria, Belgium, Denmark, Hungary, Italy, Latvia, Lithuania, Netherlands, Poland, Romania, Spain, Sweden, Ukraine	Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine
management skills	Belgium, Cyprus, Denmark, France, Italy, Latvia, Lithuania, Norway, Poland, Romania, Spain, Sweden, Ukraine, United Kingdom	Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Finland, France, Georgia, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, United Kingdom
preventing discrimination and improving objectivity in judicial decision making	Austria, Belgium, Cyprus, Denmark, France, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, Poland, Romania, Spain, Sweden, Ukraine, United Kingdom	Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Finland, France, Georgia, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, United Kingdom

- *Strengthen effective training in judicial skills and ethics*

74. According to the Magna Carta of Judges: "Deontological principles, distinguished from disciplinary rules, shall guide the actions of judges. They shall be drafted by the judges themselves and be included in their training". (*Magna Carta of Judges (2010), paragraph 18*).

75. Training in codes of conduct should be part of both initial and in-service training. GRECO has emphasised the need to bring training regulations and practices into line with Council of Europe standards.

76. Ethical issues are largely integrated into the in-service training of judges. In-service training in ethics should cover the norms and standards that prescribe how judges should behave in order to preserve their independence and impartiality and avoid any irregularities. Such training is available in almost all states and entities (including Cyprus,¹⁵² Finland,¹⁵³

¹⁵² GRECO, recommendation xii. implemented (*Second Compliance Report Cyprus, 17 November 2020, para. 70*)

¹⁵³ GRECO, recommendation vi. implemented (*Second compliance report Finland, 23 June 2017, para. 30*)

Ireland,¹⁵⁴ Luxembourg,¹⁵⁵ Northern Macedonia,¹⁵⁶ Monaco,¹⁵⁷ Poland¹⁵⁸), mainly on a voluntary basis, less often as a compulsory subject.

77. Some member states (Bulgaria,¹⁵⁹ Denmark,¹⁶⁰ Ukraine¹⁶¹) have set up online training courses on judicial ethics and integrity. These are complemented by the Council of Europe's HELP programme. The inclusion of these aspects in training programmes and the provision of increased support for judges still need to be strengthened in Greece¹⁶², Malta¹⁶³, the Slovak Republic¹⁶⁴ and Türkiye¹⁶⁵.

78. GRECO has also called for the provision of more concrete assistance to newly appointed judges in resolving ethical dilemmas, targeted guidance and advice on corruption prevention issues, conflicts of interest, rules on gifts and other benefits, relations with third parties and all other measures to prevent corruption and preserve integrity in general. In Albania, for example, a post of ethics advisor has been created within the High Council of Judges¹⁶⁶ and in Serbia, the Ethics Committee of the Council of Justice has been set up to provide confidential advice to all categories of judges through an advisor.¹⁶⁷ This point is to be developed in certain states (Andorra,¹⁶⁸ Georgia¹⁶⁹), bearing in mind that GRECO considered that a combined system of confidential advice for judges and prosecutors was not appropriate, as the professions of judge and prosecutor are fundamentally different, should be independent of each other and must be treated as such.¹⁷⁰

¹⁵⁴ GRECO, recommendation x. implemented (*Second compliance report Ireland - addendum, 30 January 2024, para. 40*)

¹⁵⁵ GRECO, recommendation xii. implemented (*Second compliance report Luxembourg, 20 October 2017, para. 67*)

¹⁵⁶ GRECO, recommendation vii. implemented (*Second compliance report Northern Macedonia - interim, 2 October 2020, para. 38*)

¹⁵⁷ GRECO, recommendation xv. implemented (*Monaco Compliance Report - interim, 8 October 2021, para. 75*)

¹⁵⁸ GRECO, recommendation xi. implemented (*Second compliance report Poland, 28 March 2017, para. 39*)

¹⁵⁹ GRECO, recommendation xi. implemented (*Second compliance report Bulgaria, 17 January 2020, para. 34*)

¹⁶⁰ GRECO, recommendation v. implemented (*Second compliance report Denmark - interim, 5 February 2020, para. 30*)

¹⁶¹ *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

¹⁶² GRECO, recommendation xvii. partially implemented (*Second Compliance Report Greece - addendum, 1 June 2022, para. 45*)

¹⁶³ GRECO, recommendation vi. partially implemented (*Second compliance report Malta - second addendum, 6 June 2023, para. 30*)

¹⁶⁴ GRECO, recommendation viii. partially implemented (*Second Slovak Republic Compliance Report - Second Addendum, 3 February 2021, para. 33*)

¹⁶⁵ GRECO, recommendation xviii. partially implemented (*Fourth compliance report Türkiye - interim, 1 June 2022, para. 60*)

¹⁶⁶ GRECO, recommendation vii. implementation (*Second compliance report Albania - addendum, 7 December 2023, para. 39*)

¹⁶⁷ GRECO, recommendation vii. implementation (*Second compliance report Serbia - interim, 30 March 2022, para. 41*)

¹⁶⁸ GRECO, recommendation x. not implemented (*Second compliance report Andorra, 14 June 2023, para. 37-41*)

¹⁶⁹ GRECO, recommendation vii. partially implemented. (*Second Georgia Compliance Report - Addendum, 13 July 2022, para. 35*)

¹⁷⁰ GRECO, recommendation xi. partially implemented (*Second compliance report Bosnia-Herzegovina - interim, 8 June 2023, para. 59*)

- *Combating the damaging influence of stereotypes in judicial decision-making - including through training*

79. An effective judicial training framework must incorporate both foundational and specialised courses to address complex issues, such as violence against women. The mid-term horizontal review of GREVIO's baseline evaluation reports (2022) emphasised the need for mandatory, continuous training for judges to combat stereotypes in judicial decision-making and to ensure an informed response to gender-based violence and its underlying causes. GREVIO has stressed that training should be supported by up-to-date and clear protocols and guidelines based on a gendered understanding of violence against women. This was particularly highlighted with relation to Malta, where the number of prosecutions and convictions for all forms of violence against women were alarmingly low. Factors that have contributed to these low rates include a lack of awareness, professional capacity and specialised training for judges.

80. A similar lack of understanding has been criticised by GREVIO in relation to domestic violence, which is often considered by the judiciary as a mere dispute between the parents (Belgium, Italy, and Portugal). Accordingly, GREVIO has regularly stressed the need for adequate training to overcome the prejudices and assumptions of professionals and to ensure more effective support for victims.

81. Gender equality training is available to judicial staff in Sweden, where workshops on gender mainstreaming are also organised. A seminar on gender equality has been developed in Slovenia, in co-operation with ERA.¹⁷¹ Training sessions are organised in Austria, Belgium¹⁷², Spain and Georgia, where judges take part in training on violence against women and domestic violence. In Belgium, this training is compulsory for certain categories of judges. Training sessions on issues such as negative stereotypes, non-discrimination and equality are organised in Croatia, Cyprus, Germany, the Republic of Moldova and Montenegro. In England and Wales (UK), diversity is integrated into all training offered by the Judicial College. In Monaco and Andorra, legal provisions have established compulsory training for all professionals dealing with victims of violence, including the judiciary.

82. However, according to the 2024 CEPEJ report, in-service training on gender equality is mandatory in only five countries and optional in 37 others. GREVIO noted in its evaluation report on France, where training of judges is discretionary, that the number of those who participated in training was relatively low. Several other evaluation reports have emphasised the need to improve the impact of judicial training, even in countries where it is mandatory. For example, while Spain has introduced compulsory training for judges, GREVIO found that problems persisted in relation to misunderstandings about patterns of abuse, gender bias and inadequate victim protection. The reports are strongly in favour of reviewing and promoting training for judges.

4) The role of training in judges' careers

83. In many states, attendance in training programs is strongly taken into account in the evaluation process for promotion (Austria, Croatia, Germany, Hungary, Montenegro, Portugal, San Marino, Serbia, Slovenia, Spain, Türkiye, United Kingdom). Some states require in-service training for career advancement (Andorra, Ireland, North Macedonia). In Andorra, in-service training is compulsory and each year the High Council of Justice establishes the minimum number of credits to be completed by judges and those seeking promotion.¹⁷³

¹⁷¹ See the reply from this member state to the questionnaire

¹⁷² Ibid.

¹⁷³ Ibid.

84. Some states require specific training, such as gender perspective training (prerequisite for judges and magistrates who want to do a specialisation in Spain).¹⁷⁴

CONCLUSIONS

85. It follows from this overview of the situation in the Council of Europe member states that, while progress is being made in implementing the Sofia Action Plan, certain difficulties remain.

86. The examples presented in this report show that many member states have endeavoured to protect judges from internal and external influences, by strengthening the independence and role of autonomous judicial bodies, particularly in making decisions on the selection and appointment of judges, and by improving legal frameworks that limit the risk of external influence on the selection, appointment, promotion and conditions of service of judges, safeguarding their irremovability and remuneration, clarifying procedures relating to compliance with codes of conduct or evaluation, thereby minimising the risk of arbitrary use to influence the work of judges.

87. However, the conclusions of this report show that the principles contained in the Sofia Action Plan are still relevant. Difficulties have been noted in particular regarding the application of appointment procedures to all judges, without certain categories being excluded. Furthermore, the challenge of establishing objective and transparent criteria remains, whether for the selection, appointment, assessment and promotion of judges, or for their eventual dismissal. Irremovability, the founding principle of judicial independence, remains insufficiently protected in a number of states. Finally, the training of judges, which is essential to the quality and effectiveness of justice, is poorly documented, and the replies to the CDCJ's questionnaire provide valuable insight of the training programmes offered in the member states of the Council of Europe. Training varies a lot from one state to another, and it is worth to examine further how it can contribute to safeguarding the independence and impartiality of judges.

¹⁷⁴ See the replies from these member states to the questionnaire