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**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)**  
**CONSEIL CONSULTATIF DE JUGES EUROPÉENS (CCJE)**

**OPINION No. 24 (2021) / L'AVIS No. 24 (2021)**

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

***Évolution des Conseils de la justice  
et leur rôle pour des systèmes judiciaires indépendants et impartiaux***

Compilation of responses of the CCJE members to the questionnaire  
for the preparation of the Opinion No. 24 (2021)

*Compilation des réponses des membres du CCJE au questionnaire  
pour la préparation de l'Avis No. 24 (2021)*

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## Albania/Albanie

### General

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

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> <b>Judicial Administration Board (Court Councils)</b> <input type="radio"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
Defending judges/the judiciary against public attacks	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> <b>Judicial Administration Board (Court Councils<sup>1</sup>)</b> <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Selection of new judges	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts

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

	<input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Evaluation of court performance	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> <b>HJC</b> <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"/> <b>other: High Justice Inspector</b>
Drafting and enforcing a code of ethics	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> <b>HJC: One of the Members responsible for the Media &amp; Public Relations for the whole judiciary</b> <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"/> <b>other: 8 Media Judges, responsible for the Media &amp; Public Relations at each appeal jurisdiction</b>
Providing input on legislative projects	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board

	<input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Training of judges	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> <b>other: School of Magistrates</b>
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> <b>HJC</b> <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"/> <b>other, IT Centre for the judiciary</b>
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> <b>other: The salary of a magistrate is determined by the magistrate's affiliation to a salary group and the salary scale. The salary scale (which covers all the civil servants) is approved by the Council of Ministers.</b>

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

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

- **an assessment of the judicial districts and the territorial competences of courts at least every five years. Consequently, in cooperation with the Minister of Justice, elaborates a joint proposal for the re-design of judicial districts and the territorial competences of courts.**
- **proposes the overall number of judges together with the proposal for the judicial system budget.**
- **is competent for the organisation and functioning of the services related to the judicial administration.**
- **is the competent authority for the appointment of the Chancellor (Registrar), the Legal Advisors at the High Court and the Legal Assistants at the Courts of Appeal.**

- **Proposes to the President of the Republic candidates for judges of the High Court, in accordance with the law;**
  - **Directs and manages the administration of the courts, with the exception of the rules for the general state policies on information technology of the justice system, which is regulated by a decision of the Council of Ministers;**
  - **Informs the public and the Parliament on the state of the judiciary.**
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

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

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

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

**The High Judicial Council is composed of 11 members.**

- Are there ex-officio members?

○ **No.**

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

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

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

Candidates must meet the following requirements:

- a. **Have performed, at the time of application, the function of a judge for at least 10 (ten) years;**
  - b. **Are not, at the time of application, president of any court or members of the governing bodies of groups of interest, such as judges' associations, judges' unions, etc.;**
  - c. **Have been evaluated at least "very good" in the last two ethical and professional performance evaluations;**
  - d. **Have no disciplinary measure in force;**
  - e. **Have not been previously sentenced by a final court decision for committing a criminal offence;**
  - f. **Have not been members, collaborators or favoured by the former State Security before the 1990s within the meaning of the Law "On the right to information on documents of the former State Security of the People's Socialist Republic of Albania";**
  - g. **Are not collaborators, informants or agents of secret services;**
  - h. **At the time of application, have no family members within the meaning of Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent Council members or candidates for members.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
- **Five members are elected by the Parliament among the ranks of lawyers who are not judges. The lay members are selected among the ranks of prominent jurists, with at least 15 years of professional experience, of high moral and professional integrity. They should not have held political posts in the public administration or leadership positions in a political party in the last past 10 years before running as candidates.**
  - **The Parliament elects two members of the High Judicial Council from the ranks of advocates, two from the academia, and one from the civil society, who fulfil the criteria foreseen by the Constitution and by the law.**
  - **An Independent Ad Hoc Commission is established for the preliminary verification of fulfilment of the legal criteria by the candidates and for the preliminary assessment of their moral and professional integrity.**

6. Please describe the procedure of appointment:

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

**Two lay members are elected from the ranks of advocates, two members from the lecturers of law faculties and the School of Magistrates, and one member from civil society. The Secretary General of the Parliament, based on an open**

and transparent procedure, announces the vacancies in accordance with the law.

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

The Standing Committee responsible for Legal Affairs in the Parliament establishes a subcommittee for the further assessment and selection of the candidates no later than three days from the submission of the list. The subcommittee is composed of five members of the Parliament, three members nominated by the parliamentary majority and two by the parliamentary minority. The subcommittee may, with at least four votes, include in the list of candidates even those who have been excluded from the list by the Secretary General of the Parliament for failure to comply with formal requirements. The subcommittee shall select the candidates with the support of at least 4 members. In case the required majority cannot be reached, the candidates are drawn by lot.

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

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

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

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

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



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

**Resources and management**

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

**Relations within the Council for the Judiciary and within the judiciary**

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

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

- 15. Have there been conflicts between the Council for the Judiciary and the executive or legislative? If yes, what was the character of these conflicts and have they been solved?
  - a. **No.**
- 16. What legal and political means may the Council of Judiciary in your judicial system employ if it feels that its constitutional role has been infringed?
  - a. **Constitutional Court**
- 17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
  - a. **The HJC continuously cooperates with anti-corruption bodies for the fulfilment of its legal duties and obligations (such as the verification of judge’s candidates or judges promotion procedures, etc.)**
- 18. How does the Council for the Judiciary in your judicial system interact with NGOs?
  - a. **NGOs are a constant and important partner of the HJC. NGOs are invited as consultative partners in developing important initiatives (ex. Strategic planning) concerning the judiciary and often as co-partners in the implementation of different projects.**

19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
  - a. **Associations of judges are considered as important and reliable partners of the HJC, as their aim is to promote and improve the administration of justice, to maintain the independence of the judiciary, and to provide a forum for the continuing education of its members and the public.**
  
20. How does the Council for the Judiciary in your judicial system interact with media?
  - a. **Media is considered by the HJC as a very important factor for ensuring transparency and is always kept informed on the decision-making process of the HJC. One of the members of the HJC is responsible for the Media and Public Relations, who is in close contact with the media representatives as part of his official duties. Media representatives are always invited to attend HJC plenary meetings (unless otherwise provided by Law) and a press release is always distributed to all media the same day of the plenary meeting. All media have been consulted prior to the approval of the Strategic Plan for the Judiciary and the Strategic Communication Plan for the HJC.**
  
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?
  - a. **The HJC, as provided by Law, has a supportive role in the vetting of judges. In support of the vetting process, the HJC, in close cooperation with the Independent Qualification Commission, organizes the lotteries for the selection of the evaluation court files, prepares and submits to the Independent Qualification Commission a detailed and reasoned professional assessment report for each judge going through the vetting process.**

### **Challenges, developments**

22. Does the Council for the Judiciary in your judiciary face particular challenges? If so, what is the character of these challenges? These challenges might have arisen – among other reasons - because of political and economic developments, societal changes, corruption, the Covid-19 pandemic or technological challenges such as the digitalisation of the judiciary.
  - a. **The HJC is facing a number of challenges related to the implementation of an overarching justice reform, inherited shortfalls related to the case management system, inadequacy of infrastructural and financial resources, an ever-growing case backlog throughout the courts due to an extraordinary number of judges' vacancies, etc.**
  
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
  - a. **The role and responsibilities of the Council changed with the legislative package approved in 2016, commencing an overall justice reform, which, among other, established a new Judicial Council, with broader responsibilities and competencies, aiming at a more independent, efficient and integrated governing body of the judiciary. As a result, the current HJC was established in December 2018.**
  
24. Have there been reforms concerning the Council for the Judiciary in your judicial system recently? If so, what were the objectives of these reforms and have they been successful?
  - a. **As mentioned above, in the response to question 23, the judicial reform of 2016, part of which is the HJC, aims at improving the independence, integrity, accountability and efficiency of the judiciary.**

25. In case your judicial system does not have one, is there a discussion to introduce a Council for the Judiciary? If so, what are the arguments made in favour and against the introduction of a Council for the Judiciary. Do you think that there are challenges in your judicial system a Council for the Judiciary might help to solve? Is it likely that such a Council will be introduced?

- **N/A**

## Andorra/Andorre

### Généralités

1. Votre système judiciaire dispose-t-il d'un Conseil de la Justice?	<input checked="" type="radio"/> oui <input type="radio"/> non
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2. Quel est le titre ou la dénomination exacte de cet organe ?

Consell Superior de la Justícia (Conseil Supérieur de la Justice)

3. Les acteurs judiciaires devraient répondre à cette question, que leur système prévoit ou non un Conseil de la Justice: quel ministère ou organe, par exemple le Conseil de la Justice (souvent dénommé Conseil supérieur de la magistrature (CSM)) ou le ministère de la Justice (MdJ) est-il chargé des fonctions ci-après ou en mesure de s'en acquitter ? Plusieurs institutions pourraient être associées, auquel cas plusieurs cases pourront être cochées.

Défendre et favoriser l'indépendance des juges et de la justice/l'État de droit	<input checked="" type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Défendre les juges/le pouvoir judiciaire contre les attaques publiques	<input checked="" type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Administration de la justice	<input checked="" type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Sélection de nouveaux juges	<input checked="" type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Organe spécial de nomination des juges <input type="radio"/> Autre, veuillez préciser
Promotion des juges	<input checked="" type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux

	<input type="radio"/> Organe spécial de nomination des juges <input type="radio"/> Autre, veuillez préciser
Évaluation des juges	<input checked="" type="checkbox"/> CSM (à travers le service d'inspection, qui est un organe du Conseil Supérieur de la Justice) <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Évaluation de la performance des tribunaux	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Procédures disciplinaires	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Élaboration et application d'un code de déontologie	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Relations publiques/couverture médiatique du système judiciaire ou des différents tribunaux	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Contribution aux projets législatifs	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input checked="" type="checkbox"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser

Formation des juges	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
TI, notamment numérisation du système judiciaire et audiences en ligne	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Autre, veuillez préciser
Allocation de ressources financières au système judiciaire, en particulier aux différents tribunaux	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input checked="" type="checkbox"/> Autre, veuillez préciser Le Parlement fixe le montant total du budget pour la Justice et le CSM sa distribution entre les tribunaux et le parquet.
Salaires des juges	<input type="checkbox"/> CSM <input type="checkbox"/> MdJ <input checked="" type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Autre, veuillez préciser Le Parlement décide le budget, mais les salaires sont payés par le Ministère de la Fonction publique

- S'il existe un Conseil de la Justice dans votre pays, a-t-il des fonctions autres que celles mentionnées ici ? Est-il en mesure de nommer ou de révoquer des présidents de tribunaux ? D'autres informations seraient-elles utiles pour comprendre le rôle du Conseil de la Justice dans votre pays ?

Le Conseil de la Justice nomme les Présidents des Tribunaux, et aussi le procureur général, sauf que dans ce cas la nomination est faite à proposition du Gouvernement.

- S'il n'existe pas de Conseil de la Justice dans votre pays, d'autres institutions importantes et des règles formelles ou informelles permettent-elles de comprendre le fonctionnement du système judiciaire dans votre pays ?

### Base juridique

4. Veuillez préciser les sources juridiques qui réglementent les aspects ci-après du Conseil de la Justice dans votre système

Existence d'un Conseil de la Justice	<input checked="" type="checkbox"/> Constitution <input type="checkbox"/> Loi
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	O Autre, veuillez préciser
Composition	x Constitution O Loi O Autre, veuillez préciser
Sélection des membres, notamment durée d'exercice et révocation en cours d'exercice	x Constitution O Loi O Autre, veuillez préciser
Missions	x Constitution O Loi O Autre, veuillez préciser
Ressources, financement, administration	x Constitution x Loi O Autre, veuillez préciser
Indépendance	x Constitution O Loi O Autre, veuillez préciser

- D'autres règles formelles ou informelles permettent-elles de comprendre le rôle et le fonctionnement du Conseil de la Justice dans votre pays ?

### Composition et organisation

#### 5. Composition du Conseil de la Justice:

- Combien de membres compte-t-il ?

5 membres

- Compte-t-il des membres de droit ?

Non

- Combien de membres doivent-ils être juges ? Des qualifications ou une expérience particulière leur sont-elles demandées ? Doivent-ils venir de systèmes ou d'instances judiciaires différents ?

Aucun doit être juge, mais un membre est élu par les juges et magistrats. Ils doivent être connaisseurs de l'administration de justice. Ce concept a été interprété d'une façon très large et n'exige pas de qualification ou expérience particulière.

- Peut-on être membre du Conseil sans être juge et des non-juges doivent-ils en être membres ? Veuillez préciser (nombre, qualifications/fonctions particulières)

Comme dans la question précédente, la réponse est négative. A titre d'exemple, sur les 5 membres actuellement en fonction, 2 sont des anciennes secrétaires judiciaires (assistante de justice/greffières), et les 3 membres restants ne proviennent d'aucune profession juridique.

#### 6. Veuillez décrire la procédure de nomination :

- Qui nomme les membres ? (Des juges ou d'autres institutions ou autorités – veuillez préciser)

Le Président est nommé par le Président du Parlement, un autre par le Chef du Gouvernement, un par chaque Coprince, et le cinquième par les juges et magistrats.

- Veuillez décrire le système de nomination.

C'est une nomination qui est faite directement par les autorités avant mentionnés, sauf dans le cas de celui élu par les juges et magistrats. Dans ce cas, il y a un appel à candidats et une votation par les juges et magistrats, mais pas par les procureurs.

- Si les membres sont élus par le parlement, le sont-ils à la majorité simple ou qualifiée ?

Il n'y a pas d'élection par le parlement, mais une nomination directe par le Président du Parlement.

7. Comment l'intégrité et l'indépendance des membres sont-elles garanties pendant la procédure de sélection et la durée pendant laquelle les membres exercent leurs fonctions ?

Une fois nommés, les membres du CSJ sont indépendants et ne peuvent pas exercer autre fonction publique, ni juridictionnelle, ni la profession d'avocat. Ils ne peuvent pas cesser si ce n'est par accord de tous les membres du CSJ.

8. Comment le président et/ou le vice-président du Conseil sont-ils sélectionnés et nommés ?

Le Président est le membre qui a été nommé par le Président du Parlement, et le vice-président est élu par les membres du CSJ en votation.

9. Quelle est la durée des fonctions d'un membre du Conseil ?

La durée est de 6 ans, afin d'éviter qu'elle coïncide avec celle du Parlement et du Gouvernement. Elle est renouvelable une fois.

10. Un membre peut-il être démis de ses fonctions contre sa volonté et, dans l'affirmative, dans quelles circonstances ?

Uniquement par faute grave est avec l'unanimité des autres membres du CSJ.

### Ressources et gestion

11. Quel organe assure le financement du Conseil de la Justice?	<input type="radio"/> MdJ <input checked="" type="radio"/> Parlement <input type="radio"/> Autre, veuillez préciser Le parlement approuvé le budget de justice qui est propose et gere par le CSJ.
12. L'administration du Conseil de la Justice est-elle indépendante des autres pouvoirs de l'État ?	X oui O non

### Relations au sein du Conseil de la Justice et du pouvoir judiciaire

13. Y a-t-il eu des conflits internes graves au sein du Conseil de la Justice qui ont eu de profondes répercussions sur son fonctionnement ? Dans l'affirmative, quelle en était la nature et ont-ils été réglés ?

Il peut y avoir des conflits internes au sein du CSJ. Toutes les décisions doivent être prises par votation de la majorité des membres.

14. Des conflits ont-ils éclaté entre le Conseil de la Justice et le pouvoir judiciaire ? Les juges ont-ils eu le sentiment que le Conseil de la Justice ne représentait pas leurs intérêts ? Dans l'affirmative, pourquoi et comment le conflit a-t-il été réglé ?



Les conflits surviennent généralement en raison des conditions de travail. Le CSJ peut avoir en tant que gestionnaire de la Justice un intérêt différent de celui des juges. En tout cas la position constitutionnelle du CSJ lui permet de s'imposer, même si la conciliation reste encore la solution la plus couramment utilisée.

### **Relations avec les autres pouvoirs de l'État, les organismes publics, la société civile et les médias**

15. Des conflits ont-ils surgi entre le Conseil de la Justice et les pouvoirs exécutif ou législatif ? Dans l'affirmative, quelle en a été la nature et comment ont-ils été résolus ?

Il y a des tensions permanentes pour des sujets tels que l'approbation des lois ou le budget. Le fait que la durée des mandats soit de 6 ans pour la justice et 4 ans pour le législatif et l'exécutif mené à une cohabitation qui n'a pas toujours facile. Des négociations permanentes on toujours abouti sur des accords.

16. Quels moyens juridiques et politiques le Conseil de la Justice peut-il employer dans votre système s'il estime qu'il a été porté atteinte à son rôle constitutionnel ?

Le CSJ peut envoyer des rapports à l'exécutif et le législatif sur la situation de la justice et son fonctionnement, rapports qui sont publiques.

Il peut aussi entamer une procédure par Conflit de compétences devant le Tribunal Constitutionnel s'il considère qu'un autre organe constitutionnel exerce de façon non légitime les compétences qui lui sont propres.

17. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les organes de lutte contre la corruption ?

En Andorre il n'y a pas d'organes spécifiques de lutte contre la corruption. On a un Tribunal de Comptes qui supervise les dépenses publiques, inclus le budget gère par le CSJ.

18. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les ONG ?

Il n'y a pas de collaboration particulière avec les ONG.

19. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les associations de juges ?

Il n'y a pas d'association de juges en Andorre.

20. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les médias ?

Le CSJ est responsable des relations avec les medias. Il peut faire des communiqués de presse en rapport à son activité, mais il n'y a pas un cabinet de presse qui fonctionne en tant que tel de façon permanente.

21. Quel est le rôle éventuel du Conseil de la Justice dans le vetting (contrôle) des juges ?

Le CSJ est le seul organe avec des compétences dans le contrôle des juges. Il gère l'étatistique judiciaire, l'inspection des juges est un service du CSJ et le CSJ est en charge des procédures disciplinaires, même si le recours devant la juridiction administrative est toujours possible.

## Défis, évolution

22. Le Conseil de la Justice fait-il face, dans votre système, à des défis particuliers ? Dans l'affirmative quelle en est la nature ? Ces défis pourraient-ils être dus, entre autres, à l'évolution politique et économique, aux changements sociétaux, à la corruption, à la pandémie de covid-19 ou à des enjeux technologiques comme la numérisation du système judiciaire ?

La numérisation du système judiciaire est maintenant en cours, avec la dématérialisation des dossiers et des communications, ce qui représente un important défi.

Le retard dans la résolution des affaires est une question prioritaire en ce moment, et la manque de candidats préparés pour les postes de première instance.

La difficulté de candidats pour le CSJ est un problème récurrent depuis des années.

23. Le rôle du Conseil de la Justice-t-il évolué, dans votre système, ces dernières années ? Dans l'affirmative, comment ?

Il n'y a pas eu des évolutions importantes depuis 10 ans dans le rôle du CSJ.

24. Des réformes ont-elles porté récemment sur le Conseil de la Justice? Dans l'affirmative, quels étaient les objectifs de ces réformes et ont-elles été couronnées de succès ?

Il n'y a pas eu des réformes sur le CSJ au cours des dernières années

25. Au cas où il n'existerait pas de Conseil de la Justice dans votre système, est-il question d'en créer un ? Dans l'affirmative, quels sont les arguments pour et contre ? Pensez-vous qu'un Conseil de la Justice pourrait aider à résoudre des difficultés qui pourraient se poser dans votre système ? Un tel conseil a-t-il des chances d'être créé ?

## Armenia/Arménie

### Généralités

1. Votre système judiciaire dispose-t-il d'un Conseil de la Justice?	<input checked="" type="checkbox"/> oui <input type="checkbox"/> non
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2. Quel est le titre ou la dénomination exacte de cet organe ?

Conseil supérieur de la magistrature.

3. Les acteurs judiciaires devraient répondre à cette question, que leur système prévoit ou non un Conseil de la Justice: quel ministère ou organe, par exemple le Conseil de la Justice (souvent dénommé Conseil supérieur de la magistrature (CSM)) ou le ministère de la Justice (MdJ) est-il chargé des fonctions ci-après ou en mesure de s'en acquitter ? Plusieurs institutions pourraient être associées, auquel cas plusieurs cases pourront être cochées.

Défendre et favoriser l'indépendance des juges et de la justice/l'État de droit	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Défendre les juges/le pouvoir judiciaire contre les attaques publiques	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Administration de la justice	<input type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input checked="" type="checkbox"/> Autre, veuillez préciser Département judiciaire
Sélection de nouveaux juges	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Organe spécial de nomination des juges <input type="checkbox"/> Autre, veuillez préciser
Promotion des juges	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux

	<input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Organe spécial de nomination des juges <input type="radio"/> Autre, veuillez préciser
Évaluation des juges	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Évaluation de la performance des tribunaux	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input checked="" type="checkbox"/> Autre, veuillez préciser la performance des tribunaux n'est pas évalués
Procédures disciplinaires	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Élaboration et application d'un code de déontologie	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Relations publiques/couverture médiatique du système judiciaire ou des différents tribunaux	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input checked="" type="checkbox"/> Autre, veuillez préciser Département judiciaire
Contribution aux projets législatifs	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux

	<input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input checked="" type="checkbox"/> Autre, veuillez préciser les tribunaux
Formation des juges	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input checked="" type="checkbox"/> Autre, veuillez préciser - Commission des questions éducatives de l'Assemblée générale des juges
TI, notamment numérisation du système judiciaire et audiences en ligne	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser
Allocation de ressources financières au système judiciaire, en particulier aux différents tribunaux	<input checked="" type="checkbox"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser
Salaires des juges	<input type="radio"/> CSM <input type="radio"/> MdJ <input checked="" type="checkbox"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser

- S'il existe un Conseil de la Justice dans votre pays, a-t-il des fonctions autres que celles mentionnées ici ? Est-il en mesure de nommer ou de révoquer des présidents de tribunaux ? D'autres informations seraient-elles utiles pour comprendre le rôle du Conseil de la Justice dans votre pays ?

En plus des fonctions mentionnés ci-dessus, le CSM

- 1) propose au Président de la République les candidats pour la nomination des présidents des tribunaux;
- 2) propose à l'Assemblée nationale les candidats aux postes de juge et président de la Cour de cassation;
- 3) résout la question de l'envoi de juges dans un autre tribunal;
- 4) résout la question de l'engagement de poursuites pénales ou de la privation de liberté contre un juge en relation avec l'exercice de ses pouvoirs;
- 5) résout la question de la cessation des fonctions des juges.

- S'il n'existe pas de Conseil de la Justice dans votre pays, d'autres institutions importantes et des règles formelles ou informelles permettent-elles de comprendre le fonctionnement du système judiciaire dans votre pays ?

### Base juridique

4. Veuillez préciser les sources juridiques qui réglementent les aspects ci-après du Conseil de la Justice dans votre système

Existence d'un Conseil de la Justice	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Composition	<input checked="" type="checkbox"/> Constitution <input type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Sélection des membres, notamment durée d'exercice et révocation en cours d'exercice	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Missions	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Ressources, financement, administration	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Indépendance	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser

- D'autres règles formelles ou informelles permettent-elles de comprendre le rôle et le fonctionnement du Conseil de la Justice dans votre pays ?

### Composition et organisation

5. Composition du Conseil de la Justice:

- Combien de membres compte-t-il ?
  - 10
- Compte-t-il des membres de droit ?
  - non
- Combien de membres doivent-ils être juges ? Des qualifications ou une expérience particulière leur sont-elles demandées ? Doivent-ils venir de systèmes ou d'instances judiciaires différents ?
  - Le conseil doit comprendre 5 juges qui viennent de toutes les trois instances et qui ont au moins 10 ans d'expérience.
- Peut-on être membre du Conseil sans être juge et des non-juges doivent-ils en être membres ? Veuillez préciser (nombre, qualifications/fonctions particulières).
  - Le conseil comprend 5 juristes hautement qualifiés et réputés ayant au moins quinze ans d'expérience professionnelle.

6. Veuillez décrire la procédure de nomination :

- Qui nomme les membres ? (Des juges ou d'autres institutions ou autorités – veuillez préciser)

- Les cinq membres juges sont élus par l'Assemblée générale des juges et les autre cinq membres sont élus par l'Assemblée nationale.
  - Veuillez décrire le système de nomination
    - Les membres du SCM sont élus pour un mandat de cinq ans sans droit d'être réélus.
    - Les membres juges du SCM sont élus par l'Assemblée générale des juges (un membre de la Cour de cassation, un membre des cours d'appel, trois membres des tribunaux de première instance). Afin d'élire les membres du CSM, le chef du département judiciaire doit inscrire sur les bulletins de vote au moins un mois avant l'élection les noms de tous les juges qui remplissent les conditions requises pour un candidat à un poste de membres du CSM. Le chef du département judiciaire informe immédiatement le candidat concerné de son inscription sur le bulletin de vote. Dans les deux jours ouvrables le candidat peut soumettre une demande au chef du département judiciaire, demandant que son nom ne soit pas inscrit sur le bulletin de vote. Dans les trois jours suivant, le candidat soumet au chef du service judiciaire le questionnaire rempli sur l'éthique prévu par la loi sur la Commission pour la prévention de la corruption. Dans un délai d'un jour après avoir reçu le questionnaire, le chef du département judiciaire soumet le questionnaire d'éthique à la Commission de prévention de la corruption pour un avis consultatif. Le chef du Département judiciaire, après avoir reçu l'avis consultatif de la Commission, le communique aux membres de l'Assemblée générale des juges au moins trois jours avant l'élection. Les candidats ayant obtenu le plus grand nombre de voix parmi les juges à l'assemblée générale sont considérés comme élus en tant que juges du CSM. Si plus d'un candidat a obtenu le nombre maximum de voix pour chaque poste, le candidat ayant la plus longue expérience de juge sera préféré, et si la durée de l'expérience est égale est élu le candidat ayant l'expérience professionnelle la plus longue.
    - Les cinq membres scientifiques du Conseil supérieur de la magistrature sont élus par l'Assemblée nationale par au moins les trois cinquièmes du nombre total de voix des députés. Chaque fraction parlementaire a le droit de proposer un candidat au poste de membre du CSM. Le candidat est nommé par une décision de la fraction. Le membre du CSM est élu au scrutin secret. Si plus de deux candidats ont pris part au vote, mais qu'aucun d'entre eux n'a été élu, un second tour de scrutin est organisé, auquel peuvent participer les deux candidats qui ont obtenu le plus de voix au premier tour. Si un membre du CSM n'est pas élu, les factions peuvent proposer un nouveau candidat dans les dix jours suivant le vote.
  - Si les membres sont élus par le parlement, le sont-ils à la majorité simple ou qualifiée ?
    - Oui, les cinq membres scientifiques du Conseil supérieur de la magistrature sont élus par l'Assemblée nationale par au moins les trois cinquièmes du nombre total de voix des députés
7. Comment l'intégrité et l'indépendance des membres sont-elles garanties pendant la procédure de sélection et la durée pendant laquelle les membres exercent leurs fonctions ?
- L'intégrité et l'indépendance des membres juges est garantis grace a l'avis consultatif de la Commission de prévention de la corruption qui donne un avis consultatif.
- En ce qui concern la durée pendant laquelle les membres exercent leurs fonctions, ils ont les memes garatis que les juges.
8. Comment le président et/ou le vice-président du Conseil sont-ils sélectionnés et nommés ?
- Le CSM élit le président du Conseil parmi ses membres, successivement parmi les membres élus par l'Assemblée générale des juges et l'Assemblée nationale. Tous les

membres votent au scrutin secret pour l'élection du président CSM. Le président du CSM est élu à la majorité des voix du nombre total de membres du CSM. Le bulletin de vote comprend respectivement tous les noms de tous les membres élus par l'Assemblée générale ou l'Assemblée nationale.

Chaque membre du CSM dispose d'une voix lors du vote. Si aucun candidat n'obtient plus de la moitié des suffrages exprimés, il est procédé à un tour de scrutin supplémentaire au cours duquel les deux candidats ayant obtenu le plus grand nombre de voix sont les candidats. Si, en raison de l'égalité des voix, il n'est pas possible de déterminer les deux candidats qui ont obtenu le plus de votes, la préférence est donnée au candidat ayant la plus longue expérience professionnelle et en cas d'égalité d'expérience, à l'aîné. Le candidat qui obtient plus de la moitié des voix exprimées lors du vote supplémentaire est considéré comme élu. Si personne ne reçoit plus de la moitié des votes exprimés, une nouvelle élection a lieu.

9. Quelle est la durée des fonctions d'un membre du Conseil ?

Les membres du CSM sont élus pour un mandat de cinq ans sans droit d'être réélus.

10. Un membre peut-il être démis de ses fonctions contre sa volonté et, dans l'affirmative, dans quelles circonstances ?

Oui, en cas de l'entrée en vigueur du verdict de culpabilité contre lui ou la fin des poursuites pénales sans acquittement et en cas de l'entrée en vigueur de la décision de justice le reconnaissant incapable, partiellement incapable.

### Ressources et gestion

11. Quel organe assure le financement du Conseil de la Justice?	<input type="radio"/> MdJ <input checked="" type="radio"/> Parlement <input type="radio"/> Autre, veuillez préciser
12. L'administration du Conseil de la Justice est-elle indépendante des autres pouvoirs de l'État ?	<input checked="" type="radio"/> oui <input type="radio"/> non

### Relations au sein du Conseil de la Justice et du pouvoir judiciaire

13. Y a-t-il eu des conflits internes graves au sein du Conseil de la Justice qui ont eu de profondes répercussions sur son fonctionnement ? Dans l'affirmative, quelle en était la nature et ont-ils été réglés ?  
non

14. Des conflits ont-ils éclaté entre le Conseil de la Justice et le pouvoir judiciaire ? Les juges ont-ils eu le sentiment que le Conseil de la Justice ne représentait pas leurs intérêts ? Dans l'affirmative, pourquoi et comment le conflit a-t-il été réglé ?  
non

### Relations avec les autres pouvoirs de l'État, les organismes publics, la société civile et les médias

15. Des conflits ont-ils surgi entre le Conseil de la Justice et les pouvoirs exécutif ou législatif ? Dans l'affirmative, quelle en a été la nature et comment ont-ils été résolus ?  
Non

16. Quels moyens juridiques et politiques le Conseil de la Justice peut-il employer dans votre système s'il estime qu'il a été porté atteinte à son rôle constitutionnel ?



Le Conseil supérieur de la magistrature peut saisir la Cour constitutionnelle pour les différends survenant entre les organes constitutionnels concernant leurs pouvoirs constitutionnels.

17. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les organes de lutte contre la corruption ?

Selon la loi sur la fonction publique, les membres du CSM sont considérés comme des déclarants et ont l'obligation de présenter une déclaration des biens, des revenus et une déclaration d'intérêts. Selon la loi, l'obligation de déclarer s'applique au fonctionnaire et aux membres de leur famille.

18. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les ONG ?

Les ONG collaborent avec le CSM lors de la procédure d'examen des juges. Jusqu'à trois représentants d'organisations non gouvernementales opérantes dans le domaine du droit, qui ont soumis une demande pertinente au CSM, peuvent avoir un représentant (de chaque organisation non gouvernementale) présent à l'examen de qualification écrit des juges et à l'entretien des juges.

19. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les associations de juges ?

Il n'y a pas de collaboration institutionnelle avec les associations de juges.

20. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les médias ?

Le CSM publie des informations relatives au conseil et au système judiciaire sur son site officiel. En outre, le président du conseil donne une conférence de presse chaque année.

21. Quel est le rôle éventuel du Conseil de la Justice dans le vetting (contrôle) des juges ?  
Le CSM impose une responsabilité disciplinaire au juge, agissant en tant que tribunal dans le cadre de cette procédure. En outre, il résout la question de l'ouverture de poursuites pénales ou de la privation de liberté contre un juge dans le cadre de l'exercice de ses pouvoirs.

### **Défis, évolution**

22. Le Conseil de la Justice fait-il face, dans votre système, à des défis particuliers ? Dans l'affirmative quelle en est la nature ? Ces défis pourraient-ils être dus, entre autres, à l'évolution politique et économique, aux changements sociétaux, à la corruption, à la pandémie de covid-19 ou à des enjeux technologiques comme la numérisation du système judiciaire ?

Le CSM lui-même n'a pas rencontré de tels problèmes.

23. Le rôle du Conseil de la Justice-t-il évolué, dans votre système, ces dernières années ? Dans l'affirmative, comment ?

En 2005 selon la Constitution, cet organe s'est vu attribuer des pouvoirs qui sont typiques d'un organe de haut niveau de l'autonomie judiciaire, mais ils n'étaient pas complets et, de plus, une partie importante des pouvoirs du Conseil de la justice n'était que consultative. Après les améliorations de Constitution de 2015, le contenu des pouvoirs du Conseil diffère sensiblement de celui de 2005. Ainsi, le SCM a un rôle crucial à jouer dans la nomination des juges, y compris des présidents des tribunaux. De plus, une liste ouverte de pouvoirs a été établie si à l'avenir le

législateur juge nécessaire d'attribuer des pouvoirs supplémentaires au conseil dans le cadre de son statut constitutionnel.

24. Des réformes ont-elles porté récemment sur le Conseil de la Justice? Dans l'affirmative, quels étaient les objectifs de ces réformes et ont-elles été couronnées de succès ?

Non.

25. Au cas où il n'existerait pas de Conseil de la Justice dans votre système, est-il question d'en créer un ? Dans l'affirmative, quels sont les arguments pour et contre ? Pensez-vous qu'un Conseil de la Justice pourrait aider à résoudre des difficultés qui pourraient se poser dans votre système ? Un tel conseil a-t-il des chances d'être créé ?

## Austria/Autriche

### General

1. Is there a Council for the Judiciary in your judicial system?	<input type="radio"/> yes <input checked="" type="radio"/> <b>no</b>
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2. What is the exact title/denomination of this body?

**There is no Council for the Judiciary in Austria.**

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Association of Judges</b> <input checked="" type="radio"/> <b>other, please specify: media, the so called "fourth power", are mostly helpful to raise awareness on issues of independence, but are sometimes themselves under pressure</b>
Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ (sometimes, much depends on the person and political issues)</b> <input checked="" type="radio"/> <b>Court Presidents (usually through a media spokesperson)</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Association of Judges</b> <input checked="" type="radio"/> <b>other, please specify: media</b>
Administration of the judiciary	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> <b>other, please specify: heads of administration, i.e. Minister of Finance (for the Federal Fiscal Court) and heads of governments of provinces (for admin. courts of the <i>Länder</i>)</b>

Selection of new judges	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts (issuing only non-binding proposals in general)</b> <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>A special Judicial Appointment Body</b> <input checked="" type="radio"/> <b>other, please specify: general assembly at the Supreme Administrative Court, issuing <u>binding</u> proposals to the government</b>
Selection of judges for promotion	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts (non-binding prop.)</b> <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Evaluation of court performance	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> <b>other, please specify:</b> <ul style="list-style-type: none"> <li>• <b>disciplinary courts</b></li> <li>• <b>disciplin. competences partly allocated at other admin. courts</b></li> </ul>

Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents (special spokes-persons selected/appointed by court presidents)</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
Providing input on legislative projects	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Association of Judges</b> <input checked="" type="radio"/> <b>other, please specify: The courts have their own chambers that can issue opinions on draft laws.</b>
Training of judges	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input checked="" type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ (by orders)</b> <input checked="" type="radio"/> <b>Parliament (by law)</b> <input checked="" type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify

Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="radio"/> <b>Parliament (by law)</b> <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>other, please specify: extraordinary promotions by some governments of the Länder</b>
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- 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?

**There is no Council for the Judiciary in Austria.**

- 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?

**Answer for the admin. judiciary in Austria:**

The administration of (admin.) courts is exercised by the court presidents subordinated to the MoJ (regarding the Federal Admin. Court), the MoF (regarding the Federal Fiscal Court) and most governments of the provinces (Länder) in a strong 'executivistic system'; only in two provinces the presidents of admin. courts of first tier are not submitted to orders, but are still dependent from budget and personnel resources. Also in these two provinces these presidents are obliged to report "on all matters" to the government.

The President of the Supreme Administrative Court is (as well as the President of the Constitutional Court) independent from the government.

The administration of courts is based on law, without participation of judicial self-administrative bodies, except the above mentioned proposals for appointment (and promotion) of judges, the allocation (distributions) of cases and the evaluation of judges by bodies within individual courts, comprising a majority of elected members and members ex officio (president and deputy president).

In the administrative judiciary there is no regular and institutionalized participation of judges' associations.

As far as ordinary jurisdiction is concerned, personnel panels are involved in career-relevant decisions concerning judges, which are immunised against external, especially political, influences due to their composition.

The involvement of the Judges' Association in important changes to the service, in particular also in the organisation of the selection procedure, is provided for by law.

## Legal basis

(Points not relevant for Austria are skipped)

25. In case your judicial system does not have one (Council for the Judiciary), is there a discussion to introduce a Council for the Judiciary? If so, what are the arguments made in favor 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?

Unfortunately: no!

The principle of separation of powers is only incompletely implemented in Austria. Without a doubt, judges can decide their cases independently and uninfluenced. But the structural independence of the judiciary is strong. The entire administration of justice is essentially determined by the federal minister - i.e. a member of the executive. The dependence on resources is great. In the appointment of judges entrusted to the head of state, the government has a decisive role. The Austrian justice system functions excellently despite these structural deficits. Therefore, the politicians do not see any need for change.

In 2010, there was a draft that provided for the creation of a Council of the Judiciary with budgetary sovereignty; there was also an opening clause. This project also failed. One of the main arguments is the federal minister's accountability to parliament.

For decades associations of judges have demanded to reduce political influence on courts (as well as on the public prosecution relevant for the effective criminal justice) by establishing a council for the judiciary, but also by minor steps (e.g. by a reform of the above mentioned self-administrative bodies within courts).

This demand was strongly emphasized during the process of the establishment of the (new) administrative judiciary (in 2014) as the political influence of the executive branch (government) on administrative courts could (and sometimes does) pervert the course of justice! The Austrian Constitutional Court gave examples for that: in its ruling G 19/99 the Court held, that the influence of the executive branch (administration) on the Administrative Court can reverse the control of the courts to one of the administration over the court. As a consequence the Court quashed the subordination of the President of the (former) Administrative Court to the Chancellor in matter of court-administration.

The Austrian federal system culminates in an administrative judicial structure of 9 partly different administrative courts of the provinces plus one fiscal plus one (general) administrative court on the federal level with eleven different organizations and ten

different regulations on the judicial service<sup>2</sup>. The general provisions in the Federal Constitution on the organization of the administrative courts leave too much room to the legislation and to the governments of the provinces and (on the federal level) to the ministers responsible.

An establishment of a council for the judiciary (covering all branches) would help unifying the judiciary and protecting it against undue influence.

Politicians of nearly all political parties (Conservative Party/ÖVP, Social democratic Party, Freedom Party/FPÖ and Greens) have rejected these demands arguing that self-administration of the judiciary has no sufficient democratic legitimation and no political control (by ministers and governments being responsible vis a vis the parliament); only the NEOS (a relative young party) support this idea, but there is no chance of a constitutional majority for necessary amendments.

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<sup>2</sup> A lack of sufficient legislation was also indirectly criticized by GRECO: the Expert group of the Council of Europe, Group of States against Corruption, has harshly criticized the intransparent appointment procedures in its Evaluation Report on Austria of February 13th 2017 and its Fourth Evaluation Round of July 17th 2019.

See also the opinion of the CCJE, CCJE-BU(2019)3, Opinion of the CCJE Bureau following a request by the Association of European Administrative Judges (AEAJ) as regards the legal setting of the position of the president (vice-president) of the Administrative Court of Vienna, Austria, of 29.03.2019, and the Rule of Law Report 2020 of the European Commission on Austria, SWD(2020) 319 final



## Azerbaijan/Azerbaïdjan

### 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="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
Drafting and enforcing a code of ethics	<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
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" 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
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" 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 Supreme Court
Training of judges	<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 type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify The Justice Academy of the Ministry of Justice
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> other, please specify The Supreme Court
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" 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 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 Law<sup>1</sup>,
- 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?

- 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:

<sup>1</sup> 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).

- 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 Council<sup>3</sup>;
- 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;
- 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 Law<sup>4</sup>;
- 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

## **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.

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.

## Belgium/Belgique

### Généralités

1. Votre système judiciaire dispose-t-il d'un Conseil de la Justice?	<i>oui</i>
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2. Quel est le titre ou la dénomination exacte de cet organe ?

*En français : Conseil supérieur de la Justice*

*En néerlandais : Hoge Raad voor de Justitie*

*En allemand : Hohe Justizrat*

3. Les acteurs judiciaires devraient répondre à cette question, que leur système prévoit ou non un Conseil de la Justice: quel ministère ou organe, par exemple le Conseil de la Justice (souvent dénommé Conseil supérieur de la magistrature (CSM<sup>1</sup>)) ou le ministère de la Justice (MdJ) est-il chargé des fonctions ci-après ou en mesure de s'en acquitter ? Plusieurs institutions pourraient être associées, auquel cas plusieurs cases pourront être cochées.

Défendre et favoriser l'indépendance des juges et de la justice/l'État de droit	<ul style="list-style-type: none"> <li>● CSM</li> <li>● MdJ</li> <li>● Présidents de tribunaux</li> <li><input type="radio"/> <del>Organes au sein de différents tribunaux</del></li> <li>● Commission d'administration des tribunaux : le « Collège des cours et tribunaux »</li> <li>● Association de juges</li> <li>● Autre, veuillez préciser : le « Conseil consultatif de la magistrature »<sup>2</sup></li> </ul>
Défendre les juges/le pouvoir judiciaire contre les attaques publiques	<ul style="list-style-type: none"> <li>● CSM</li> <li><input type="radio"/> <del>MdJ</del></li> <li>● Présidents de tribunaux</li> <li><input type="radio"/> <del>Organes au sein de différents tribunaux</del></li> <li><input type="radio"/> <del>Commission d'administration des tribunaux</del></li> <li>● Association de juges</li> <li><input type="radio"/> <del>Autre, veuillez préciser</del></li> </ul>
Administration de la justice	<ul style="list-style-type: none"> <li><input type="radio"/> <del>CSM</del></li> <li>● MdJ</li> <li>● Présidents de tribunaux</li> <li>● Organes au sein de différents tribunaux</li> <li>● Commission d'administration des tribunaux : le « Collège des cours et tribunaux »</li> </ul>

<sup>1</sup> Il conviendra, pour la contribution de la Belgique, de lire plus exactement 'CSJ' vu l'appellation consacrée de Conseil supérieur de la Justice (et non de la magistrature).

<sup>2</sup> Ce Conseil ne doit pas être confondu avec le Conseil supérieur de la Justice. Le Conseil consultatif de la magistrature a pour mission, en vertu de la loi du 8 mars 1999, de donner des avis et de se concerter avec le ministre de la Justice et les chambres législatives, sur tout ce qui se rapporte au *statut, aux droits et aux conditions de travail des juges et des officiers du ministère public*. Le Code judiciaire attribue également au Conseil consultatif de la magistrature une compétence d'avis dans l'élaboration, par le Conseil supérieur de la Justice, des principes généraux relatifs à la déontologie des magistrats (voir note 8).

	<input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Sélection de nouveaux juges	<ul style="list-style-type: none"> <li>• CSM</li> <li><input type="radio"/> MdJ</li> <li><input type="radio"/> Parlement</li> <li>• Présidents de tribunaux<sup>3</sup></li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li><input type="radio"/> Organe spécial de nomination des juges</li> <li><input type="radio"/> Autre, veuillez préciser</li> </ul>
Promotion des juges	<ul style="list-style-type: none"> <li>• CSM<sup>5</sup></li> <li>• <input type="radio"/> MdJ</li> <li><input type="radio"/> Parlement</li> <li>• Présidents de tribunaux</li> <li>• Organes au sein de différents tribunaux<sup>6</sup></li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li><input type="radio"/> Organe spécial de nomination des juges</li> <li><input type="radio"/> Autre, veuillez préciser</li> </ul>
Évaluation des juges	<ul style="list-style-type: none"> <li>• CSM<sup>7</sup></li> <li><input type="radio"/> MdJ</li> <li><input type="radio"/> Parlement</li> <li>• Présidents de tribunaux</li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li><input type="radio"/> Association de juges</li> <li>• Autre, veuillez préciser : les juges élus en qualité d'évaluateurs par l'assemblée générale de la juridiction</li> </ul>
Évaluation de la performance des tribunaux	<ul style="list-style-type: none"> <li>• CSM</li> <li>• MdJ</li> <li><input type="radio"/> Parlement</li> <li><input type="radio"/> Présidents de tribunaux</li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li>• Commission d'administration des tribunaux : le « Collège des cours et tribunaux »</li> <li><input type="radio"/> Association de juges</li> <li><input type="radio"/> Autre, veuillez préciser</li> </ul>

<sup>3</sup> Avis sur les candidats.

<sup>5</sup> Pas pour les « mandats adjoints » et les « mandats spécifiques » (voir note 16).

<sup>6</sup> Dans certains cas, l'assemblée générale de la juridiction donne un avis sur les candidats.

<sup>7</sup> Le conseil supérieur de la justice n'évalue pas les magistrats mais est chargé par la loi de proposer au gouvernement les critères d'évaluation et la pondération de ces critères en tenant compte de la spécificité des fonctions et des mandats.

Des membres magistrats du conseil supérieur de la justice, désignés par son assemblée générale, siègent au sein du collège d'évaluation des chefs de corps des entités judiciaires. Ce collège n'évalue actuellement que les chefs de corps du Ministère public (procureurs). La Cour constitutionnelle de Belgique a en effet annulé l'application de ce dispositif d'évaluation *en ce qu'il s'applique aux chefs de corps des cours et tribunaux* ([Arrêt 122/2008 du 1er septembre 2008](#)).

Procédures disciplinaires	<input type="radio"/> CSM <sup>8</sup> <input type="radio"/> MdJ <input type="radio"/> Parlement <ul style="list-style-type: none"> <li>• Présidents de tribunaux</li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li><input type="radio"/> Association de juges</li> <li>• Autre, veuillez préciser : le « tribunal disciplinaire » et le « tribunal disciplinaire d'appel »</li> </ul>
Élaboration et application d'un code de déontologie	<ul style="list-style-type: none"> <li>• CSM</li> <li><input type="radio"/> MdJ</li> <li><input type="radio"/> Parlement</li> <li><input type="radio"/> Présidents de tribunaux</li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li><input type="radio"/> Association de juges</li> <li>• Autre, veuillez préciser : le « Conseil consultatif de la magistrature »<sup>9</sup></li> </ul>
Relations publiques/couverture médiatique du système judiciaire ou des différents tribunaux	<ul style="list-style-type: none"> <li>• CSM</li> <li><input type="radio"/> MdJ</li> <li><input type="radio"/> Parlement</li> <li>• Présidents de tribunaux</li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li>• Association de juges</li> <li>• Autre, veuillez préciser : les « magistrats de presse »</li> </ul>
Contribution aux projets législatifs	<ul style="list-style-type: none"> <li>• CSM<sup>10</sup></li> <li>• MdJ</li> <li><input type="radio"/> Présidents de tribunaux</li> <li><input type="radio"/> Organes au sein de différents tribunaux</li> <li><input type="radio"/> Commission d'administration des tribunaux</li> <li><input type="radio"/> Association de juges<sup>11</sup></li> <li>• Autre, veuillez préciser :  1. le « Conseil consultatif de la magistrature »<sup>12</sup></li> </ul>

<sup>8</sup> Le [Code judiciaire](#) prévoit cependant qu'un organe du conseil supérieur de la justice qui constate qu'un magistrat refuse d'apporter sa collaboration à l'exercice de certaines compétences du conseil supérieur peut s'adresser au tribunal disciplinaire et lui transmettre, dans ce cas, un exposé des faits et des moyens (art. 259bis19 du Code judiciaire).

<sup>9</sup> La loi prévoit que les principes généraux relatifs à la déontologie des magistrats sont établis par le Conseil supérieur de la Justice après avis du Conseil consultatif de la magistrature (Art. 305 du [Code judiciaire](#)).

<sup>10</sup> Le conseil supérieur de la justice dispose de la compétence constitutionnelle d'émettre des avis et des propositions concernant le fonctionnement général et l'organisation de l'ordre judiciaire, compétence qu'il exerce régulièrement au sujet des projets et propositions de loi portant pareil objet.

<sup>11</sup> Il arrive cependant que des présidents de tribunaux, d'autres magistrats ou certaines instances (collège des cours et tribunaux, collège du ministère public), ainsi que des associations de magistrats, soient appelés à donner ponctuellement leur avis sur un projet ou une proposition de loi qui concerne l'organisation de la Justice ou une question juridique déterminée.

<sup>12</sup> Voy. la note 2.

	2. le procureur général près la Cour de cassation et le Collège des procureurs généraux <sup>13</sup>
Formation des juges	<ul style="list-style-type: none"> <li>● CSM<sup>14</sup></li> <li>○ MdJ</li> <li><del>○ Présidents de tribunaux</del></li> <li><del>○ Organes au sein de différents tribunaux</del></li> <li><del>○ Commission d'administration des tribunaux</del></li> <li><del>○ Association de juges</del></li> <li>● Autre, veuillez préciser : l'« Institut de formation judiciaire »<sup>15</sup></li> </ul>
TI, notamment numérisation du système judiciaire et audiences en ligne	<ul style="list-style-type: none"> <li>● CSM</li> <li>● MdJ</li> <li>● Parlement</li> <li>● Présidents de tribunaux</li> <li><del>○ Organes au sein de différents tribunaux</del></li> <li>● Commission d'administration des tribunaux : le « Collège des cours et tribunaux »</li> <li><del>○ Autre, veuillez préciser</del></li> </ul>
Allocation de ressources financières au système judiciaire, en particulier aux différents tribunaux	<ul style="list-style-type: none"> <li><del>○ CSM</del></li> <li>● MdJ</li> <li>● Parlement</li> <li><del>○ Présidents de tribunaux</del></li> <li><del>○ Organes au sein de différents tribunaux</del></li> <li>● Commission d'administration des tribunaux : le « Collège des cours et tribunaux »</li> <li><del>○ Autre, veuillez préciser</del></li> </ul>
Salaires des juges	<ul style="list-style-type: none"> <li><del>○ CSM</del></li> <li><del>○ MdJ</del></li> <li>● Parlement<sup>16</sup></li> <li><del>○ Présidents de tribunaux</del></li> <li><del>○ Organes au sein de différents tribunaux</del></li> <li><del>○ Commission d'administration des tribunaux</del></li> <li><del>○ Autre, veuillez préciser</del></li> </ul>

<sup>13</sup> [Loi du 25 avril 2007](#) (art. 11). Il s'agit de la production d'un rapport comprenant un relevé des lois en vigueur posant des difficultés d'application ou d'interprétation, davantage qu'une contribution directe aux projets législatifs.

<sup>14</sup> Le Conseil supérieur de la Justice établit seulement des directives générales. La formation des magistrats est assurée par l'Institut de formation judiciaire (voy. la note suivante).

<sup>15</sup> L'Institut de formation judiciaire est une institution indépendante créée par la loi du 31 janvier 2007. Les programmes de formation des magistrats de l'Institut doivent être conformes aux directives préparées par le Conseil supérieur de la Justice.

<sup>16</sup> Conformément à l'article 154 de la Constitution, les traitements des membres de l'ordre judiciaire sont fixés par la loi.

- S'il existe un Conseil de la Justice dans votre pays, a-t-il des fonctions autres que celles mentionnées ici ?

*Le Conseil supérieur de la Justice (ci-après le CSJ) est aussi chargé de :*

- *la surveillance générale et la promotion de l'utilisation des moyens de contrôle interne au sein de l'organisation judiciaire ;*
- *recevoir et s'assurer du suivi de plaintes relatives au fonctionnement des cours et tribunaux (mais il n'a pas de compétence disciplinaire ou pénale à l'égard des magistrats);*
- *engager une enquête sur le fonctionnement des cours et tribunaux; l'exercice de ce pouvoir peut prendre la forme d'une « enquête particulière sur le fonctionnement de l'ordre judiciaire » ou encore d'un « audit du fonctionnement de l'ordre judiciaire », mais sans pouvoir intervenir dans le traitement de fond des dossiers en cours.*

Est-il en mesure de nommer ou de révoquer des présidents de tribunaux<sup>17</sup> ?

*Le Conseil supérieur de la justice (CSJ) « présente » au ministre de la justice toutes les nominations de juge, en ce compris les désignations à un mandat de président de tribunal. Lorsqu'une fonction de magistrat ou un mandat de chef de corps est vacant, le Conseil supérieur de la Justice présente un seul candidat, qu'il a sélectionné au terme d'une procédure organisée par la loi. Le CSJ se prononce notamment sur la base d'un dossier qui comprend également l'avis d'autres instances (présidents des tribunaux concernés, dans certains cas l'assemblée générale de la juridiction concernée, barreau etc.).*

*Le candidat présenté est ensuite officiellement nommé ou désigné par le Roi (le ministre de la Justice).*

*Exception : pour les désignations à des « mandats adjoints » ou à des « mandats spécifiques », le CSJ n'intervient pas.*

*Le CSJ n'est pas compétent pour révoquer les présidents de tribunaux. Cette compétence est du ressort des tribunaux disciplinaires.<sup>18</sup>*

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<sup>17</sup> Le Code judiciaire opère, en Belgique, une distinction au sein de l'organisation judiciaire entre les mandats de chefs de corps (président du tribunal de première instance, président du tribunal du travail, président du tribunal de l'entreprise, président des juges de paix et des juges au tribunal de police, procureur du Roi, auditeur du travail, premier président de la cour d'appel et de la cour du travail, procureur général près la cour d'appel et la cour du travail, procureur fédéral, premier président de la Cour de cassation et procureur général près la Cour de cassation), les mandats adjoints (président de division ou vice-président au tribunal de première instance, au tribunal du travail et au tribunal de l'entreprise, vice-président des juges de paix et des juges au tribunal de police, procureur de division, auditeur de division, premier substitut du procureur du Roi, premier substitut de l'auditeur du travail, premier substitut du procureur du Roi exerçant la fonction de procureur du Roi adjoint de Bruxelles, premier substitut de l'auditeur du travail exerçant la fonction d'auditeur du travail adjoint de Bruxelles, président de chambre à la cour d'appel et à la cour du travail, premier avocat général et avocat général près la cour d'appel et la cour du travail, président et président de section à la Cour de cassation et premier avocat général près la Cour de cassation) et les mandats spécifiques (juge d'instruction, juge au tribunal de la famille et de la jeunesse, juge au tribunal de l'application des peines, juge des saisies, juge d'appel de la famille et de la jeunesse, magistrat de liaison en matière de jeunesse, magistrat d'assistance, magistrat fédéral et substitut du procureur du Roi spécialisé en application des peines). Seuls les détenteurs des mandats de chef de corps seront pris en considération lorsque le présent questionnaire évoque les présidents de tribunaux.

<sup>18</sup> Il convient d'observer ici que si la notion de 'révocation' excède l'acception strictement disciplinaire et envisage plus largement le terme, sans connotation disciplinaire, mis à la fonction de président des tribunaux (à élargir à celle de « chef de corps du ministère public » voir remarque finale ci-dessus), il

D'autres informations seraient-elles utiles pour comprendre le rôle du Conseil de la Justice dans votre pays ?

Le site web du Conseil supérieur de la Justice ([www.csj.be](http://www.csj.be)) résume bien les trois fonctions essentielles de cette institution :

Carrière des magistrats: Le CSJ organise les examens donnant accès à la magistrature et il présente les magistrats à la nomination au ministre de la Justice.

Contrôle des cours et tribunaux: Le CSJ exerce un contrôle externe sur le fonctionnement de l'ordre judiciaire par le biais d'audits, d'enquêtes particulières et par le traitement des plaintes concernant ce fonctionnement.

Avis: Le CSJ prend des initiatives et rend des avis concernant l'amélioration du fonctionnement de la justice, au profit du citoyen.

Remarque finale :

Le questionnaire ne semble pas s'intéresser directement aux procureurs. A cet égard, il convient de noter que le Conseil supérieur de la Justice exerce ses attributions et ses compétences également à l'égard des procureurs et des différents organes du ministère public.

- S'il n'existe pas de Conseil de la Justice dans votre pays, d'autres institutions importantes et des règles formelles ou informelles permettent-elles de comprendre le fonctionnement du système judiciaire dans votre pays ?

### Base juridique

4. Veuillez préciser les sources juridiques qui réglementent les aspects ci-après du Conseil de la Justice dans votre système

Existence d'un Conseil de la Justice	<ul style="list-style-type: none"> <li>● Constitution</li> <li>○ Loi</li> <li>○ Autre, veuillez préciser</li> </ul>
Composition	<ul style="list-style-type: none"> <li>● Constitution</li> <li>● Loi</li> <li>○ Autre, veuillez préciser</li> </ul>
Sélection des membres, notamment durée d'exercice et révocation en cours d'exercice	<ul style="list-style-type: none"> <li>○ Constitution</li> <li>● Loi</li> <li>● Autre, veuillez préciser : arrêté royal réglant la procédure d'élection.</li> </ul>
Missions	<ul style="list-style-type: none"> <li>● Constitution</li> <li>● Loi</li> <li>○ Autre, veuillez préciser</li> </ul>
Ressources, financement, administration	<ul style="list-style-type: none"> <li>○ Constitution</li> <li>● Loi</li> <li>● Autre, veuillez préciser : arrêté royal portant approbation du cadre organique et du statut du personnel administratif du conseil supérieur de la justice</li> </ul>

faut alors mentionner la compétence du Conseil supérieur de la Justice de ne pas accéder à une demande de renouvellement de son mandat présentée par un chef de corps.

Indépendance	<ul style="list-style-type: none"> <li>• Constitution (implicitement)</li> <li>⊖ Loi</li> <li>• Autre, veuillez préciser : le règlement d'ordre intérieur du Conseil supérieur de la Justice</li> </ul>
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- D'autres règles formelles ou informelles permettent-elles de comprendre le rôle et le fonctionnement du Conseil de la Justice dans votre pays ?

*Sans application.*

### **Composition et organisation**

#### 5. Composition du Conseil de la Justice :

- Combien de membres compte-t-il ?

*44*

*Le Conseil se compose d'un collège néerlandophone et d'un collège francophone<sup>19</sup>, composés chacun de 22 membres.*

- Compte-t-il des membres de droit ?

*Non.*

- Combien de membres doivent-ils être juges ? Des qualifications ou une expérience particulière leur sont-elles demandées ? Doivent-ils venir de systèmes ou d'instances judiciaires différents ?

*Chaque collège est composé de 11 magistrats et de 11 non-magistrats.*

*Le groupe de membres-magistrats compte par collège au moins un membre d'une cour ou du ministère public près une cour, un membre du siège, un membre du ministère public et un membre par ressort de cour d'appel.*

*Pour être candidat comme membre-magistrat, il faut être magistrat de carrière en activité de service.*

*Au moment de leur candidature, les candidats magistrats et non-magistrats ne peuvent pas avoir atteint l'âge de 66 ans.*

- Peut-on être membre du Conseil sans être juge et des non-juges doivent-ils en être membres ? Veuillez préciser (nombre, qualifications/fonctions particulières)

*Ainsi qu'il est indiqué dans la réponse précédente, chaque collège linguistique est composé de 11 magistrats et de 11 non-magistrats.*

*Le groupe des non-magistrats compte, par collège linguistique, au moins quatre membres de chaque sexe et est composé d'au moins quatre avocats possédant une expérience professionnelle d'au moins dix années au barreau, trois professeurs d'une université ou d'une école supérieure dans la Communauté flamande ou française possédant une expérience professionnelle utile pour la mission du Conseil supérieur d'au moins dix années, quatre membres, porteurs d'au moins un diplôme d'une école supérieure de la Communauté flamande ou française et possédant une expérience*

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<sup>19</sup> Au moins un membre du collège francophone doit justifier de la connaissance de l'allemand.



*professionnelle utile pour la mission du Conseil supérieur d'au moins dix années dans le domaine juridique, économique, administratif, social ou scientifique.*

*En résumé, le Conseil supérieur de la Justice, est donc composé de 44 membres, répartis comme suit :*

- ❖ 22 magistrats
- ❖ 22 non-magistrats, dont 8 avocats, 6 professeurs d'université ou d'une école supérieure et 8 membres de la société civile

6. Veuillez décrire la procédure de nomination :

- Qui nomme les membres ? (Des juges ou d'autres institutions ou autorités – veuillez préciser)

*Voy. la réponse à la question suivante.*

- Veuillez décrire le système de nomination

*Les membres magistrats (11 membres francophones et 11 membres néerlandophones) sont élus par tous les magistrats de carrière, au scrutin direct et secret, parmi les magistrats de carrière en activité de service qui se sont portés candidats.*

*Le vote est obligatoire et secret. Chaque électeur doit émettre trois suffrages dont, au moins, un pour un candidat du siège, un pour un candidat du ministère public et un pour un candidat de chaque sexe.*

- Si les membres sont élus par le parlement, le sont-ils à la majorité simple ou qualifiée ?

*Les membres non-magistrats sont nommés par le Sénat à la majorité des deux tiers des suffrages émis.*

*Les candidats non-magistrats peuvent soit présenter eux-mêmes leur candidature de manière individuelle, soit être présentés par l'Ordre des barreaux francophones et germanophone ou par l'Ordre des barreaux flamands, ou encore par une université ou une école supérieure. Pour chaque collège linguistique, au moins cinq des 11 non-magistrats doivent avoir été présentés par une de ces institutions.*

*Pour pouvoir être nommé dans le groupe des non-magistrats, un candidat ne peut avoir été magistrat de carrière en activité de service dans les cinq ans qui précèdent sa candidature.*

7. Comment l'intégrité et l'indépendance des membres sont-elles garanties pendant la procédure de sélection et la durée pendant laquelle les membres exercent leurs fonctions ?

*Tous les membres du CSJ doivent jouir des droits civils et politiques. Ils ne peuvent pas avoir été condamnés à une peine correctionnelle ou criminelle.*

*Il existe des règles légales détaillées relatives aux incompatibilités entre la qualité de membre du Conseil supérieur de la Justice et d'autres fonctions ou situations. Pour l'essentiel, la qualité de membre du Conseil supérieur de la justice est incompatible avec tout mandat public conféré par voie d'élection, avec une charge publique d'ordre politique et avec un mandat de magistrat chef de corps (président de tribunal, de cour d'appel ou de la cour de cassation, procureur du Roi, procureur général, procureur fédéral).*

*En outre, quand on est membre du Conseil supérieur de la Justice, on ne peut pas se porter candidat pour être nommé magistrat ou pour être désigné président de tribunal ou chef de corps d'un organe du ministère public.*

*Si une de ces incompatibilités survient en cours de mandat, celui-ci prend fin de plein droit. Tel est également le cas, pour les membres-magistrats, en cas d'admission à la retraite.*

8. Comment le président et/ou le vice-président du Conseil sont-ils sélectionnés et nommés ?

*La fonction de Président du Conseil supérieur de la Justice est exercée alternativement, par les 4 membres (2 magistrats et 2 non magistrats / 2 néerlandophones et 2 francophones) de son Bureau permanent durant une année des quatre que compte le mandat.*

*Les membres du Bureau sont élus par l'assemblée générale du Conseil supérieur de la Justice, sur la proposition du collège linguistique auquel ils appartiennent.*

*La fonction de vice-président n'est pas prévue au Conseil supérieur de la Justice.*

9. Quelle est la durée des fonctions d'un membre du Conseil ?

*Le mandat de membre dure 4 ans. On ne peut pas accomplir plus de 2 mandats.*

10. Un membre peut-il être démis de ses fonctions contre sa volonté et, dans l'affirmative, dans quelles circonstances ?

*Lorsque des motifs graves le justifient, il peut être mis fin au mandat d'un membre par le Conseil supérieur de la Justice, à la majorité des deux tiers des suffrages émis dans chaque collège linguistique, selon une procédure définie par la loi, qui prévoit notamment l'audition préalable du membre concerné.<sup>20</sup>*

## Ressources et gestion

11. Quel organe assure le financement du Conseil de la Justice?	<input type="radio"/> MdJ <input checked="" type="radio"/> Parlement <input type="radio"/> Autre, veuillez préciser
12. L'administration du Conseil de la Justice est-elle indépendante des autres pouvoirs de l'État ?	<input checked="" type="radio"/> oui <input type="radio"/> non

## Relations au sein du Conseil de la Justice et du pouvoir judiciaire

13. Y a-t-il eu des conflits internes graves au sein du Conseil de la Justice qui ont eu de profondes répercussions sur son fonctionnement ? Dans l'affirmative, quelle en était la nature et ont-ils été réglés ?

*Non.*

<sup>20</sup> La compétence du Conseil d'Etat (plus haute juridiction administrative belge) de statuer par voie d'arrêts sur les recours en annulation pour violation des formes soit substantielles, soit prescrites à peine de nullité, excès ou détournement de pouvoir à l'encontre de pareille décision du Conseil supérieur de la Justice a été matériellement établie par la loi du 20 janvier 2014 portant réforme de la compétence, de la procédure et de l'organisation du Conseil d'Etat.

14. Des conflits ont-ils éclaté entre le Conseil de la Justice et le pouvoir judiciaire ? Les juges ont-ils eu le sentiment que le Conseil de la Justice ne représentait pas leurs intérêts ? Dans l'affirmative, pourquoi et comment le conflit a-t-il été réglé ?

*Non.*<sup>21</sup>

### **Relations avec les autres pouvoirs de l'État, les organismes publics, la société civile et les médias**

15. Des conflits ont-ils surgi entre le Conseil de la Justice et les pouvoirs exécutif ou législatif ? Dans l'affirmative, quelle en a été la nature et comment ont-ils été résolus ?

*Non.*

16. Quels moyens juridiques et politiques le Conseil de la Justice peut-il employer dans votre système s'il estime qu'il a été porté atteinte à son rôle constitutionnel ?

*Aucune procédure juridique ou politique n'est formellement instituée pour l'hypothèse où il serait porté atteinte au rôle constitutionnel du Conseil supérieur de la Justice.*

*Le Conseil supérieur de la Justice dispose toutefois, comme précédemment évoqué (voir note sous 7), de la compétence, établie par la Constitution et précisée par la loi, d'émettre des avis d'initiative concernant le fonctionnement général et l'organisation de l'ordre judiciaire. Le respect de ses prérogatives propres constituant un élément (de la garantie) du fonctionnement général de l'organisation judiciaire, il est arrivé au Conseil supérieur de la Justice de dénoncer, dans son avis émis au sujet d'une disposition législative en préparation, l'atteinte qu'il estimait portée à ses compétences constitutionnelles. Cela a ainsi été le cas dans l'avis qu'il a émis au sujet de l'avant-projet de loi instaurant la Brussels International Business Court<sup>22</sup>, s'agissant du mode de désignation de ses président et vice-président qu'il estimait contraire à la Constitution, à défaut d'une présentation motivée préalable par ses soins au ministre de la Justice des magistrats à y désigner.*

17. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les organes de lutte contre la corruption ?

*Le Conseil supérieur de la Justice collabore, de manière proactive ou réactive, avec toute personne physique ou morale qui est susceptible de concourir, de manière individuelle ou collective, à sa vocation sociétale. Il n'y a aucune exclusive quant aux partenaires impliqués en vue d'aider la justice belge à mieux fonctionner et, ce faisant, à consolider la confiance du citoyen en sa justice et les organes de lutte contre la corruption compte(ro)nt parfaitement parmi ces partenaires.*

*S'agissant de la lutte contre la corruption, le Conseil supérieur de la Justice fait partie du réseau constitué au niveau belge pour suivre les activités du GRECO<sup>23</sup> ainsi que la mise en œuvre de l'UNCAC<sup>24</sup> avec l'ensemble des autres instances (judiciaires, policières, administratives ...) concernées par cette thématique.*

18. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les ONG ?

*Comme précisé ci-avant dans le cadre général de ses collaborations, les ONG constituent des partenaires du Conseil supérieur de la Justice dès lors qu'elles sont susceptibles de concourir à l'amélioration du fonctionnement de la justice belge. Il n'y a*

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<sup>21</sup> Comme plus amplement précisé sous le point 19, le Conseil supérieur de la Justice n'a pas vocation à être une institution représentative et/ou de défense des intérêts des magistrats.

<sup>22</sup> <https://csj.be/admin/storage/hrj/avis-bibc-fr.pdf>

<sup>23</sup> <https://www.coe.int/fr/web/greco>

<sup>24</sup> <https://www.unodc.org/unodc/en/corruption/uncac.html>

*pas pour autant et en l'espèce un canal ou une modalité de collaboration qui leur est spécialement dédié.*

19. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les associations de juges ?

*Les associations de juges sont naturellement et substantiellement impliquées à plus d'un titre dans le fonctionnement de la justice belge à l'amélioration duquel le Conseil supérieur de la Justice a pour vocation d'œuvrer. Le Conseil supérieur de la Justice occupe toutefois une position particulière dans le paysage judiciaire : l'indépendance que lui attribue la Constitution connaît un légitime prolongement en se matérialisant également vis-à-vis des acteurs institutionnels de la Justice ainsi que des organisations et associations actives dans le secteur de la Justice.*

*Au-delà d'une composition mêlant membres magistrats et membres non magistrats qui le distingue de nombreux autres Conseils de la Justice, le Conseil supérieur de la Justice belge veille à formaliser cette indépendance par la prudence et la réserve dans les collaborations qu'il noue avec les associations représentatives des magistrats pour éviter toute confusion aux yeux du citoyen, en ce qui concerne sa vocation institutionnelle et sociétale.*

20. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les médias ?

*Les médias constituent un groupe-cible intermédiaire de la communication du Conseil supérieur de la Justice vis-à-vis de la société, du monde politique, de l'ordre judiciaire, des acteurs et des partenaires de la justice. Un appel est ainsi ponctuellement fait aux médias - en complément des voies de communication (site web, médias sociaux,...) qui sont gérées en direct par l'institution – pour informer plus largement du fonctionnement du Conseil supérieur de la Justice, de ses activités, de ses actions et positions.*

21. Quel est le rôle éventuel du Conseil de la Justice dans le vetting (contrôle) des juges ?

*Un assainissement<sup>25</sup> du système judiciaire belge n'a pas eu à intervenir à ce jour.*

### **Défis, évolution**

22. Le Conseil de la Justice fait-il face, dans votre système, à des défis particuliers ? Dans l'affirmative quelle en est la nature ? Ces défis pourraient-ils être dus, entre autres, à l'évolution politique et économique, aux changements sociétaux, à la corruption, à la pandémie de covid-19 ou à des enjeux technologiques comme la numérisation du système judiciaire ?

*L'introduction - graduelle et inachevée - d'une gestion autonome des entités judiciaires (cours et tribunaux et services du ministère public) par des structures coupole qui en émanent directement pourrait générer, à terme, une requalification des compétences du Conseil supérieur de la Justice.*

*Un traitement décentralisé des plaintes par les entités judiciaires qu'elles concernent est ainsi déjà inscrit dans la loi mais n'est pas entré en vigueur.<sup>26</sup> Il y a également une demande des structures coupole (collèges respectivement des cours et tribunaux et du ministère public) à avoir davantage voix au chapitre dans la politique de sélection des magistrats par le Conseil supérieur de la Justice<sup>27</sup>. Une moindre attractivité de la fonction de magistrat ainsi qu'un manque de candidats pour certaines fonctions au sein*

<sup>25</sup> <https://www.ohchr.org/Documents/Publications/RuleoflawVettingfr.pdf>

<sup>26</sup> Art. 259bis15, § 4, du Code judiciaire. Cette disposition n'est pas encore entrée en vigueur.

<sup>27</sup> <https://www.tribunaux-rechtbanken.be/sites/default/files/college/planfr.pdf>, p. 19.

de la magistrature constituent également des points d'attention pour le Conseil supérieur de la Justice.

23. Le rôle du Conseil de la Justice-t-il évolué, dans votre système, ces dernières années ? Dans l'affirmative, comment ?

*Le rôle du Conseil supérieur de la Justice au sein du système judiciaire n'a pas fondamentalement évolué durant les dernières années mais bien le contexte dans lequel il est appelé à l'exercer. L'introduction (progressive) d'une gestion autonome des cours et tribunaux (encore inachevée) a engendré la création, au niveau fédéral, d'organes appelés à être en charge de la gestion respectivement des cours et tribunaux et des services du ministère public. Ce nouveau paysage judiciaire emporte déjà partiellement des conséquences pour les modalités d'exercice de certaines des compétences du Conseil supérieur de la justice, lesquelles conséquences n'en seront que plus grandes à l'avenir lorsque l'autonomie de gestion sera pleinement effective. Dans ce même contexte d'une gestion autonome des entités judiciaires en devenir, le Conseil supérieur de la Justice a adopté un positionnement plus clair d'auditeur externe de l'organisation judiciaire et densifié et professionnalisé sa mission d'audit.*

24. Des réformes ont-elles porté récemment sur le Conseil de la Justice ? Dans l'affirmative, quels étaient les objectifs de ces réformes et ont-elles été couronnées de succès ?

*Les compétences du Conseil supérieur de la Justice et les modalités d'exercice de certaines d'entre elles ont été étendues par l'effet de la loi du 23 mars 2019 modifiant le code judiciaire en vue d'améliorer le fonctionnement de l'ordre judiciaire et du Conseil supérieur de la Justice. Le code judiciaire a ainsi été complété par des dispositions renforçant les exigences au niveau du recrutement des juges suppléants et des conseillers suppléants désormais soumis à la réussite d'un examen organisé par le Conseil supérieur de la Justice. La déontologie des magistrats a également été inscrite dans le code judiciaire et le Conseil supérieur de la Justice a été chargé d'en déterminer les principes généraux avec le concours du Conseil consultatif de la magistrature. Des mesures ont été prises en vue d'assurer d'avantage de transparence en matière de sanctions disciplinaires à l'intervention du Conseil supérieur de la Justice à qui il revient de rédiger un rapport public des mesures et initiatives prises par les entités judiciaires en matière de déontologie et de discipline.*

*La loi a également consacré un ensemble de dispositions destinées à améliorer le fonctionnement du Conseil supérieur de la Justice.*

*L'ensemble des dispositions portées par la loi sont entrées en vigueur le 1er janvier 2020 : il est donc quelque peu prématuré d'en mesurer pleinement les effets. Le Conseil supérieur de la Justice a néanmoins déjà pu en mettre en œuvre, avec succès, certaines en organisant l'examen d'accès à la fonction de juges suppléants et conseillers suppléants ainsi qu'en menant une enquête particulière sur un dossier judiciaire « en cours » (ses compétences à cet égard se limitaient jusqu'alors aux dossiers clôturés au niveau judiciaire).*

25. Au cas où il n'existerait pas de Conseil de la Justice dans votre système, est-il question d'en créer un ? Dans l'affirmative, quels sont les arguments pour et contre ? Pensez-vous qu'un Conseil de la Justice pourrait aider à résoudre des difficultés qui pourraient se poser dans votre système ? Un tel conseil a-t-il des chances d'être créé ?

*Sans application.*

## Bosnia and Herzegovina/Bosnie-Herzégovine

### General

1. <b>Is there a Council for the Judiciary in your judicial system?</b>	<input checked="" type="radio"/> yes <input type="radio"/> no
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2. **What is the exact title/denomination of this body?**

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC/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 checked="" type="radio"/> HJC <input type="radio"/> MoJ <input checked="" 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
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 type="radio"/> other, please specify
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 checked="" 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 checked="" type="radio"/> Court Presidents <input checked="" 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="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
Drafting and enforcing a code of ethics	<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
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input checked="" 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
Training of judges	<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 type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify – Centres for judicial and prosecutorial trainings (Federation of Bosnia and Herzegovina, Republika Srpska and Judicial Commission of Brcko District BiH)
IT, including digitalisation of the judiciary and online hearings	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="radio"/> HJC <input checked="" 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
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?**

All authorities of the HJPC stated for judges above relate also to prosecutors, including the authority to appoint and remove from the office presidents of courts and chief prosecutors.

Additional authorities of the HJPC include the following:

- Collecting the annual financial statements of judges and prosecutors;
- Deciding upon issues of incompatibility of other functions performed by judges and prosecutors;
- Deciding upon the temporary assignment or transfer of judges and prosecutors to another court or prosecutor's office;
- Deciding upon leaves of absence for judges and prosecutors;
- Setting criteria for the performance evaluations of judges and prosecutors;
- Setting criteria for the performance of courts and prosecutors' offices, and initiating enquiries concerning administrative or financial conduct;
- Determining the number of judges and prosecutors;
- Collecting information and maintaining documentation on the professional status of judges and prosecutors, including their date of appointment, termination of office, statistical information relevant to their work performance, and any other information relevant to the work of court presidents, chief prosecutors, judges and prosecutors;
- Providing opinions on complaints lodged by a judge or a prosecutor who considers that his or her rights provided for by this or other law, or more generally his or her independence are threatened;



- Providing opinions on draft laws, regulations, or issues of importance that may affect the judiciary, initiate the adoption of relevant legislation and other regulations and to provide guidance to courts and prosecutors' offices on matters falling under the Council's competence,
  - Making proposals to the relevant authorities in relation to their proposals for election and nomination of judges of the constitutional courts;
  - Submitting the Annual Work Report to the parliaments in BiH; and
  - Regulating the work and internal procedures of the Council.
- **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?**

NAP

### 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?**

The Council adopts by-laws that further regulates certain aspects of it's work, as The Rules of Procedures of the Council, the Book of Rules on selection of the Council members, the Book of Rules on conflict of interests of the Council members, etc.

### Composition and Membership

#### 5. The composition of the Council for the Judiciary:

- **How many members are there?**

The Council is consisted of fifteen (15) members.

- one member from the Court of Bosnia and Herzegovina, elected by the judges of that Court;
- one member from the Prosecutor's Office of Bosnia and Herzegovina, elected by the prosecutors of that Office;

- one judge from the Supreme Court of the Federation of Bosnia and Herzegovina, elected by the judges of that Court;
- one prosecutor from the Prosecutor's Office of the Federation of Bosnia and Herzegovina, elected by the prosecutors of that Office;
- one judge from the Supreme Court of the Republika Srpska, elected by the judges of that Court;
- one prosecutor from the Prosecutor's Office of the Republika Srpska, elected by the prosecutors of that Office;
- one judge from either a Cantonal or Municipal level court of the Federation of Bosnia and Herzegovina, elected by the Cantonal and Municipal court judges of the Federation of Bosnia and Herzegovina, through written ballot;
- one prosecutor from a Cantonal level prosecutor's office of the Federation of Bosnia and Herzegovina, elected by the Cantonal prosecutors of the Federation of Bosnia and Herzegovina, through written ballot;
- one judge from a District or Basic level court of the Republika Srpska, elected by the district and basic court judges of the Republika Srpska through written ballot;
- one prosecutor from a District level prosecutor's office of the Republika Srpska, elected by the district prosecutors of the Republika Srpska, through written ballot;
- one judge or prosecutor elected by the Brcko District of Bosnia and Herzegovina Judicial Commission;
- one attorney, elected by the Bar Association of the Federation of Bosnia and Herzegovina;
- one attorney, elected by the Bar Association of the Republika Srpska;
- one member who shall not be a member of the judiciary or a member of the Parliamentary Assembly of Bosnia and Herzegovina, elected by the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina; and
- one member who is not a member of the judiciary and who is not a member of the Council of Ministers of Bosnia and Herzegovina, elected by the Council of Ministers of Bosnia and Herzegovina upon the proposal of the Minister of Justice of Bosnia and Herzegovina.

▪ **Are there ex-officio members?**

No.

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

Out of eleven (11) Council members who come from judicial system, at least five (5) members must be judges who come from all instances of regular courts in Bosnia and Herzegovina. The Council members need to be persons of high moral standing and integrity, and have a reputation for efficiency, competence and integrity.

▪ **Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)**

Out of four (4) Council members who are not judges and prosecutors, two (2) members are professional attorneys, and two (2) members are those who do not perform any judicial functions and who are not members of the parliamentary and ministerial bodies of Bosnia and Herzegovina.

6. **Please describe the procedure of appointment:**

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

Members of the Council are nominated by the institutions or authorities they represent.

For the Council members positions, judges are elected from judges of all instances of regular courts, prosecutors are elected from prosecutors of all instances of prosecutors' offices, and attorneys are elected by bar associations in Bosnia and Herzegovina. Members who do not perform functions in judiciary are elected by the Parliamentary Assembly of Bosnia and Herzegovina and the Council of Ministers of Bosnia and Herzegovina.

- **Please describe the appointment system**

Appointment system is defined by the Law and the Book of Rules on selection of the Council members, according to which at least three (3) months prior to the expiration of the term of office of a Council member, the Council initiates an election procedure by notifying the relevant institution or authority which is responsible for election or appointment of Council members, and requests election or appointment of a new Council member within the determined deadline.

- **If members are elected by Parliament, are these members elected with a simple or qualified majority?**

The Council member who is appointed by the Parliamentary Assembly of Bosnia and Herzegovina is elected by a simple majority voting of the House of Representative.

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

In order to realise election or appointment procedure of a Council member, the relevant institution or authority is instructed that according to the Law he or she must be a person of high moral standing and integrity, and have a reputation for efficiency, competence and integrity. Eleven (11) Council members are judges and prosecutors who are elected by their peers, and they make up more than two thirds of the total number of the Council members. The legislative and executive authorities have no influence on the selection of the Council members, with the exception of selection of two members.

The Council acts and makes decisions as a single body at its sessions which are public. The presence of a minimum of eleven (11) members is required to constitute a quorum. The Council decides by majority of affirmative votes of the total votes of members present and voting. If the voting is equal, a roll call vote is taken and the President of the Council has the casting vote.

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

The President and two Vice-Presidents of the Council are elected by a simple majority of the members present and voting.

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

The Council members are appointed for a term of four years and are eligible to serve no more than two consecutive terms of four years. A person who has served as a

Council member for a period of two terms consecutively may not be appointed again as a Council member until the expiry of four years since end of his or her previous term.

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

Termination of a Council member mandate by removal from his or her office is prescribed in the following circumstances:

- if he or she performs his or her duties improperly, inefficiently or in a biased manner;
- if he or she fails to fulfil obligations arising out of his or her office due to illness or any other reason;
- for the commission of an act that would make him or her unworthy to perform duties in the Council; or
- upon a final conviction of a criminal offence pronouncing a prison sentence, which conviction shall result in automatic termination.

Additionally, the Council member may be suspended *ex lege* if he or she is suspended from the function by virtue of which he or she qualifies for election or appointment to the Council, or if he or she is confined to pre-trial detention.

**Resources and management**

11. Which body provides funding for the Council for the Judiciary?	<input checked="" 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 serious conflicts.

**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?**

There were some conflicts with the legislative power. In May 2020, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina established an Interim Investigative Committee for inquiring into the state of the judiciary in BiH, especially the HJPC and its work is still ongoing.

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 is an independent organ of Bosnia and Herzegovina established by the special Law and has a status of legal person. Accordingly, the Council may initiate administrative and court procedures at relevant administrative bodies and courts in matters of their authority. Any issue related to legal status or institutional changes of the Council has to be initiated at the Parliamentary Assembly of Bosnia and Herzegovina.

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

In accordance with the National Anti-Corruption Strategy and its Action Plan, the Council submits on a regular basis reports to the Anti-Corruption Agency of Bosnia and Herzegovina in relation to implementation of the Council's activities in this area, which relate to both the Council and the judicial system as a whole. Consequently, the Council initiate creation and implementation of integrity plans for courts and prosecutors' offices.

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

The Council cooperates with non-governmental organizations in certain activities related to judiciary, what includes both local and international non-governmental organizations, particularly in area of free legal aid, mediation, discrimination, corruption, improvements of court administration, ethics etc.

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

The Council cooperation with associations of judges is realised through the consultations on certain issues of importance for judicial office holders and the judiciary as a whole, whether initiated by the associations themselves or within activities organised or implemented by the Council, such as meetings, conferences etc.

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

Within its regular activities, the Council continuously provides information to the public by issuing press releases, as well as by statements on specific issues referred to the Council by media requests. Media representatives may be present and follow the sessions of the Council.

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

The Council does not have this role.

### **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.**

The main challenges of the Council relate to full implementation of reform requirements to improve the judicial system in line with the European Commission and GRECO recommendations, which set out obligations to build a more efficient, accountable and transparent judicial system, especially in the fight against corruption. The process of realization of mentioned activities of the Council are not affected by circumstances caused by the Covid-19 pandemic due to already developed digitalisation of the judiciary and all necessary measures undertaken by the Council to ensure normal working operations of both the Council and the judicial system as a whole.

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

The role of the Council in relation to judiciary has not changed.

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?**

The Council has initiated a series of reform activities aimed at improving the quality and efficiency of the judiciary, as well as the integrity and accountability of judicial officials. For that purpose, the Council focused on the system of evaluation of work of judges and prosecutors, issues of ethics, integrity and accountability, improvement of disciplinary proceedings, planning of integrity in judicial institutions, etc. For implementation of initiated activities, the Council made restructuring of the internal organisation of institution, by establishing appropriate organizational units and strengthening its human resources capacities.

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?**

NAP

## Bulgaria/Bulgarie

### General

1. Is there a Council for the Judiciary in your judicial system?	X <b>yes</b> O no
2. What is the exact title/denomination of this body? - Supreme Judicial Council/ Висш съдебен съвет	
3. <i>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 <b>High Judicial Council (HJC)</b>) or <b>Ministry of Justice (MoJ)</b> - 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.</i>	
Defending and fostering the independence of judges and the judiciary/the rule of law	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Administration of the judiciary	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Selection of new judges	<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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify

Evaluation of judges	<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
Evaluation of court performance	<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
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 type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" 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 checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Training of judges	<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



	X Association of Judges X other, please specify - National Institute of Justice
IT, including digitalisation of the judiciary and online hearings	X HJC O MoJ O Parliament X Court Presidents O bodies within individual courts O Judicial Administration Board O other, please specify
The allocation of financial resources to the judiciary including individual courts	X HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board O other, please specify
Salaries of judges	X HJC X MoJ X Parliament O Court Presidents O Bodies within individual courts O Judicial Administration Board O 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?*

All Presidents of courts - except Presidents of Supreme Court of Cassation and Supreme Administrative Court - shall be elected by the Supreme Judicial Council. It is also in charge of their removal following special procedure (including disciplinary proceedings).

The President of the Supreme Court of Cassation and the President of the Supreme Administrative Court shall be appointed and removed by the President of the Republic on a motion by the Supreme Judicial Council for a single term of seven years; the President may not refuse to decree any such appointment or dismissal upon a second motion.

The SJC is divided into two colleges – Judges’ College and Prosecutors’ College – see *answer N.5 and N.24*

- *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?*

Not applicable

### 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	X Constitution X Law O other, please specify
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Composition	X Constitution X Law O other, please specify
Selection of members including tenure and removal during tenure	X Constitution X Law O other, please specify
Tasks	X Constitution X Law O other, please specify
Resources, funding, administration	X Constitution X Law X other, please specify - Rules on the Organization of the Activities of the Supreme Judicial Council and its Administration
Independence	X Constitution X Law O 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? – 25  
The Supreme Judicial Council shall consist of 25 members. It carries out its duties through Plenary, Judges' College and Prosecutors' College. Plenary consists of all SJC members and adopts the draft budget of the judiciary, organizes qualification of judges, prosecutors and investigating magistrates, solves common problems of the judiciary and governs its real estates, proposes the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General for appointment and relief from office by the President of the Republic of Bulgaria, etc. Judges' College consists of 14 members-President of the Supreme Court of Cassation, President of the Supreme Administrative Court, 6 members, directly elected by judges, 6 members, elected by Parliament. Prosecutors' College consists of 11 members - Prosecutor General, 4 members directly elected by prosecutors, 1 member, directly elected by investigating magistrates, 5 members, elected by Parliament.
- Are there ex-officio members? – Yes, 3 - the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General shall be 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? – 6 members must be judges - elected within their peers; however the actual number of the judges in the Judges' College is greater as some of the elected by Parliament members are judges – as well as the President of the Supreme Court of Cassation and the Supreme Administrative Court. No special requirement about coming from different systems or instances - all members of the Council shall only be "lawyers of high professional and moral integrity who have practised law for at least 15 years"
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions) – yes (see above)

6. Please describe the procedure of appointment:

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

The Council shall consist of 25 members - 3 ex officio (President of the Supreme Court of Cassation, President of the Supreme Administrative Court and Prosecutor General) and 22 “lawyers of high professional and moral integrity who have practised law for at least 15 years”- who shall be elected as follows: 11 by Parliament (6 for Judges’ and 5 for Prosecutors’ college) and 11 by the judicial authorities-6 by judges, 4 by prosecutors and 1 by investigating magistrates). The members are nominated by the Parliament and the judges, the prosecutors and the investigating magistrates respectively.

- Please describe the appointment system

Members, elected by Parliament

The National Assembly shall elect members of the Supreme Judicial Council not later than one month prior to the expiry of the term of office of the elective members.

Nominations of candidates for elective members of the Supreme Judicial Council shall be examined by the specialised standing committee of the National Assembly.

Candidates shall be nominated by the National Representatives to the committee not later than two months prior to the conduct of the election. Any such nominations shall be accompanied by detailed reasons in writing on the professional standing and moral integrity of the candidates, including opinions expressed by professional, academic and other organisations, and documentary proof of graduation in Law from a higher educational establishment, documents related to the incompatibility requirements, as well as documents on the length of practising law and the career development of the candidate.

The nominations together with detailed curriculum vitae of the candidates and the abovementioned documents shall be published on the website of the National Assembly within three working days from the date of receipt.

Within 14 days from the publication of the nominations, each candidate shall submit to the committee preparing the election a written concept on his or her work as member of the Supreme Judicial Council and declarations concerning the origin of their property which shall be published. Not later than seven days prior to the hearing, non-profit legal entities registered for the pursuit of public benefit activities, higher educational establishments and scientific organisations may submit opinions about a candidate to the commission, including questions to be put to the said candidate (anonymous opinions and alerts shall be ignored); the opinions and questions as submitted shall be published on the website of the National Assembly within three days from the submission thereof.

The committee shall hear each candidate who shall present thereto their concepts. The hearing shall be scheduled and announced by the committee not later than one month prior to the scheduled hearing date. The hearing shall be conducted at a public meeting of the committee not later than 14 days before the conduct of the election. A full verbatim record of proceedings shall be drawn up for the hearing and shall be published on the website of the National Assembly.

The committee shall prepare a detailed and reasoned report on the professional standing and moral integrity of the candidates, thereby moving the nominations for a debate and taking a vote at the National Assembly. The said report shall include an opinion on the performance of the candidate, prepared after his or her hearing by the committee, and a conclusion on the minimum legal requirements to occupy the position; the existence of data that call into question the candidate’s moral integrity, qualification, experience and professional standing; the specific background, qualities and motivation for the post concerned; the public reputation of the candidate and the public support for him or her. The report shall be published on the website of the National Assembly.

The National Assembly shall elect each member of the Supreme Judicial Council separately, by a majority of two-thirds of the National Representatives.

#### Members elected by the judicial authorities

The judicial authorities shall elect members of the Supreme Judicial Council by colleges not later than one month before the expiry of the term of office of the elective members. The members of Supreme Judicial Council of the Judiciary quota shall be elected directly by secret ballot by the judges, by the prosecutors and by the investigating magistrates, respectively.

The general assembly of judges for the election of members of the Supreme Judicial Council shall be convened jointly by the Chairperson of the Supreme Court of Cassation and by the Chairperson of the Supreme Administrative Court. The general assembly of prosecutors for the election of members of the Supreme Judicial Council shall be convened by the Prosecutor General. The general assembly of investigating magistrates for the election of members of the Supreme Judicial Council shall be convened by the Prosecutor General. The invitation convening the general assemblies shall state the date, venue and time of conduct of the said assemblies.

Candidates for elective members of the Supreme Judicial Council representing the judges, prosecutors and investigating magistrates may be nominated, respectively, by each judge, prosecutor or investigating magistrate not later than two months before the conduct of the election. The nominations shall be put forward in writing and shall be reasoned considering the personal accomplishments, professional standing and moral integrity of the candidate. These documents shall be made public on the website of the Supreme Judicial Council. Within 14 days from the publication of the nominations, the candidates shall submit in writing detailed curriculum vitae, their reasons and a concept on the activity of the Supreme Judicial Council, documentary proof of conformity to the requirements of the law, certain declarations (related to incompatibility, origin of property). For each nomination received, the respective chamber of the Supreme Judicial Council shall require detailed information on all inspections from the Inspectorate with the Supreme Judicial Council-which shall be published on the SJC website.

The Judges' College of the Supreme Judicial Council shall pronounce on the admissibility of each nomination with regard to the required educational attainment, length of practising law and submission of the envisaged documents regarding the judges candidates for members of the Supreme Judicial Council, and the Prosecutors' College shall so pronounce regarding the prosecutors and investigating magistrates candidates; the decisions shall be made public immediately on the website of the Supreme Judicial Council. The decisions on the admissibility of nominations shall be appealable within three days from their publication through the respective college of the Supreme Judicial Council before a panel consisting of three judges of the Supreme Court of Cassation and two judges of the Supreme Administrative Court, designated on the basis of the random selection principle through electronic assignment (the judgment shall be rendered within seven days from the lodgement of the appeal and shall be final).

Within three days from the entry into effect of the decisions on admissibility, the colleges of the Supreme Judicial Council shall compile lists stating the names and position occupied of all candidates admitted to entry in the elections for members of the Supreme Judicial Council.

The General assembly shall meet on two consecutive Saturdays. On the first Saturday, the General assembly shall elect an election commission and voting sections and shall hear the candidates. The assemblies shall be public and shall be streamed live on the website of the Supreme Judicial Council.

The candidates shall be heard in alphabetical order. Judges, prosecutors, investigating magistrates, non-profit legal entities designated for the pursuit of public benefit activities may address opinions on the candidates and questions to them to the respective college of the Supreme Judicial Council not later than 14 days before the date of conduct of the General assembly, they shall be published on the website of the Supreme Judicial Council. The members of the general assembly and of the commission may address questions to the candidates, including on the basis of the opinions already mentioned and the commission shall be bound to ask all questions received. After the hearing of the

candidates, the election shall proceed on the following Saturday. In case all members of the Supreme Judicial Council who are rendered up by the respective General assembly are elected on the day of conduct of the voting, the assembly shall be closed (voting shall be secret). The candidates who have gained more than one-half of the valid votes shall be considered elected. If the candidates satisfying this condition outnumber the candidates due to be elected at the respective General assembly, those from among them who have gained the most votes shall be considered elected. Where the requisite number of members has not been elected, the election shall proceed on the following day, when the voting shall be repeated. If the requisite number of members is not elected in the repeated voting by the requisite majority, those of them who have gained the most votes shall be considered elected.

- If members are elected by Parliament, are these members elected with a simple or qualified majority? - qualified - two-thirds of the National Representatives

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

Through the set in law incompatibility requirements and grounds for termination of term of office (an elective member of the Supreme Judicial Council may not: 1. be a National Representative, a mayor or municipal councillor; 2. hold a position at other State or municipal authorities; 3. carry on business or be a partner, manager or member of supervisory, management boards or boards of directors or on control bodies of commercial corporations, cooperatives or non-profit legal entities that carry on business, with the exception of those of professional associations of judges, prosecutors and investigating magistrates; 4. be remunerated for business performed under a contract or while in a civil service relationship with a state or public organisation, a commercial company, cooperative, non-profit legal entity, a natural person or sole trader, with the exception of research and teaching or the exercise of copyright, as well as for participation in international projects, including ones funded by the European Union; 5. practise a liberal profession or another remunerative professional activity; 6. be a member of political parties or coalitions, of organisations pursuing political purposes, carry out political activity, as well as be a member of any organisations or carry out any activities interfering with his or her independence; 7. be a member of trade union organisations outside the Judiciary system; 8. has been convicted for a serious criminal offence, notwithstanding any subsequent rehabilitation, or has been released from criminal responsibility for an intentional offence; 9. be a spouse, a lineal relative, a collateral relative up to the fourth degree of consanguinity, or an affine up to the third degree of affinity inclusive, or a de facto cohabitant with another member of the Supreme Judicial Council, with an administrative head of a judicial authority, or with the Minister of Justice; 10. be an elective member of the Supreme Judicial Council who has been released from office on disciplinary grounds; 11. be a person in respect of whom a conflict of interest has been ascertained by an enforceable decision less than one year prior to the election; as regards the grounds for termination of term of office – see answer 10).

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

According to Art 130b of Bulgarian Constitution SJC Plenary meetings are presided by the Ministry of Justice in a non-voting capacity, Judges' College meetings – by the President of the Supreme Court of Cassation, Prosecutors' College meetings – by the Chief Public Prosecutor. The Minister of Justice may attend the meetings in non-voting capacity.

9. What is the term of office for a member of the Council? – 5 years

10. May a member be removed from office against his/her will and, if so, under what circumstances? – Yes – in case of conviction for crime following judicial proceedings; permanent factual impossibility to perform his/her obligations for more than one year;

disciplinary dismissal or deprivation of the right to exercise a legal profession or activity; in case of incompatibility with the posts or activities for SJC members

### 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 severe internal conflicts affecting the SJC functioning. There are principal differences and conflicts respectively on certain issues between the Judicial College members but this does not prevent the Council from fulfilling its obligations and making decisions within its competence. The different positions and opinions are not secret for the public, as the meetings are public, broadcasted online and covered in the media.

However during the mandate of one of the previous Councils two members from the judges quota prematurely left the Council – because of disagreement with the decisions taken by the Council – publicly announcing their motives.

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?

Some of the members of the judicial quota are directly elected by the judges and are practically from all levels of the judiciary. The answer to the question about the attitude of all judges in general can be given after a large-scale survey, which could not be done for the purposes of the questionnaire. My opinion is that there are no serious conflicts. Depending on the nature of the decisions, there are judges who are satisfied and such who are not (for example in attestation, promotion, administrative heads election) and this affects their approval or disapproval to the Council respectively.

### 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?

The judiciary shall have an independent budget. The draft budget of the judiciary is adopted by the SJC, However, the budget of the judiciary shall be adopted by Parliament. Although the Supreme Judicial Council has always proposed draft budget, the Parliament usually adopts the Ministry of Finance draft budget – which provides less finance. Until a few years ago the lack of sufficient resources prevented the due update of judges' remunerations (for several years). There was a clear mechanism prescribed by law stating how judges' salaries should be formed (on the basis of average salary of budget sphere servants). In fact SJC's decisions for periodic update could not be enforced in due time because of lack of enough resources allocated from state budget (unlike in other budget spheres). The CCJE was addressed with this problem by Bulgarian SJC in 2016. This problem is currently resolved and the salaries are regularly rised.

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 statute of the Supreme Judicial Council is set in the Constitution – including competence and grounds for termination of the mandate of its members - and that is a guarantee itself. In case it is necessary to refer to the Constitutional Court, the Council could address the Supreme Court of Cassation or the Supreme Administrative Court, which have the right to refer an issue directly to the Constitutional Court. Besides the SJC can make public statements and turn to the media.

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

They are independent bodies with different competence withing different branches of the State powers. However there is a special body to the Council - The Inspectorate to the Supreme Judicial Council, which inspects the activities of the country's judicial bodies and has competence, inter alia, to carry out integrity testing and examinations for conflict of interest of judges, prosecutors and investigating magistrates, verifications of the financial interests disclosure declarations, as well as checks for identifying actions damaging the prestige of the Judiciary and such related to impairment of the independence of judges, prosecutors and investigating magistrates, makes proposals for the imposition of disciplinary sanctions on judges, prosecutors and investigating magistrates and on the administrative heads of judicial authorities, addresses alerts, proposals and reports to other state bodies, including the competent judicial authorities

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

The NGOs could take part in SJC members and the Presidents of Supreme Courts election procedures through lodging questions and opinions on the candidates.

In 2012 Civil Council to the Supreme Judicial Council was constituted. The members of the council are civil associations (19 as of 2019) dealing with judicial system matters – including judges associations. The aim of the council is, through participation of civil and professional organisations, to improve the judicial system, to ensure objective civil monitoring over its functioning and the application of law, thus guaranteeing the rule of law. This is the most long lasting (without interruption) public structure (council) in the judicial system field in the form of civil participation in the process of forming and control over the execution of judicial system policy. At present - following 2017 amendment of Judiciary system (Article 217) - there is another body - Partnership Council to the Supreme Judicial Council (see answer N.19) .

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

Following 2017 amendment of Judiciary system (Article 217) Partnership Council to the Supreme Judicial Council has been established. It consists of three elective members of the Supreme Judicial Council, designated by the Plenary, of representatives of each of the organisations which protect the professional interests of judges, prosecutors and investigating magistrates whereof the membership is not less than 5 per cent of the respective number of judges, prosecutors and investigating magistrates, as well as of representatives of the judges, prosecutors and investigating magistrates who are not members of any such organisations. The Council implements dialogue on all matters related to the professional interests of judges, prosecutors and investigating magistrates.

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

The SJC meetings are public and broadcasted on-line. The members of the Council are public figures and are often interviewed by journalists (including directly after the meetings) and invited as interlocutors in various media. The Council has also its public relations sector

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

The only competence regarding judges' performance is the attestation procedure.

## 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.

One of the main challenges at present is the redrawing of the court map in order to optimize the workload of the various courts. Another one is the introduction of a new unified system for electronic case management.

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?

In 2015-2016 amendments of Constitution and Judicial System Act were adopted concerning the organization of the judiciary and the law enforcement community. The amendments were adopted following a large discussion on Judicial System Reform Strategy (aiming to strengthening the judiciary, its proper functioning and independence and a right to court of full value) and in the light of the recommendations of the European Commission for Democracy through Law (the Venice Commission) and of the Consultative Council of European Judges (CCJE) (reference to Venice Commission and CCJE recommendations is made in the motives to the Judicial System Act Amendment Law).

The law changes the composition and authority of the Supreme Judicial Council /SJC/. Following the amendments the SJC /a one-chamber institution before/ is now split into two separate colleges: Judges' and Prosecutors'. This model prevents the participation of members who represent prosecutors and investigation magistrates in deciding personnel and disciplinary matters concerning judges - and vice versa. The plenary decides common issues and the colleges concentrate upon the different magistrates' groups issues. The colleges, in accordance with their professional competence, deal separately with all matters concerning judges on the one hand, and prosecutors and investigation magistrates – on the other hand (election, promotion, demotion, transfer and removal from office, periodic evaluation, disciplinary proceedings, appointment of administrative heads, etc.). The plenary meetings are presided by the Minister of Justice in a non-voting capacity, the Judges' college meetings - by the President of the Supreme Court of Cassation, the Prosecutors' college meetings – by the Prosecutor General. The amended law also provides qualified majority and open vote with no possibility to abstain for taking personnel decisions, engaging acting magistrates in the evaluation of magistrates, increased powers of the Council's Inspectorate (which inspects the activities of the country's judicial bodies), direct election (replacing the delegates' assemblies' election) of the SJC members elected by judges (each judge may propose a candidate, the candidates are heard during general assemblies - directly broadcasted on the SJC internet site; each judge may vote by secret ballot (paper or electronic)). In June 2017 the first direct elections took place.

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?*

Not applicable



## Croatia/Croatie

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
2. What is the exact title/denomination of this body? STATE JUDICIAL COUNCIL / DRŽAVNO SUDBENO VIJEĆE/	
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	X HJC O MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges O other, please specify
Defending judges/the judiciary against public attacks	O HJC- unfortunately not O MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges O other, please specify
Administration of the judiciary	O HJC X MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board O Association of Judges O other, please specify
Selection of new judges	X HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board O A special Judicial Appointment Body O other, please specify
Selection of judges for promotion	X HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board O A special Judicial Appointment Body O other, please specify

Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Evaluation of court performance	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents/ presidents of higher courts/ <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="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
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input checked="" 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
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts

	<input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify- JUDICIAL ACADEMY- independent body
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" 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
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="radio"/> Parliament -Law on judges' salaries <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?

**Croatian HJC has authority to appoint presidents of courts with only one exception. Appointment of president of Supreme Court. This appointment is solely in hands of President of Republic who proposes the candidate after obtaining non binding opinion of the General Assembly of Supreme Court to the Parliament who elects/appoint president. In this procedure HJC acts as a service who declares vacancy and collects applications.**

- 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?

**Nothing in particular.**

### 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 checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
--	--

Composition	X Constitution X Law O other, please specify
Selection of members including tenure and removal during tenure	X Constitution X Law O other, please specify
Tasks	X Constitution X Law O other, please specify
Resources, funding, administration	O Constitution X Law O other, please specify
Independence	X Constitution X Law O other, please specify

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

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

**JC has 11 members.**

- Are there ex-officio members?

**No.**

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

**Of 11 members in total 7 members must be judges, one from first instance general courts, 3 from courts of appeal, two from supreme court, and one from specialized court.**

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

**Two professors of Law Faculties, and two members of the Parliament.**

6. Please describe the procedure of appointment:

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

**Each group nominates their own candidates for election.**

- Please describe the appointment system

**Judges of each subgroup nominate candidates for election, 3 candidates for one position. If there is more candidates than 3 for each position, there are prelections.**

**All judges of first instance courts elect one candidate in HJC, all judges of court of appeal elect three judges from their rank, judges of Supreme Court**

**elect their two members and all judges of specialized courts ( Commercial and Administrative) elect one judge in HJC.  
All elections are at same day by secret balot.**

**Similar procedure is among professors of Faculties of Law ( 4 faculties )**

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

**Two members from the rank of members of the Parliament are elected by simple majority allways one from the majority and one from the opposition.**

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

**They have same imunity as judges, they can not be called responsible for vote or opinion given peformig duty at HJC.**

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

**They are elected among members of the HJC but only among members who are judges.**

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

**4 years.**

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

**Yes, in the disciplinary procedure before HJC, same as for judges.**

**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, only normal exchange of opinions on the HJC sesions.

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 serious conflicts. Problem lays in the fact that for any vacancy for appointment and promotion there usually more than 10 candidates nan those**

**who do not succeed are unsatisfied even though HJC is governed by objective evaluation system which is objective as it can be with all shortcomings expressed in CCJE Opinion on evaluation of judges.**

#### **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 serious conflicts . More or less media and some members of the parliament openly express their dissatisfaction for some HJC decisions especially for more important courts or judges' positions but with no consequences to the work of HJC.**

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?

**Actually not much, only to publicly express their view. But as HJC has firm constitutional protection there was so far no need to seek such kind of protection.**

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

**There is no official or factual interaction. There are independent bodies with clear division of competences. HJC has duty to collect and make public judges' declarations of assets.**

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

**There is no interaction of importance.**

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

**Cooperation is fruitful where each organization respects the role and responsibilities of another one. Association is when there is need for that defend the role and importance of HJC as guarantor of independence of judges.**

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

**All HJC sessions are open to public with exception to the disciplinary proceedings. HJC communicates with the media through it's president, web site and through public statements.**

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

**HJC has no such role, and in my opinion sole idea of vetting of judges is wrong and CCJE should remain opposition to this system as already established position on this issue.**

## **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.

**In my opinion major obstacle for efficient role of HJC is lack of resources and needed staff . Other chalange is legal frame which gives to the HJC narrow margin of discretion The main obstacles are lack of resources , and insufficient premises. lack of admirative staff Also when deciding on appointment and promotion because decisive role lays in results of evaluation which HJC is bound with and cannot challenge or question.**

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

**NO, JC as explained in previous answers has been established in 2010 when Constitution was amended.**

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?

**NO.**

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?

**Not applicable**

## Cyprus/Chypre

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
2. What is the exact title/denomination of this body? <b>The Supreme Council of Judicature</b>	
3. This question should be answered by members from both legal systems with and without a Council for the Judiciary: Which department or body - for example the Council for the Judiciary (often denominated as High Judicial Council (HJC)) or Ministry of Justice (MoJ) - is responsible for or is in position to perform the following tasks? More than one institution might be involved, so more than one box can be ticked.	
Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="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 checked="" type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify <b>The Supreme Court</b>
Defending judges/the judiciary against public attacks	<input 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 checked="" type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify <b>The Supreme Court</b>
Administration of the judiciary	<input 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 <b>The Supreme Court</b>
Selection of new judges	<input 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"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> other, please specify <b>The Supreme Council of Judicature</b>
Selection of judges for promotion	<input 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="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input checked="" type="radio"/> other, please specify <b>The Supreme Council of Judicature</b>
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Supreme Council of Judicature</b>
Evaluation of court performance	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Supreme Court</b>
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Supreme Council of Judicature</b>
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Supreme Court</b>
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Supreme Court</b>
Providing input on legislative projects	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Supreme Court</b>
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>The Cyprus Judicial Training School of the Supreme Court</b>
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> other, please specify <b>The Deputy Ministry of Research, Innovation and Digital Policy, in cooperation with the Supreme Court</b>
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> other, please specify <b>The Ministry of Finance</b>
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? **Yes, The Supreme Council of Judicature.** Is it in a position to appoint or remove presidents of courts to and from the office? **Yes.** Is there additional information that would be useful to understand the role of the Council for the Judiciary within your country? **No.**
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

## Legal basis

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

Existence of a Council for the Judiciary	<input checked="" type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input checked="" type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input checked="" type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<input checked="" type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Resources, funding, administration	<input type="radio"/> Constitution <input type="radio"/> Law <input checked="" type="radio"/> other, please specify <b>none</b>
Independence	<input checked="" type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify

- Are there other formal or informal rules which are necessary to understand the role and functioning of the Council for the Judiciary in your country? **No.**

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? **13**
- Are there ex-officio members? **Yes, all the members of the Supreme Court**
- How many members must be judges? **All members are Judges. They are the Judges of the Supreme Court.** Do they need specific qualifications or experiences, must they come from different court systems or instances? **N/A**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions) **No.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify) **The only members are the Judges of the Supreme Court**
- Please describe the appointment system **N/A**
- If members are elected by Parliament, are these members elected with a simple or qualified majority? **N/A**

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

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

9. What is the term of office for a member of the Council? **As long as the person is a Judge of the Supreme Court.**
10. May a member be removed from office against his/her will and, if so, under what circumstances? **No. Only if the person ceases to be a Judge of the Supreme Court.**

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> other, if so specify <b>None.</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> 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? **No.** If yes, what was the character of these conflicts and have they been solved? **N/A.**
14. Have there been conflicts between the Council for the Judiciary and the judiciary? **No.** Have judges felt that the Council for the Judiciary did not represent their interests? **No.** If yes, why and has the conflict been solved? **N/A.**

### 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? **No.** If yes, what was the character of these conflicts and have they been solved? **N/A.**
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? **Refer the matter to the Supreme Court, which is also the Supreme Constitutional Court.**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? **It does not.**
18. How does the Council for the Judiciary in your judicial system interact with NGOs? **It does not.**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
20. How does the Council for the Judiciary in your judicial system interact with media? **It does not.**
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges? **The Supreme Council of Judicature appoints all Judges (except the Judges of the Supreme Court) and is the body responsible for the promotion of Judges.**

## 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. **N/A.**
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? **No.** If so, how? **N/A.**
24. Have there been reforms concerning the Council for the Judiciary in your judicial system recently? **No.** If so, what were the objectives of these reforms and have they been successful? **N/A.**
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.**

## Czech Republic/République tchèque

### General

1. Is there a Council for the Judiciary in your judicial system?	no
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2. What is the exact title/denomination of this body?

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> Court Presidents <input type="radio"/> Association of Judges <input type="radio"/>
Defending judges/the judiciary against public attacks	<input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/> <input type="radio"/> Association of Judges <input type="radio"/>
Administration of the judiciary	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/>
Selection of new judges	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/> <input type="radio"/> <input type="radio"/> other- committee appointed by MoJ or CP
Selection of judges for promotion	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> other – president
Evaluation of judges	<input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/> <input type="radio"/> Notice: There is no formal evaluation in Czech. Just for specific purpose – promotion etd.
Evaluation of court performance	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/>

Conducting disciplinary procedures	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/> <input type="radio"/> other: ombudsman for court presidents Notice: competence of the disciplinary proceeding is given to special Disciplinary Chamber of the Supreme Administration Court
Drafting and enforcing a code of ethics	<input type="radio"/> <input type="radio"/> Association of Judges <input type="radio"/> other – Current draft of CE was made by special Committee of judges appointed with cooperation among President of the Supreme Court and presidents of courts of appeal
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> <input type="radio"/> Association of Judges <input type="radio"/>
Providing input on legislative projects	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> <input type="radio"/> <input type="radio"/> High and supreme courts
Training of judges	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> <input type="radio"/> Association of Judges <input type="radio"/> Judicial Academy
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/>
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> <input type="radio"/> MoJ <input type="radio"/> <input type="radio"/> Court Presidents <input type="radio"/>
Salaries of judges	<input type="radio"/> <input type="radio"/> Parliament <input type="radio"/>

- 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?
- 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?
- Strong role plays heads of executive power. President and Ministry of Justice. Personal and budget responsibilities and other questions of administration of justice although takes presidents of courts, especially presidents of courts of appeal. Presidents of courts have consultative body – Council of Judges. But this body has no formal power or responsibility.

### Legal basis

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

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

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

### Composition and Membership

5. The composition of the Council for the Judiciary:
- How many members are there?
  - Are there ex-officio members?
  - How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
  - Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
6. Please describe the procedure of appointment:



- Who nominates the members? (judges or other institutions or authorities – please specify)
  - Please describe the appointment system
  - If members are elected by Parliament, are these members elected with a simple or qualified majority?
7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
  8. How is the President and/or Vice-President of the Council selected and appointed?
  9. What is the term of office for a member of the Council?
  10. May a member be removed from office against his/her will and, if so, under what circumstances?

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input 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 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?
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?

### 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?
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?
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?

20. How does the Council for the Judiciary in your judicial system interact with media?
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?

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

Notice: Yes, we have periodically discussion about a role of CJ, especially before elections. Union of Judges prepared a proposal and another one made by the Supreme Administrative Court was discussed too. But I do not see real will of party leaders to compose CJ.

With best regards, Lubos Dörfel, Czech Republic  
26<sup>th</sup> Feb.2021

## Denmark/Danemark

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
2. What is the exact title/denomination of this body? <b>Domstolsstyrelsens bestyrelse (The board of the Danish Court Administration)</b>	
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	X HJC X MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges X The Special Court of Indictment and Revision
Defending judges/the judiciary against public attacks	X HJC X MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges O other, please specify
Administration of the judiciary	X HJC O MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board O Association of Judges O other, please specify
Selection of new judges	O HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board X A special Judicial Appointment Body O other, please specify
Selection of judges for promotion	O HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board

	<input checked="" type="checkbox"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Evaluation of judges	<input 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
Evaluation of court performance	<input 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
Conducting disciplinary procedures	<input 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 checked="" type="checkbox"/> The Special Court of Indictment and Revision
Drafting and enforcing a code of ethics	<input 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 checked="" 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 checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> A judge in each court appointed to be press spokesperson
Providing input on legislative projects	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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

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 type="checkbox"/> other, please specify
IT, including digitalisation of the judiciary and online hearings	<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"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Salaries of judges	<input 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 checked="" type="checkbox"/> Ministry of Finance

- If there is a Council for the Judiciary in your country, has it other duties not mentioned here? **Yes, a digital database of court decisions shall be established and maintained.**
- Is it in a position to appoint or remove presidents of courts to and from the office? **No**
- Is there additional information that would be useful to understand the role of the Council for the Judiciary within your country? **Please see: [https://www.encj.eu/images/stories/pdf/factsheets/domstolsstyrelsen\\_denmark.pdf](https://www.encj.eu/images/stories/pdf/factsheets/domstolsstyrelsen_denmark.pdf)**
- 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? **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="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Composition	<input type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> 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? **11 members**
- Are there ex-officio members? **No**
- How many members must be judges? **5 members**. Do they need specific qualifications or experiences, must they come from different court systems or instances? **Please see below**
- Can/must non-judges be members of the Council? **Yes** Please specify (number, qualification/specific functions) **Please see below**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)
  - 1 judge is nominated by the Supreme Court**
  - 1 judge is nominated by the Eastern High Court**
  - 1 judge is nominated by the Western High Court**
  - 2 judges are nominated by the Association of Danish Judges**
  - 1 member is nominated by the Deputy Judges' Union (Dommerfuldmægtigforeningen)**
  - 2 members are nominated by the trade unions of non-judicial court staff**
  - 1 member is nominated by the Council of the Danish Bar and Law Society (Advokatsamfundet)**
  - 1 member is nominated by The Danish Agency for Labour Market and Recruitment (Beskæftigelsesrådet)**
  - 1 member is nominated by Universities Denmark (Rektorkollegiet)**
- Please describe the appointment system. The above organisations nominate only the stipulated number of members. **The minister of justice appoints the members by following the nominations given.**
- If members are elected by Parliament, are these members elected with a simple or qualified majority? **N/A**

7. How is integrity and independence of members ensured in the selection process and during their time on the Council? **No member can hold political office**

8. How is the President and/or Vice-President of the Council selected and appointed? **They are elected by the members of the council from among themselves**

9. What is the term of office for a member of the Council? **Four years – reappointment may take place**
10. May a member be removed from office against his/her will and, if so, under what circumstances? **Yes. Only by decision of The Court of Indictment and Revision and only following a request from the Council or the minister of justice.**

### 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? **No.** If yes, what was the character of these conflicts and have they been solved? **N/A**
14. Have there been conflicts between the Council for the Judiciary and the judiciary? **No.** Have judges felt that the Council for the Judiciary did not represent their interests? If yes, why and has the conflict been solved? **N/A**

### 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? **No.** If yes, what was the character of these conflicts and have they been solved? **N/A**
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? **By negotiation.**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? **By negotiation and transparency.**
18. How does the Council for the Judiciary in your judicial system interact with NGOs? **By negotiation and transparency.**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges? **Through the chairman of the Association and through the Council members appointed by the Association.**
20. How does the Council for the Judiciary in your judicial system interact with media? **Through its Head of Communications**
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges? **N/A**

## Challenges, developments

22. Does the Council for the Judiciary in your judiciary face particular challenges? **No**. 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.
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? **No**. If so, how?
24. Have there been reforms concerning the Council for the Judiciary in your judicial system recently? **No**. If so, what were the objectives of these reforms and have they been successful?
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**



## Estonia/Estonie

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
2. What is the exact title/denomination of this body?	Council for Administration of Courts / Kohtute Haldamise Nõukoda
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="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Defending judges/the judiciary against public attacks	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Administration of the judiciary	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" 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
Selection of new judges	<input 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"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> other, please specify: Judicial Examination Committee, Supreme Court and President of the Republic
Selection of judges for promotion	<input 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="radio"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> other, please specify: Supreme Court
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Judicial Examination Committee
Evaluation of court performance	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ (over court president only) <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Disciplinary Chamber
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Estonian Court en banc
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify

Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Training Council
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify:
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="checkbox"/> 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?

Court presidents appoint and removes Minister of Justice. Council for Administration of Courts can block appointment, relevant court opinion is added but it is not binding.

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

Existence of a Council for the Judiciary	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Law <input type="radio"/> other, please specify
Composition	<input type="radio"/> Constitution <input checked="" type="checkbox"/> 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 type="radio"/> Law <input checked="" type="radio"/> other, please specify: no specific regulation

- 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? 11
- Are there ex-officio members? Yes: Chief Justice. Legal Chancellor and Chief Public Prosecutor can send its representative; others are elected/appointed.
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?  
6 (including Chief Justice), no qualifications.
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)  
Yes: 2 members of the Parliament, 1 attorney, Legal Chancellor, Chief Public Prosecutor

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify). Judges are elected by the court en banc (court en banc is a body of all Estonian judges – around 250), others are appointed by relevant authority, no specific appointment rules.
- Please describe the appointment system – see previous answer.
- If members are elected by Parliament, are these members elected with a simple or qualified majority? No qualified majority needed.

7. How is integrity and independence of members ensured in the selection process and during their time on the Council?  
Judges are elected by secret voting.

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

9. What is the term of office for a member of the Council? – 3 years.

10. May a member be removed from office against his/her will and, if so, under what circumstances? – No such regulation.

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> other, if so specify
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> 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?  
There has been no such conflict which affects its functioning. In case of equal votes, Chief Justice's vote is predominant.
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 serious conflicts. However, appointment of court presidents – in which Council has its veto rights – has been resulted in controversial reactions among judges.

### 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 serious conflicts.
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?  
To express their view only.
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?  
No.
18. How does the Council for the Judiciary in your judicial system interact with NGOs?  
Not significantly.
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?  
Most years, president of the Association of Judges has been elected as a member of the Council.
20. How does the Council for the Judiciary in your judicial system interact with media?  
By publishing its public views.
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
Only role is to agree or disagree (veto) Minister of Justice's candidates for court president and give its opinion of candidates for the Supreme Court (not binding).

## 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.

Problem is a lack of objective criteria for promoting judges and appointing court presidents and members of the Supreme Court. There is a criticism that these positions are filled by personal affiliation rather than objective criteria. There are also Covid-19 and technological challenges and (uneven) work load problems.

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?

No.

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?

-

## Finland/Finlande

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
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2. What is the exact title/denomination of this body?  
Tuomioistuinvirasto (in English: National Courts Administration).

The National Courts Administration (below "NCA") is an independent central agency that serves the entire court system. NCA falls within the administrative branch of the Ministry of Justice. It is led by a Board of Directors of eight members of whom the majority are judges.

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	X HJC X MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges X other, please specify The Association of Finnish Lawyers
Defending judges/the judiciary against public attacks	X HJC X MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges X other, please specify The Association of Finnish Lawyers
Administration of the judiciary	X HJC X MoJ (mostly indirectly, e.g. through decisions relating to court network and preparation of the State Budget; in some ways directly, e.g. through decisions on the court premises) X Court Presidents X bodies within individual courts (mostly in consultative role) O Judicial Administration Board O Association of Judges O other, please specify
Selection of new judges	X HJC (tasks of technical nature only) X MoJ (formal proposals for appointments of permanent judges) O Parliament X Court Presidents (appointments of judges for a fixed term up to one year) X bodies within individual courts

	<p>(consultative role or official statements to be considered in the appointments)  <input type="radio"/> Judicial Administration Board  <input checked="" type="checkbox"/> A special Judicial Appointment Body  = Judicial Appointments Board (reasoned proposals for all appointments of permanent judges other than those of the supreme courts)  <input checked="" type="checkbox"/> other, please specify  The Supreme Court and the Supreme Administrative Court (proposals for appointments of the justices of the supreme courts, official statements to be considered in the appointments of certain court presidents, appointments of judges for a fixed term of more than one year)  The President of the Republic (formal appointments of permanent judges)</p>
<p>Selection of judges for promotion</p>	<p><input checked="" type="checkbox"/> HJC  <input checked="" type="checkbox"/> MoJ  <input type="radio"/> Parliament  <input checked="" type="checkbox"/> Court Presidents  <input checked="" type="checkbox"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input checked="" type="checkbox"/> A special Judicial Appointment Body  (= Judicial Appointments Board)  <input checked="" type="checkbox"/> other, please specify  The Supreme Court and the Supreme Administrative Court  The President of the Republic</p> <p>Concerning details, see above. In Finland there are no separate procedures for selection of new judges and selection of judges for promotion.</p>
<p>Evaluation of judges</p>	<p><input type="radio"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input type="radio"/> Court Presidents  <input type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input type="radio"/> Association of Judges  <input type="radio"/> other, please specify</p> <p>There is no formal evaluation system in Finland. Candidates for judicial appointments are of course in some way evaluated in the context of appointments procedures.</p>
<p>Evaluation of court performance</p>	<p><input checked="" type="checkbox"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input checked="" type="checkbox"/> 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</p>



Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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 Appeals against disciplinary decisions to courts specified in chapter 23 of the Courts Act
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> Association of Judges (in general issues concerning the Judiciary) <input type="radio"/> other, please specify
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" 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 checked="" type="radio"/> other, please specify The Association of Finnish Lawyers The Supreme Court and the Supreme Administrative Court
Training of judges	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input checked="" 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 Judicial Training Board
IT, including digitalisation of the judiciary and online hearings	<input checked="" type="radio"/> HJC <input checked="" 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 checked="" type="radio"/> other, please specify The Government ICT Centre Valtori

The allocation of financial resources to the judiciary including individual courts	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ (through its role in the preparation of the State Budget) <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> other, please specify Ministry of Finance (through its role in the preparation of the State Budget)
Salaries of judges	<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 checked="" type="checkbox"/> other, please specify Ministry of Finance

- 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?

NCA has duties relating to general development of the Judiciary and to international co-operation.

NCA has no role in appointing or removing presidents of the courts to and from the office.

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

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

Rules of procedure of NCA which the Board of Directors has confirmed pursuant to chapter 19a, sections 6 and 13 of the Courts Act. The Rules are attached to this response (Appendix A).

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

Eight (8) members + personal substitutes for each of the members.

- Are there ex-officio members?

No.

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

Six (6) members must be judges. Of these two come from the supreme courts (the Supreme Court and the Supreme Administrative Court), one from the courts of appeal, one from the district courts, one from the administrative courts and one from the special courts. Two of the members coming from other than the supreme courts must be court presidents (one from either courts of appeal or district courts and one from either administrative courts or special courts).

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

Yes, two members are non-judges. One of them is selected from among other court personnel than judges and the other must have experience in leadership in public administration.

NOTE: Members of Parliament or Government, the respective organs of the autonomous province of Åland or municipal councils or municipal executives (ie. executive boards) can not be members of the Board of NCA.

What above and below is said about the members applies also to the substitute members.

6. Please describe the procedure of appointment:

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

a) Members who are judges

The members coming from the supreme courts are nominated by each of those courts. The supreme courts only nominate one candidate each. Because of this they in reality select in a binding fashion the members coming from the supreme courts.

The other member candidates coming from the courts are nominated by the court presidents from among those judges who have announced themselves to be willing to

be appointed as Board members. The presidents of the courts of appeal and the district courts nominate the member candidates from those courts. Likewise, the presidents of the administrative courts and the special courts nominate the member candidates from those courts. The court presidents nominate twice as many candidates as there are members to be appointed (ie. two of each kind).

b) Member who is selected from among other personnel of the courts

These member candidates are nominated by the court presidents (presidents of courts of appeal, district courts, administrative courts and special courts jointly). The court presidents nominate twice as many candidates as there are members to be appointed which means that they nominate two candidates.

c) Member required to have experience in leadership in public administration

The member is selected from among those who have announced themselves to be willing to be appointed as a Board member. The court presidents have no role in selecting this member.

- Please describe the appointment system

Concerning members coming from the courts see the answer above. During the nomination procedure the court presidents (in fact representatives of the court presidents) hear the representatives of organizations representing judges (ie. other judges than those of the supreme courts) and other personnel of the courts after which they decide on the nominations.

All the members are appointed by the Government on the proposal of the Ministry of Justice that must propose the two candidates put forward by the supreme courts, either of the candidates for each post that have been nominated by the court presidents and one of the candidates who have announced themselves to be willing to be appointed as a Board member having experience in leadership in public administration.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

They are not elected by Parliament.

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

The candidacy for membership is open for everyone fulfilling the qualifications (ie. the position, regarding seven members, or the required experience, regarding one member, and the non-membership in Parliament etc.). There are no unofficial prerequisites for the membership. The rules of recusal apply for the court presidents who are themselves candidates for membership in the Board.

The nomination process could perhaps be more democratic but certain co-ordination in the nominations is necessary because of the composition of the Board, limited number of candidates (especially that of the court presidents), the legal requirement of sufficiently equal gender representation in the Board and the practical requirement of broad territorial representativity in the Board. Therefore, the system now in use can be regarded as proper and appropriate.

The Board members are not appointed to take care of interests of those courts (or kind of courts) they are coming from. On the contrary they are expected to promote the concerted interests of the (whole of the) judiciary.

Regarding a Board member's right to stay in one's position see the answer to question 10.

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

The Board itself selects its President (chairman) and two Vice-Presidents (deputy chairmen).

9. What is the term of office for a member of the Council?  
Five (5) years.

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

In principle Board members cannot during their term be replaced against their will. They cannot, however, continue as members of the Board if they lose the position required to be a member or they are selected to one of the positions which disqualify them from being a member (member of Parliament etc.). Theoretically a member could also lose one's position if he/she were sentenced to imprisonment for an offence in office committed as a member of the Board.

### 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, at least not so far. NCA was established the 1st of January 2020. It has been in existence a relatively short time. The judges' experiences of the functioning of NCA have not been subject to any surveys. However, the first impressions seem to have been rather positive.

### 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, at least not so far. During the transitional period in the first year of NCA (2020) there were some differences of views between NCA and the Ministry of Justice concerning division of authority and tasks in certain fields but these questions were resolved after talks between them.

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?

These questions have not been under consideration in Finland. It is also rather difficult to imagine what kind of infringements could in reality be directed against the role of NCA. In principle, one could argue that if e.g. the Ministry of Justice would try to overtake authority which (according to the Courts Act) belongs to NCA the latter could resist the attempted take-over by simply ignoring such an attempt.

A competence conflict, unless settled through talks between the parties of the conflict, could probably be resolved by administrative courts (through a trial in an administrative court and after an appeal in the Supreme Administrative Court).

Such a competence conflict could perhaps also become a matter for either the Parliamentary Ombudsman or the Chancellor of Justice, neither of whom, however, has authority of resolving the conflict in a binding manner.

However, as the Government can always use legislative measures, it could be possible that a competence conflict between NCA and the Ministry of Justice could result in the Government trying to resolve the conflict by driving through new legislation in the Parliament.

NCA has the right to submit the Government legislative initiatives and initiatives to measures and development in its own field of activity.

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

So far, NCA has not been in any direct contacts with anti-corruption bodies. NCA has had preliminary talks with the Ministry of Justice about the future division of tasks in this field.

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

NCA has not been involved in any organized and regular co-operation with NGOs. The interaction between NCA and NGOs has at least so far been limited to contacts at expert level in individual matters.

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

The only regular contact between NCA and the Finnish Association of Judges (which represents judges of all other courts than the supreme courts) has been the participation of both of them in the meetings of the co-operation council in the administrative sector of the Ministry of Justice (a statutory organ of co-operation).

The Finnish Association of Judges has also been heard in connection with changes of Board members of NCA (which have been necessitated because of the appointments of certain members to new positions).

NCA has in certain cases used judges proposed by the Finnish Association of Judges as experts (at least in evaluating answers to the ENCJ Questionnaire on indicators of independence and accountability of the Judiciary).

There has been discussion in NCA of ways to establish regular interaction of some form with the associations representing (a) judges and other judicial court personnel and (b) other court personnel. It is at the moment unclear whether and when these discussions are going to lead to some concrete results.

The associations representing judges (other than those of the supreme courts) are from the beginning of this year also NCA's negotiating partners (on the opposite side) in matters relating to collective agreements (and in this way especially to salaries of the judges).

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

NCA interacts with media e.g. through articles and columns in newspapers, information bulletins, internet news service, social media (LinkedIn, twitter etc.) and, when needed, arranging press conferences. NCA has tried to be active in responding to questionnaires and requests for interviews. It has also tried to react promptly to any incorrect information in its field of activities that has been circulating in public. NCA does not participate in reporting of court cases. However, it has supported the communications work of the courts by providing training to judges in communications skills and coordinating and developing the media judge network of the district courts and courts of appeal.

The activities of NCA in the field of media relations have undoubtedly been hampered by the on-going Covid-19 pandemic. However, it is worth noting that the Association of Judicial Reporters (Oikeustoimittajat ry) awarded in 2020 its annual prize for promoting publicity to NCA for NCA's role in promoting publicity of court proceedings through its guidelines to the courts concerning court hearings during the Covid-19 pandemic.

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

There is not (and has not ever been) any system of vetting of judges in Finland (if with "vetting" is meant a systematic review of the conduct and decisions of the judges in order to decide whether they can keep their positions as judges or not). NCA has not any substantive role in the appointment procedures of judges, either. It only has tasks of technical nature relating to the appointment procedures. Furthermore, NCA has no role in disciplinary or criminal procedures against judges.

### **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.

NCA was unfortunate to be established just a couple of months before the Covid-19 pandemic broke out. Some of its staff only started working in March 2020. This led to difficulties in organizing the work and allocating the tasks in NCA. These initial difficulties have since then been overcome bit by bit.

The Covid-19 pandemic has of course caused a lot of extra work (e.g. drafting guidelines for the courts on how to handle court proceedings during the pandemic) and made changes to normal practices necessary, e.g. all training of judges is arranged using IT-connections.

The most challenging problems faced by NCA are, however, the resourcing of both NCA and the Judiciary in Finland and the problems with the current IT-technology of the Judiciary. NCA was forced to begin its activities with resourcing that was in advance known to be insufficient in view of the multiple tasks NCA was given. The clearly insufficient basic funding of the Judiciary is another – and unfortunately long-standing – problem that NCA is battling with. The chronic lack of sufficient resources has made it increasingly difficult for the Judiciary to meet the ever higher standards that are required of the Judiciary.

The problems relating to IT-technology are various and long-standing. They include e.g. problems with the quality of connections (for example problems with maintaining the connections without interruptions and with the sound quality) and with the systems in use (and delays in the introduction of new ones, especially a case-management system called Aipa).

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

It has been given, starting on the 1<sup>st</sup> of January 2021, new tasks relating to employment issues (e.g. deciding upon establishing, abolishing and transferring the offices of judges) and collective agreements of court personnel. These tasks were already included in the legislation through which NCA was established.

The role of NCA has not changed otherwise during the short time it has existed.

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?

No. The time of its existence has been so short.

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?

The 26<sup>th</sup> of February, 2021

Kimmo Vanne  
Judge in Court of Appeal

Päivi Hirvelä  
Justice of the Supreme Court



# France

## Généralités

1. Votre système judiciaire dispose-t-il d'un Conseil de la Justice?	<input checked="" type="checkbox"/> oui <input type="checkbox"/> non
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Quel est le titre ou la dénomination exacte de cet organe ?

Conseil supérieur de la magistrature.

Dans les réponses au présent questionnaire, les mots « CSM » doivent être lus, sauf indication contraire, comme : « la formation du CSM compétente pour les magistrats du siège » (les juges). En effet, il existe une autre formation du CSM compétente pour les magistrats du parquet (les procureurs), ainsi qu'une formation plénière.

Le terme de « magistrat » désigne à la fois les juges (magistrats du siège) et les procureurs (magistrats du parquet).

2. Les acteurs judiciaires devraient répondre à cette question, que leur système prévoit ou non un Conseil de la Justice: quel ministère ou organe, par exemple le Conseil de la Justice (souvent dénommé Conseil supérieur de la magistrature (CSM)) ou le ministère de la Justice (MdJ) est-il chargé des fonctions ci-après ou en mesure de s'en acquitter? Plusieurs institutions pourraient être associées, auquel cas plusieurs cases pourront être cochées.

Défendre et favoriser l'indépendance des juges et de la justice/l'État de droit	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input checked="" type="checkbox"/> Autre, veuillez préciser : le Président de la République (article 64 de la Constitution).
Défendre les juges/le pouvoir judiciaire contre les attaques publiques	<input checked="" type="checkbox"/> CSM <input type="checkbox"/> MdJ <input checked="" type="checkbox"/> Présidents de tribunaux et Procureurs <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input checked="" type="checkbox"/> Associations de juges <input type="checkbox"/> Autre, veuillez préciser  En fonction des circonstances, les formations du CSM, ou leurs présidents, les chefs de cour ou de juridiction, et les syndicats de magistrats, peuvent, de facto, s'exprimer ( le plus souvent par communiqués de presse ) pour défendre les magistrats contre les attaques publiques.
Administration de la justice	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input checked="" type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux

	<input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Sélection de nouveaux juges	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input checked="" type="checkbox"/> Organe spécial de nomination des juges <input checked="" type="checkbox"/> Autre, veuillez préciser  Le CSM donne un avis « conforme » (c'est-à-dire impératif et qui lie l'autorité de nomination, comme un veto) sur la nomination de chaque juge ou nouveau juge, qui lui est proposée par le ministère de la justice.  S'agissant des nominations de magistrats du siège de la Cour de cassation, de premiers présidents de cour d'appel ou de présidents de tribunaux, c'est le CSM qui sélectionne les candidats et propose ces nominations.  Dans le cas particulier de candidats ayant une expérience professionnelle antérieure qui sollicitent leur intégration directe dans la magistrature (sans passer les concours d'entrée), c'est une commission spéciale de magistrats (la commission d'avancement) qui les sélectionne, et le CSM donne ensuite son avis conforme sur leur nomination.
Promotion des juges	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Organe spécial de nomination des juges <input checked="" type="checkbox"/> Autre, veuillez préciser  La promotion des juges (sauf celle des membres de la Cour de cassation, des premiers présidents de cour d'appel et des présidents de tribunaux, qui ne dépendent que du CSM) est proposée par le ministère de la justice au CSM.  Le passage du second au premier grade de la magistrature ne peut avoir lieu qu'après l'inscription des candidats au « tableau d'avancement » par la commission d'avancement, composée de magistrats, qui examine leurs dossiers.
Évaluation des juges	<input type="radio"/> CSM <input type="radio"/> MdJ

	<p> <input type="radio"/> Parlement  <input checked="" type="radio"/> Présidents de tribunaux et premiers présidents de cour d'appel  <input type="radio"/> Organes au sein de différents tribunaux  <input type="radio"/> Commission d'administration des tribunaux  <input type="radio"/> Association de juges  <input type="radio"/> Autre, veuillez préciser </p> <p>Les juges sont évalués, tous les deux ans, par le premier président de la cour d'appel où ils exercent, l'évaluation étant préparée par le président du tribunal, au vu notamment de la description de son activité par le magistrat concerné.</p> <p>L'évaluation peut être contestée devant la commission d'avancement par le magistrat concerné.</p>
Évaluation de la performance des tribunaux	<p> <input type="radio"/> CSM  <input checked="" type="radio"/> MdJ  <input type="radio"/> Parlement  <input type="radio"/> Présidents de tribunaux  <input type="radio"/> Organes au sein de différents tribunaux  <input type="radio"/> Commission d'administration des tribunaux  <input type="radio"/> Association de juges  <input type="radio"/> Autre, veuillez préciser </p>
Procédures disciplinaires	<p> <input checked="" type="radio"/> CSM  <input checked="" type="radio"/> MdJ  <input type="radio"/> Parlement  <input type="radio"/> Présidents de tribunaux  <input type="radio"/> Organes au sein de différents tribunaux  <input type="radio"/> Commission d'administration des tribunaux  <input type="radio"/> Association de juges  <input checked="" type="radio"/> Autre, veuillez préciser : premiers présidents de cour d'appel </p> <p>La procédure disciplinaire est engagée par le ministre de la justice, ou par le premier président de la cour d'appel dont dépend le magistrat du siège concerné.</p> <p>C'est le CSM qui statue (formation compétente pour les magistrats du siège)</p> <p>Les décisions du CSM en matière disciplinaire peuvent faire l'objet d'un recours en cassation devant le conseil d'Etat.</p> <p>Les citoyens peuvent également saisir directement le CSM d'une plainte disciplinaire contre un magistrat. La plainte est examinée par une « commission d'admission des requêtes » composée de membres du CSM, qui décide de saisir ou non la formation disciplinaire compétente du CSM.</p>

Élaboration et application d'un code de déontologie	<p><input checked="" type="checkbox"/> CSM (il s'agit du « recueil des obligations déontologiques des magistrats »)</p> <p><input type="checkbox"/> MdJ</p> <p><input type="checkbox"/> Parlement</p> <p><input type="checkbox"/> Présidents de tribunaux</p> <p><input type="checkbox"/> Organes au sein de différents tribunaux</p> <p><input type="checkbox"/> Commission d'administration des tribunaux</p> <p><input type="checkbox"/> Association de juges</p> <p><input type="checkbox"/> Autre, veuillez préciser</p>
Relations publiques/couverture médiatique du système judiciaire ou des différents tribunaux	<p><input type="checkbox"/> CSM</p> <p><input type="checkbox"/> MdJ</p> <p><input type="checkbox"/> Parlement</p> <p><input checked="" type="checkbox"/> Présidents de tribunaux</p> <p><input type="checkbox"/> Organes au sein de différents tribunaux</p> <p><input type="checkbox"/> Commission d'administration des tribunaux</p> <p><input checked="" type="checkbox"/> Association de juges</p> <p><input checked="" type="checkbox"/> Autre, veuillez préciser</p>
Contribution aux projets législatifs	<p><input type="checkbox"/> CSM</p> <p><input checked="" type="checkbox"/> MdJ</p> <p><input type="checkbox"/> Présidents de tribunaux</p> <p><input type="checkbox"/> Organes au sein de différents tribunaux</p> <p><input type="checkbox"/> Commission d'administration des tribunaux</p> <p><input type="checkbox"/> Association de juges</p> <p><input type="checkbox"/> Autre, veuillez préciser</p> <p>Seul le ministère de la justice intervient directement dans le processus d'élaboration de la loi, lorsqu'elle concerne ce ministère.</p> <p>Cependant, les commissions des lois de l'Assemblée Nationale et du Sénat procèdent très régulièrement à l'audition de nombreux experts (représentants d'associations et de syndicats de magistrats, juges spécialisés ...) pour recueillir leur avis sur les projets de lois.</p> <p>Il n'est pas prévu que le CSM, en tant que tel, donne officiellement son avis sur les projets de loi concernant la justice, ni sur le budget de la justice ou des tribunaux.</p> <p>Il ne donne pas non plus d'avis sur la nomination du directeur de l'Ecole Nationale de la Magistrature</p>
Formation des juges	<p><input type="checkbox"/> CSM</p> <p><input type="checkbox"/> MdJ</p> <p><input type="checkbox"/> Présidents de tribunaux</p> <p><input type="checkbox"/> Organes au sein de différents tribunaux</p> <p><input type="checkbox"/> Commission d'administration des tribunaux</p> <p><input type="checkbox"/> Association de juges</p> <p><input checked="" type="checkbox"/> Autre, veuillez préciser</p> <p>La formation des juges est assurée par l'école nationale de la magistrature (ENM), dont le conseil d'administration est présidé par le</p>

	premier président de la Cour de cassation, qui est aussi le président de la formation du CSM compétente pour les juges.
TI, notamment numérisation du système judiciaire et audiences en ligne	<input type="radio"/> CSM <input checked="" type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser
Allocation de ressources financières au système judiciaire, en particulier aux différents tribunaux	<input type="radio"/> CSM <input checked="" type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser
Salaires des juges	<input type="radio"/> CSM <input checked="" type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser  Les juges sont rémunérés selon leur grade, sur la base de l'échelle des salaires de la fonction publique. Leur niveau de rémunération est comparable à celui des professeurs d'université, ou des administrateurs civils des ministères.  Ils bénéficient également d'une « prime modulable », fixée par le premier président de leur cour d'appel, en fonction de leur productivité.

- S'il existe un Conseil de la Justice dans votre pays, a-t-il des fonctions autres que celles mentionnées ici ? Est-il en mesure de nommer ou de révoquer des présidents de tribunaux ? D'autres informations seraient-elles utiles pour comprendre le rôle du Conseil de la Justice dans votre pays ?

Le CSM ne nomme pas directement les conseillers à la Cour de cassation, les premiers présidents des cours d'appel et les présidents des tribunaux, mais il les choisit et propose leur nomination au Président de la République (qui ne refuse jamais les propositions du CSM).

Toute nomination de juge doit être approuvée par la formation du CSM compétente pour les magistrats du siège.

Le CSM peut charger ses membres de missions d'information auprès de la Cour de cassation, des cours d'appel, des tribunaux et de l'Ecole nationale de la magistrature.

Le CSM est composé de trois formations, l'une étant compétente pour les magistrats du siège (les juges), et l'autre pour les magistrats du parquet (les procureurs), ainsi que d'une formation plénière.

Le Conseil supérieur de la magistrature se réunit en formation plénière pour répondre aux demandes d'avis formulées par le Président de la République. Il se prononce, dans la même formation, sur les questions relatives à la déontologie des magistrats ainsi que sur toute question relative au fonctionnement de la justice dont le saisit le ministre de la justice.

Tous les ans, le Conseil supérieur de la magistrature publie le rapport d'activité de chacune de ses formations.

Il a créé un Service d'aide et de veille déontologique qui répond aux questions posées par les juges et les procureurs en matière de déontologie.

- S'il n'existe pas de Conseil de la Justice dans votre pays, d'autres institutions importantes et des règles formelles ou informelles permettent-elles de comprendre le fonctionnement du système judiciaire dans votre pays ?

### **Base juridique**

3. Veuillez préciser les sources juridiques qui réglementent les aspects ci-après du Conseil de la Justice dans votre système

Existence d'un Conseil de la Justice	<input checked="" type="checkbox"/> Constitution <input type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Composition	<input checked="" type="checkbox"/> Constitution <input type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Sélection des membres, notamment durée d'exercice et révocation en cours d'exercice	<input type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi (Loi organique) <input type="checkbox"/> Autre, veuillez préciser
Missions	<input checked="" type="checkbox"/> Constitution <input type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Ressources, financement, administration	<input type="checkbox"/> Constitution <input checked="" type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser
Indépendance	<input checked="" type="checkbox"/> Constitution <input type="checkbox"/> Loi <input type="checkbox"/> Autre, veuillez préciser

- D'autres règles formelles ou informelles permettent-elles de comprendre le rôle et le fonctionnement du Conseil de la Justice dans votre pays ?

### **Composition et organisation**

4. Composition du Conseil de la Justice :

- Combien de membres compte-t-il ?

La formation du CSM compétente pour les magistrats du siège (les juges) comprend, outre le Premier président de la Cour de cassation, 5 juges et 1 procureur élus et 7 personnalités désignées (par le Président de la République, le Président de l'Assemblée Nationale, le Président du Sénat, le Président du conseil national des barreaux), ainsi qu'un membre du Conseil d'Etat élu par l'assemblée générale du

Conseil d'Etat. La formation du CSM compétente pour les magistrats du parquet a une composition symétrique (outre le Procureur général de la Cour de cassation, 5 procureurs et 1 juge élus et 7 personnalités désignées (par le Président de la République, le Président de l'Assemblée Nationale, le Président du Sénat, le Président du conseil national des barreaux), ainsi qu'un membre du Conseil d'Etat élu par l'assemblée générale du Conseil d'Etat. Les personnalités désignées et le membre du conseil d'Etat sont les mêmes dans les deux formations. Au total, chacune de ces formations comprend donc 15 membres.

- Compte-t-il des membres de droit ?

Les seuls membres de droit sont le Premier président de la Cour de cassation (président de la formation compétente pour les magistrats du siège et de la formation plénière) et le Procureur général de la Cour de cassation (président de la formation compétente pour les magistrats du parquet, président suppléant de la formation plénière).

- Combien de membres doivent-ils être juges ? Des qualifications ou une expérience particulière leur sont-elles demandées ? Doivent-ils venir de systèmes ou d'instances judiciaires différents ?

Au sein de la formation compétente pour les magistrats du siège, soit 15 personnes, il y a 6 juges (y compris le Premier président de la Cour de cassation), un procureur, et 8 personnalités non-juges.

- Peut-on être membre du Conseil sans être juge et des non-juges doivent-ils en être membres ? Veuillez préciser (nombre, qualifications/fonctions particulières)

Les juges sont minoritaires dans la formation compétente pour les magistrats du siège (6 juges sur 15 personnes), sauf lorsqu'elle siège en formation disciplinaire où elle doit être composée pour moitié de juges (parité entre juges et non-juges en matière disciplinaire seulement).

5. Veuillez décrire la procédure de nomination :

- Qui nomme les membres ? (Des juges ou d'autres institutions ou autorités – veuillez préciser)

S'agissant des membres qui sont des juges, le Premier président de la Cour de cassation est membre de droit, et les 5 autres juges, ainsi que le magistrat du parquet, sont élus, comme indiqué ci-dessous :

- Un magistrat du siège hors hiérarchie de la Cour de cassation élu par l'assemblée des magistrats du siège hors hiérarchie de ladite cour ;
- Un premier président de cour d'appel élu par l'assemblée des premiers présidents de cour d'appel ;
- Un président de tribunal judiciaire élu par l'assemblée des présidents de tribunal judiciaire;
- Deux magistrats du siège et un magistrat du parquet des cours et tribunaux, élus au scrutin de liste, à deux degrés, par l'ensemble des magistrats.

S'agissant autres membres, non-magistrats, ils sont désignés :

- Par le Président de la République (2 personnalités qualifiées) après avis public de la commission permanente compétente de chaque assemblée. Le Président de la République ne peut procéder à une nomination lorsque l'addition des votes négatifs

dans chaque commission représente au moins trois cinquièmes des suffrages exprimés au sein des deux commissions.

- Par le Président de l'Assemblée nationale (2 personnalités qualifiées) et par le Président du Sénat (2 personnalités qualifiées) après avis de la commission permanente compétente de l'assemblée intéressée.
- Par l'assemblée générale du Conseil d'Etat qui élit un de ses membres (un conseiller d'Etat).
- Par le Président du Conseil national des barreaux, après avis conforme de l'assemblée générale de ce conseil (un avocat).

- Veuillez décrire le système de nomination : voir ci-dessus.
- Si les membres sont élus par le parlement, le sont-ils à la majorité simple ou qualifiée ?  
Il n'y a pas de membres élus par le parlement.

6. Comment l'intégrité et l'indépendance des membres sont-elles garanties pendant la procédure de sélection et la durée pendant laquelle les membres exercent leurs fonctions ?

Selon la loi organique n° 94-100 du 5 février 1994 sur le Conseil supérieur de la magistrature :

Les membres du Conseil supérieur exercent leur mission dans le respect des exigences d'indépendance, d'impartialité, d'intégrité et de dignité et veillent à prévenir ou à faire cesser immédiatement les situations de conflit d'intérêts. Ils veillent au respect de ces mêmes exigences par les personnes dont ils s'attachent les services dans l'exercice de leurs fonctions.

Constitue un conflit d'intérêts toute situation d'interférence entre un intérêt public et des intérêts publics ou privés qui est de nature à influencer ou à paraître influencer l'exercice indépendant, impartial et objectif d'une fonction.

Saisie par le président d'une des formations du Conseil supérieur de la magistrature ou par six autres membres appartenant à l'une de ces formations, dont au moins un magistrat et une personnalité qualifiée, la formation plénière apprécie, à la majorité des membres la composant, si l'un des membres du Conseil supérieur a manqué aux obligations mentionnées aux deux premiers alinéas. Dans l'affirmative, elle prononce, selon la gravité du manquement, un avertissement ou la démission d'office.

Dans les deux mois qui suivent leur entrée en fonctions, les membres du Conseil supérieur de la magistrature établissent une déclaration d'intérêts.

Les déclarations d'intérêts sont tenues à la disposition de l'ensemble des membres du Conseil supérieur de la magistrature. Toute modification substantielle des intérêts détenus fait l'objet, dans un délai de deux mois, d'une déclaration complémentaire dans les mêmes formes.

S'ils ne sont pas soumis à l'obligation d'établir une déclaration de situation patrimoniale à un autre titre, les membres du Conseil supérieur de la magistrature sont soumis à cette obligation.

7. Comment le président et/ou le vice-président du Conseil sont-ils sélectionnés et nommés ?

Le Premier président de la Cour de cassation est président de droit de la formation compétente pour les magistrats du siège et de la formation plénière.



8. Quelle est la durée des fonctions d'un membre du Conseil ? 4 ans
9. Un membre peut-il être démis de ses fonctions contre sa volonté et, dans l'affirmative, dans quelles circonstances ?

Comme il a déjà été exposé, saisie par le président d'une des formations du Conseil supérieur de la magistrature ou par six autres membres appartenant à l'une de ces formations, dont au moins un magistrat et une personnalité qualifiée, la formation plénière apprécie, à la majorité des membres la composant, si l'un des membres du Conseil supérieur a manqué à ses obligations. Dans l'affirmative, elle prononce, selon la gravité du manquement, un avertissement ou la démission d'office.

C'est donc la formation plénière qui peut démettre de ses fonctions un membre du CSM ayant manqué à ses obligations d'indépendance, d'impartialité, d'intégrité, de dignité et de prévenir ou faire cesser immédiatement les situations de conflit d'intérêts

### Ressources et gestion

10. Quel organe assure le financement du Conseil de la Justice?	<input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Autre, veuillez préciser
11. L'administration du Conseil de la Justice est-elle indépendante des autres pouvoirs de l'État ?	<input checked="" type="checkbox"/> oui <input type="checkbox"/> non  Cependant, les crédits de fonctionnement du CSM sont rattachés au ministère de la justice.

### Relations au sein du Conseil de la Justice et du pouvoir judiciaire

12. Y a-t-il eu des conflits internes graves au sein du Conseil de la Justice qui ont eu de profondes répercussions sur son fonctionnement ? Dans l'affirmative, quelle en était la nature et ont-ils été réglés ?

Il n'y a pas eu de conflits internes graves.

13. Des conflits ont-ils éclaté entre le Conseil de la Justice et le pouvoir judiciaire ? Les juges ont-ils eu le sentiment que le Conseil de la Justice ne représentait pas leurs intérêts ? Dans l'affirmative, pourquoi et comment le conflit a-t-il été réglé ?

Il n'y a pas eu de conflits entre le CSM et le pouvoir judiciaire. Le CSM est globalement considéré comme protégeant efficacement les juges de l'influence de l'Exécutif.

(La formation du CSM compétente pour les magistrats du parquet a moins de pouvoirs s'agissant de la carrière des procureurs, et une réforme augmentant les pouvoirs de cette formation est réclamée par la grande majorité des magistrats)

### Relations avec les autres pouvoirs de l'État, les organismes publics, la société civile et les médias

14. Des conflits ont-ils surgi entre le Conseil de la Justice et les pouvoirs exécutif ou législatif ? Dans l'affirmative, quelle en a été la nature et comment ont-ils été résolus ?

Il existe encore en France de grandes réticences à la reconnaissance d'un véritable pouvoir judiciaire.

Les affaires politico-financières portant sur le financement illégal des partis politiques, qui ont débuté dans les années 1990, ont manifestement accru la méfiance de certains responsables à l'égard de l'action des juges. A chaque fois que des poursuites sont déclenchées contre des responsables politiques, ceux-ci, leurs avocats, et les médias, accusent les juges de politisation.

Comme les affaires en question concernent tous les partis, les juges sont assez impopulaires aux yeux de la classe politique, toutes tendances confondues, qui les dénonce souvent comme « corporatistes » et « irresponsables ».

Ce climat se répercute sur les relations entre le CSM et les autres pouvoirs de l'Etat, et explique en partie la réforme du CSM qui a eu lieu en 2008, alors que M. Nicolas Sarkozy était Président de la République (loi n°2008-724 du 25 juillet 2008 de modernisation des institutions de la Vème République et la loi organique n°2010-830 du 22 juillet 2010 relative à l'application de l'article 65 de la Constitution).

Depuis cette réforme, les membres de chacune des formations du CSM n'élisent plus leurs présidents (celui-ci étant désormais, de droit, le premier président de la Cour de cassation ou le Procureur général de la Cour de cassation), les magistrats sont aussi minoritaires au sein de la formation plénière, et la formation plénière ne peut plus donner d'avis spontanés. Elle ne peut se réunir que si cela lui est demandé par le Président de la République ou par le ministre de la justice. Enfin, le CSM peut désormais être saisi par les justiciables (les plaideurs) qui souhaitent qu'une procédure soit déclenchée contre un juge ou un procureur. Ces plaintes sont « filtrées » par une « commission d'admission des requêtes » composée de membres du CSM, qui décide de saisir ou non la formation disciplinaire compétente du CSM.

Pour un aperçu historique de l'évolution du CSM, voir notamment :

<http://www.conseil-superieur-magistrature.fr/le-csm/histoire-et-patrimoine>

Compte tenu des campagnes de presse hostiles aux magistrats (juges et procureurs) qui ont été déclenchées à la suite de poursuites visant notamment M. François Fillon et M. Nicolas Sarkozy, ainsi que d'autres responsables politiques, le CSM a été amené à plusieurs reprises à rappeler publiquement la nécessité de garantir l'indépendance de la justice.

A titre d'illustration, on peut noter :

- Le communiqué de presse du 18 septembre 2020 du CSM, après l'annonce par le ministère de la justice d'une « enquête administrative » sur trois magistrats du parquet national financier, qui avait mené les investigations concernant M. François Fillon et M. Nicolas Sarkozy <http://www.conseil-superieur-magistrature.fr/actualites/communiqué-du-conseil-superieur-de-la-magistrature>
- Le communiqué de presse du 20 novembre 2020 du CSM, rappelant que l'indépendance juridictionnelle des juges est une condition essentielle de l'Etat de droit, et que les critiques répétées portant atteinte à l'indépendance de l'autorité judiciaire entament durablement la confiance des citoyens dans la justice. (<http://www.conseil-superieur-magistrature.fr/actualites/communiqué-du-conseil-superieur-de-la-magistrature-1>)
- La très récente lettre adressée le 17 février 2021 par le Président de la République, M. Emmanuel Macron, à la première présidente de la Cour de cassation (présidente de la formation plénière du CSM) demandant que le CSM rende un avis « d'une part, sur la possibilité de mieux appréhender l'insuffisance professionnelle du magistrat dans son office juridictionnel, dans le respect du principe d'indépendance, et, d'autre part, de rendre plus efficace le dispositif de plaintes des justiciables. »

[https://www.lemonde.fr/politique/article/2021/02/23/emmanuel-macron-lance-le-chantier-de-la-responsabilite-des-magistrats\\_6070903\\_823448.html](https://www.lemonde.fr/politique/article/2021/02/23/emmanuel-macron-lance-le-chantier-de-la-responsabilite-des-magistrats_6070903_823448.html)

Le texte intégral de cette lettre peut être transmis aux membres du CCJE s'ils le souhaitent.

15. Quels moyens juridiques et politiques le Conseil de la Justice peut-il employer dans votre système s'il estime qu'il a été porté atteinte à son rôle constitutionnel ?

Le CSM n'a, dans ce cas, pas d'autre moyen d'action que d'adopter un communiqué de presse, ou de rendre un avis à condition que le Président de la République ou le ministre de la justice le lui demandent.

16. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les organes de lutte contre la corruption ?

Il n'y a pas de collaboration institutionnelle avec les organes de lutte contre la corruption. La corruption ne représente pas un problème dans le fonctionnement de la justice française.

17. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les ONG ?

Il n'existe pas de collaboration avec les ONG.

18. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les associations de juges ?

Les deux principaux syndicats de juges (Unions Syndicale des Magistrats et Syndicat de la magistrature) ont présenté des listes aux élections des membres élus du CSM, et ont donc des élus en son sein.

Le rôle du CSM n'est pas remis en cause par ces syndicats, qui réclament un renforcement de ses pouvoirs.

19. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les médias ?

Il n'y a pas de collaboration particulière avec les médias. Chaque année, le rapport d'activité du CSM est présenté lors d'une conférence de presse.

20. Quel est le rôle éventuel du Conseil de la Justice dans le vetting (contrôle) des juges ?

Le CSM a des attributions disciplinaires, mais n'est pas chargé du vetting (contrôle) de l'activité des juges. Il existe une inspection générale de la justice, composée de magistrats et de fonctionnaires, mais qui dépend uniquement du ministre de la justice.

### **Défis, évolution**

21. Le Conseil de la Justice fait-il face, dans votre système, à des défis particuliers ? Dans l'affirmative quelle en est la nature ? Ces défis pourraient-ils être dus, entre autres, à l'évolution politique et économique, aux changements sociétaux, à la corruption, à la pandémie de covid-19 ou à des enjeux technologiques comme la numérisation du système judiciaire ?

Le défi essentiel du CSM est probablement de défendre l'indépendance de la justice, face aux critiques de nombreux responsables politiques, qui dénoncent l'irresponsabilité des juges.

Le débat ouvert par la lettre en date du 17 février 2021 du Président de la République, qui lui demande, en substance, de réfléchir à un renforcement de la responsabilité des juges et des procureurs, sera décisif.

On peut noter que le CSM ne donne pas d'avis sur la nomination du directeur de l'Ecole Nationale de la Magistrature et que, pour la première fois, en septembre 2020, le ministère de la justice n'a pas nommé à ce poste un magistrat, mais une avocate.

22. Le rôle du Conseil de la Justice-t-il évolué, dans votre système, ces dernières années ? Dans l'affirmative, comment ?

La réforme de 2008, analysée en réponse à la question n°14, n'a pas été perçue comme un accroissement des pouvoirs du CSM. Le fait qu'elle ait donné aux citoyens la possibilité d'adresser directement des plaintes disciplinaires contre des juges ou des procureurs répondait à une volonté politique de « responsabiliser » les magistrats.

23. Des réformes ont-elles porté récemment sur le Conseil de la Justice? Dans l'affirmative, quels étaient les objectifs de ces réformes et ont-elles été couronnées de succès ?

La dernière grande réforme est celle de 2008. Il a été envisagé à plusieurs reprises de renforcer les pouvoirs de la formation compétente pour les magistrats du parquet (procureurs), mais, bien que le CSM y soit favorable, il n'existe pas de consensus sur ce point de la part de l'Exécutif et du Législatif.

Concernant la formation compétente pour les magistrats du siège (les juges), les syndicats réclament que la gestion de la carrière des juges soit entièrement confiée au CSM – qui ne gère actuellement que la carrière des conseillers à la Cour de cassation, des premiers présidents de cour d'appel et des présidents de tribunaux, et donne un avis conforme (veto) sur les propositions de nomination des autres juges formulées par le ministère de la justice.

Ni le ministère de la justice, ni le Gouvernement, ni le Parlement, ne sont favorables à ce que la gestion de la carrière de tous les juges soit entièrement confiée au CSM.

Toute réforme des attributions du CSM nécessiterait une modification de l'article 65 de la Constitution du 4 octobre 1958, ce qui suppose de réunir une forte majorité politique ( 3/5èmes des membres du parlement). Une telle majorité n'existe pas actuellement.

24. Au cas où il n'existerait pas de Conseil de la Justice dans votre système, est-il question d'en créer un ? Dans l'affirmative, quels sont les arguments pour et contre ? Pensez-vous qu'un Conseil de la Justice pourrait aider à résoudre des difficultés qui pourraient se poser dans votre système ? Un tel conseil a-t-il des chances d'être créé ?

## Georgia/Géorgie

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
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2. What is the exact title/denomination of this body? *High Council of Justice of Georgia*

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="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Administration of the judiciary	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Selection of new judges	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament (only the Supreme Court judges who are nominated by HJC) <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify

Evaluation of judges	<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
Evaluation of court performance	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" 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
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 checked="" 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 type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" 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 checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
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="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify – High School of Justice
IT, including digitalisation of the judiciary and online hearings	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input checked="" type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input checked="" 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 checked="" type="radio"/> other, please specify – Plenum of the Supreme Court

- 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?

*Answer: High Council of Justice is in a position to appoint or remove presidents of courts to and from the office.*

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

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

Tasks	X Constitution X Law O other, please specify
Resources, funding, administration	O Constitution X Law O other, please specify
Independence	X Constitution X Law O 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?
  - *Regulation ("Reglament", Rules of Procedure) of the High Council of Justice*

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? *15*
- Are there ex-officio members? *1 – the Chairman of the Supreme Court of Georgia*
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
  - *Out of 15 members more than ½ (8) must be judges plus the Chairman of the Supreme Court (8+1=9 in total). Among 8 judge members, one is elected as a secretary of the High Council of Justice.*
  - *They must have at least 4 or 5 years experience as a judge.*
  - *At least 1 judge must be from each instance (first, appellate, supreme)*
  - *Only ½ of the judge-members can be the presidents, the vice-presidents of the courts or the presidents of the chambers*
  - *Members of the Qualification Chamber and the Disciplinary Chamber of the Supreme Court cannot be elected as members of the High Council of Justice.*
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
  - *There must be 6 non-judge members out of 15.*
  - *1 member is appointed by the President of Georgia, 5 members are elected by the Parliament (at least 3/5 majority of the total number of the Parliament Members is needed).*
  - *They must have high legal education (at least LL.M), 5 years working experience, high moral reputation and be recognized legal specialists.*
  - *They can be professors or researchers of universities, members of the Georgian Bar Association, or lawyers nominated by non-governmental organizations. Judges, Prosecutors and Parliament Members cannot be nominated as non-judge members of the Council.*

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)
  - *Judge members can be nominated by any judge at the Conference of Judges.*
  - *Non-judge members can be nominated by the universities, the Georgian Bar Association, by non-for-profit organizations which at least for 2 years are*



*involved in law practice before courts. Each university or organization can nominate maximum 3 persons.*

- Please describe the appointment system
    - *The Chairman of the Supreme Court is an ex-officio member.*
    - *8 judge-members are elected by simple (1/2) majority vote of judges who attend the Conference of Judges (highest self-governing body within the judiciary).*
    - *1 non-judge member is appointed by the President of Georgia.*
    - *5 non-judge members are elected by the Parliament.*
  - If members are elected by Parliament, are these members elected with a simple or qualified majority?
    - *At least 3/5 majority of the total number of the Parliament Members is needed to elect non-judge members.*
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 elected/appointed for 4 years term and cannot take any other position or undertake other activities except teaching and research.*
  - *No member can be reelected for another consecutive term.*
  - *The members of the Council cannot be affiliated with any political party.*
  - *They have to submit declaration on their income and assets during their membership at the Council.*
8. How is the President and/or Vice-President of the Council selected and appointed?
- *The President is elected from judge-members of the Council by simple majority vote of the members of the Council, for 4 years term.*
  - *The Council does not have the Vice-President.*
  - *The Council has a Secretary, who is elected at the Conference of Judges by majority vote of judges who attend the Conference.*
9. What is the term of office for a member of the Council?
- *4 years. Same persons cannot be appointed/elected for the second consecutive term.*
10. May a member be removed from office against his/her will and, if so, under what circumstances?
- *Yes, by the same institution which elected/appointed him/her in the following circumstances:*
    - i. If s/he is convicted and the decision is final;*
    - ii. If s/he loses the citizenship;*
    - iii. If s/he is not able to perform his/her duties more than 4 months;*
    - iv. If s/he does not perform her/his duties systematically or in a due manner;*
    - v. If s/he starts activity or takes position which is incompatible with the position of the member of the Council;*
    - vi. If s/he is appointed /elected in violation of the procedure prescribed by law or by the institution that does not have the power to elect/appoint members of the Council by law.*
    - vii. If s/he is declared as a person having limited capacity or in need to have a supporter, if not otherwise decided by the court.*

## 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?
- Yes. *There have been permanent conflicts and tensions between judge and non-judge members and the former President of the Council (former Chief Justice), also between judge and non-judge members (or some of the non-judge members) of the Council since 2014.*
  - *One of the recent conflicts between judge and non-judge members, from one side and 2 of the non-judge members, on another side of the Council has been related to the issue of lifetime appointment of the Supreme Court judges. This is the extract from the Urgent Opinion of the Venice Commission for Georgia 2019 on the selection and appointment of the Supreme Court Judges, which reflects some aspects of the conflict:*
    - i. *“The procedure for the appointment of Supreme Court judges has proved to be difficult, following the presentation of a list of ten candidates to Parliament by the High Council of Justice in December 2018. This list was eventually withdrawn, due to the controversies and criticism it raised in the population, civil society and a number of members of the High Council of Justice, following the speed at which it was drawn up and presented to Parliament. The criticisms claimed that the selection procedure lacked clear and objective criteria as well as transparency. In this respect, NGOs have alleged that the appointment process is controlled by a political network of influential judges, who do not enjoy the best reputation due to past decisions and partial appointments. This resulted in the call for the drafting of legislative amendments to provide for clear and objective criteria and a transparent procedure for the selection and appointment of judges to the Supreme Court of Georgia” (see [https://www.venice.coe.int/webforms/documents/default.aspx?pdfid=CDL-PI\(2019\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdfid=CDL-PI(2019)002-e)).*
    - *Since the full details of the permanent conflict is impossible to describe in this document, for additional information please explore the following links:*
      - i. <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>
      - ii. <https://www.transparency.ge/en/post/monitoring-report-high-council-justice-n7>
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?
- *There have been conflicts between the Council and the Unity of Judges of Georgia since 2013*
    - i. *Unity of Judges of Georgia is one of the 3 associations of judges existing at present in Georgia (Two other associations are: 1. The Association of Judges of Georgia, and 2. The Association of Women Judges of Georgia). At the time of its establishment in 2013 the Unity of Judges of Georgia had 1/3 of acting judges as its members,*

however currently it has no acting judge-members (only former judges).

- For detailed information about conflict please see the following brochures:
  - i. [http://ewmi-prolog.org/images/files/1822Newsletters\\_N\\_1\\_eng.pdf](http://ewmi-prolog.org/images/files/1822Newsletters_N_1_eng.pdf)  
[http://ewmi-prolog.org/images/files/6215Newsletters\\_N\\_2\\_Eng.pdf](http://ewmi-prolog.org/images/files/6215Newsletters_N_2_Eng.pdf)
  - ii. also in 2016 <http://liberali.ge/articles/view/23819/mosamartleta-ertoba-sabchos-mier-mosamartleta-sherchevis-protsess-uaryofitad-afasebs>
- There have been no other conflicts between the Council and the judiciary. During recent years the Conference of Judges has made several official statements in support to the activities of the Council (see one of the statements in Georgian <http://www.supremecourt.ge/news/id/1892> ).
- There have been no official statements by individual judges in relation to activities of the Council.

## **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?
  - *There have been conflicts between the former President of Georgia and the Council* <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>.
  - *There have been no conflicts between the Council and the executive or legislative branch since 2016.*
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 is established by the Constitution of Georgia. Until present there have been no attempts to infringe its constitutional role.*
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
  - *The Council cooperates with anti-corruption bodies.*
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
  - *There have been permanent conflicts and tensions between the Council and NGOs (see also answer to Question 13).*
  - *Since the full details of the permanent conflict is impossible to describe in this document, for additional information please explore the following links:*
    - i. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2019\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2019)002-e)
    - ii. <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>
    - iii. <https://www.transparency.ge/en/post/monitoring-report-high-council-justice-n7>
    - iv. [https://idfi.ge/en/the\\_draft\\_decree\\_regulating\\_the\\_process\\_of\\_selection\\_of\\_supreme\\_court\\_judicial\\_candidates\\_by\\_the\\_high\\_council\\_of\\_justice\\_is\\_problematic](https://idfi.ge/en/the_draft_decree_regulating_the_process_of_selection_of_supreme_court_judicial_candidates_by_the_high_council_of_justice_is_problematic)
    - v. [https://idfi.ge/en/coalition\\_assesses\\_selection\\_of\\_supreme\\_court\\_judicial\\_candidates](https://idfi.ge/en/coalition_assesses_selection_of_supreme_court_judicial_candidates)
    - vi. 17 July, 2019 Statement of the Coalition for an Independent and Transparent Judiciary - [http://coalition.ge/index.php?article\\_id=213&clang=1](http://coalition.ge/index.php?article_id=213&clang=1)

- vii. 14 May, 2019 Statement of the Coalition for an Independent and Transparent Judiciary - [http://www.coalition.ge/index.php?article\\_id=208&clang=1](http://www.coalition.ge/index.php?article_id=208&clang=1)
- viii. 28 June, 2018 Statement of the Public Defender's Office (PDO) - <https://bit.ly/2kHIPZE>
- ix. 24 July, 2019 Statement of the Coalition for an Independent and Transparent Judiciary - [http://coalition.ge/index.php?article\\_id=214&clang=1](http://coalition.ge/index.php?article_id=214&clang=1)

19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
- o *There are 3 associations of judges in Georgia: 1. the Association of Judges of Georgia, which has almost all acting judges as its members; 2. the Association of Women judges of Georgia; and 3. The Unity of Judges of Georgia, which currently has no acting judges as its members (only former judges).*
  - o *There has been no conflict between the Association of Judges of Georgia, the Association of Women Judges of Georgia and the Council.*
  - o *There have been permanent conflicts between the Unity of Judges of Georgia and the Council since 2013:*
    - i. *At the time of its establishment in 2013 until approximately 2016 the Unity of Judges of Georgia had 1/3 of acting judges as its members, however currently it has no acting judge-members.*
    - ii. *For detailed information about conflict please see the following brochures:*
    - iii. [http://ewmi-prolog.org/images/files/1822Newsletters\\_N\\_1\\_eng.pdf](http://ewmi-prolog.org/images/files/1822Newsletters_N_1_eng.pdf)  
[http://ewmi-prolog.org/images/files/6215Newsletters\\_N\\_2\\_Eng.pdf](http://ewmi-prolog.org/images/files/6215Newsletters_N_2_Eng.pdf)
    - iv. *also in 2016* <http://liberali.ge/articles/view/23819/mosamartleta-ertoba-sabchos-mier-mosamartleta-sherchevis-protsess-uaryofitad-afasebs>
20. How does the Council for the Judiciary in your judicial system interact with media?
- o *The Council interacts with media through various means: press releases, press conferences, direct public broadcasting of interviews with candidates on the position of the Supreme Court judges.*
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?
- o *The Council makes decisions to launch disciplinary proceedings against judges.*
  - o *There is an office of an independent inspector at the Council. It is the task of the independent inspector to conduct preliminary examination of the grounds for launching the disciplinary proceedings against judges.*

### **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.
- o *Please see answers to Questions 13-19 above.*
  - o *For detailed information see:*
    - i. <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>
    - ii. <https://www.transparency.ge/en/post/monitoring-report-high-council-justice-n7>
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?

- *Until recently the Council does not have power to nominate the Supreme Court judges. Since 2019 it has a power to nominate the Supreme Court judges, who are elected by the Parliament.*
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?
- *The latest reform concerning the activities of the Council has been launched since September 2020 and it relates to the procedure of selection of the Supreme Court judges.*
  - *According to the amendments in the law the new selection procedure now comprises the following steps:*
    - i. *- an interview of each candidate at a public hearing;*
    - ii. *- an evaluation of each candidate by each HCoJ member according to the criteria set out for candidates with no judicial experience and for those with judicial experience, accompanied by the written justification for each score and for each justification of integrity;*
    - iii. *- the publication on the website of the HCoJ of the scores and evaluations of each candidate together with the relevant reasoning (without disclosing the identity of the relevant HCoJ member);*
    - iv. *- the vote on the interviews and evaluated candidates on the basis of the scores, evaluation and reasoning; additional numerical thresholds for competence and integrity are established for candidates to be admissible; written reasoning needs to be provided for each vote; the counting of the votes at a closed meeting of the HCoJ; the publication on the website of the HCoJ of the list of candidates admitted to the next stage together with the reasoning for the votes, without disclosing the identity of the relevant HCoJ member;*
    - v. *- the final vote on the list of candidates (the vote of at least two-thirds of all the members of the HCoJ is necessary to be elected); provision of written reasoning for each vote by each member of the HCoJ; publication of the list and the reasoning on the website of the HCoJ;*
    - vi. *- the possibility for each HCoJ member to express a dissenting opinion in writing which is transmitted to Parliament and published on the website of the HCoJ;*
    - vii. *- transmission to Parliament of all the information and documents published on the website of the HCoJ;*
    - viii. *- in case of failure by Parliament to elect the new judges, a new selection from the list of registered candidates is made (only once); publication on the website of the HCoJ is foreseen under the same rules;*
    - ix. *- gathering of “credible” information on the registered candidates by the HCoJ.*
  - *The Venice Commission provided its opinion on the draft of amendments in October, 2020*  
[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)021-e)
  - *The aforementioned amendments are designed to make the work of the Council more transparent and provide grounds for its decisions.*
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

## Germany/Allemagne

### General

1. Is there a Council for the Judiciary in your judicial system?	<input type="radio"/> yes <input checked="" type="radio"/> no
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2. What is the exact title/denomination of this body?

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" 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 type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" 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 checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Selection of new judges	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify

Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Evaluation of court performance	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="checkbox"/> other, please specify (Dienstgericht)
Drafting and enforcing a code of ethics	<input type="radio"/> 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="checkbox"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input type="radio"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify
Providing input on legislative projects	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify
Training of judges	<input type="radio"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board



	<input checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
IT, including digitalisation of the judiciary and online-hearings	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> other, please specify (external bodies)
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 checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Vetting of judges	<input 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"/> other, please specify
Salaries of Judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> Bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify

Comments to the questions:

Some of the questions show that various institutions may be responsible for the tasks described above. This is due to the federal and to the state court system. In additions the provision in the various state systems may differ as well.

- If there is a Council for the Judiciary in your country, has it other duties not mentioned here? Is there additional information that would be useful to understand the role of the Council for the Judiciary within your country?
- 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?

In Germany there are important elements of self-administration of courts on the federal as state level. The Ministry of Justice (federal and state) have delegated far-reaching and important administration tasks to the courts; for example the appointment and promotion of judges, allocation of budgets and infrastructure matters. The President of the Court is the representative of this administration, supported by a board of administration members.



Based on that delegation the (federal and state) law provides for institutions in which elected members of the judges have co-determination rights together with the president of the court (“Präsidentialverfassung”).

Two institutions should be mentioned: “Richterräte” (Council of Judges) and “Präsidentialräte” (Council for Judicial Appointment). The federal law of judges (Deutsches Richtergesetz) und and the several state laws of judges (Landesrichtergesetze) provide that “Richterräte” and “Präsidentialräte” have to be established.

The “Richterräte” (Council of Judges) have a mandatory participation right in social and general matters of the court. Members are elected by the community of judges at the respective court for 4 years. Their task is to represent the judges interests like a staff committee in a company.

The “Präsidentialräte” (Council for Judicial Appointment) have a mandatory participation right during the appointment and/or promotion process of judges. They participate as a representative organ of the judges in the event of nominating a judge. The Council delivers a written opinion on the aptitude of candidates for appointments and/or promotion. However, the written opinion is not binding. There are Councils for Judicial Appointment at every State or Federal Court and Supreme Court of the Federation. The “Präsidentialräte” consist of the president of the respective court and of a certain number of elected judges of this court.

In addition, in some states and on the federal level you can find “Richterwahlausschüsse” (special committees for the election of judges). These committees participate in or decide on the election and promotion of judges. The membership in these committees varies. On the federal level those committees consist of members of the parliament; they elect the judges of the Federal Courts and the Supreme Court of the Federation.

### Legal basis

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

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

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

**Composition and Membership**

- 5. The composition of the Council for the Judiciary:
  - How many members are there?
  - Are there ex-officio members?
  - How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
  - Can/Must non-judges be members of the Council? Please specify (number, qualification/specific functions)
  
- 6. Please describe the procedure of appointment:
  - Who nominates the members (judges or other institutions or authorities – please specify)?
  - Please describe the appointment system
  - If members are elected by Parliament, are these members elected with a simple or qualified majority?
  
- 7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
  
- 8. How is the President and/or Vice-President of the Council selected and appointed?
  
- 9. What is the term of office for a member of the Council?
  
- 10. May a member be removed from office against his/her will and, if so, under what circumstances?

**Resources and Management**

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input 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 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?
  
- 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?

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

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?
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?
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
20. What if any is the role of the Council for the Judiciary in the vetting of judges?

## **Challenges, Developments**

21. 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.
22. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so how?
23. Have there been reforms concerning the Council for the Judiciary in your judicial Council recently? If so, what were the objectives of these reforms and have they been successful?
24. In case your judicial system does not have one, is there a discussion to introduce a Council for the Judiciary?

Currently there is no specific or strong political debate on introducing such a system in Germany. In the years of 2010-2013 we witnessed such a public discussion. At that time, the Associations of judges (Deutscher Richterbund, Neue Richtervereinigung) had requested the introduction of a complete self-administration of the judiciary. To this extent, the introduction of Councils for the Judiciary has been discussed.

In this debate the “Deutscher Richterbund” had proposed a draft legislation for the Federal States (Bundesländer). In the end, this draft legislation did not pass parliament. The main arguments against changing the system were the existing federal structure as well as the existing independence of the judiciary: The above mentioned traditional self-administration of the judiciary (see above “Präsidentialverfassung”) would sufficiently guarantee the judicial independence. There are elements of self-administration which provide for the participation of judges in relevant decisions. These are the representative bodies such as “Richterrat”, “Präsidentialrat” and the “Richterwahlausschüsse” (see above). The introduction for a Council for the Judiciary is therefore not planned.

If so, what are the arguments made in favour and against the introduction for a Council for the Judiciary.

Do you think that there are challenges in your judicial system a Council for the Judiciary might help solve?

No.

Is it likely that such a Council will be introduced?

No.

## Greece/Grèce

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
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2. What is the exact title/denomination of this body?  
High judicial council

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input 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 type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input 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 checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Administration of the judiciary	<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 type="checkbox"/> other, please specify
Selection of new judges	<input 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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify Entering the school of judges after very difficult exams carried out by a committee of judges, prosecutors an university professors
Selection of judges for promotion	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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 And a judge from the Supreme court selected by law between the plenary of supreme court judges.
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 type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" 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
Providing input on legislative projects	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board

	<input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Assoc National school of judges
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input 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 of the judiciary practically decides everything concerning the status of judges, even to appoint them or remove them.

- 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? Yes, there is a Code of the court bodies and status of judicial officers. So the Council has specific formal rules concerning his own status as well as the judges status.

### 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
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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 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 checked="" 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? 11 or 15 depending on the judges degree
- Are there ex-officio members? Yes the president of the Supreme Court and the General Procecutor
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances
- All members are judges of the Supreme Court
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions) No

6. Please describe the procedure of appointment:

Members of the Judicial council and their alternates, are only judges of the Supreme court . They are appointed every year, 1<sup>st</sup> January by the plenary of the Supreme Court (in which there are judges and prosecutors ) but by draw carried out in the presence of the plenary.

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

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

Selection by draw and during their time on the Council by their own conscience and oath to be always independent and loyal to the constitution.

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



9. What is the term of office for a member of the Council? One year.
10. May a member be removed from office against his/her will and, if so, under what circumstances? Only if he is retiring or seriously ill. In that case he is replaced by their alternates till the end of the year.

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ There is no funding.
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input type="radio"/> yes <input checked="" 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? The conflicts are solved by the plenary of the Supreme Court.

### 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 PLENARY
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? NO INTERACTION
18. How does the Council for the Judiciary in your judicial system interact with NGOs. NO INTERACTION
19. How does the Council for the Judiciary in your judicial system interact with associations of judges? NO INTERACTION
20. How does the Council for the Judiciary in your judicial system interact with media? NO INTERACTION
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges? NO ROLE

## **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. NONE
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? NO
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?

## Hungary/Hongrie

### General

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

***National Council for the Judiciary***

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> <b>HJC</b> <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> <b>Association of Judges</b> <input type="radio"/> <b>other: President of the National Office for the Judiciary</b>
Defending judges/the judiciary against public attacks	<input type="radio"/> <b>HJC</b> <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> <b>Association of Judges</b> <input type="radio"/> <b>other: President of the National Office for the Judiciary</b>
Administration of the judiciary	<input type="radio"/> <b>HJC</b> <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> <b>other: President of the National Office for the Judiciary</b>
Selection of new judges	<input type="radio"/> <b>HJC</b> <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> <b>other: President of the National Office for the Judiciary</b>
Selection of judges for promotion	<input type="radio"/> <b>HJC</b> <input type="radio"/> <b>Court Presidents</b> <input type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> <b>other: President of the National Office for the Judiciary</b>
Evaluation of judges	<input type="radio"/> <b>Court Presidents</b> <input type="radio"/> <b>bodies within individual courts</b>
Evaluation of court performance	<input type="radio"/> <b>HJC</b> <input type="radio"/> <b>Parliament</b> <input type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> <b>other: President of the National Office for the Judiciary</b>
Conducting disciplinary procedures	<input type="radio"/> <b>other: (Judges') Service Court</b>

Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> other: (Judges') Service Court
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> Court Presidents <input type="radio"/> other: President of the National Office for the Judiciary
Providing input on legislative projects	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> other: President of the National Office for the Judiciary
Training of judges	<input type="radio"/> HJC <input type="radio"/> Court Presidents <input type="radio"/> other: President of the National Office for the Judiciary
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> Court Presidents <input type="radio"/> other: President of the National Office for the Judiciary
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input type="radio"/> other: President of the National Office for the Judiciary
Salaries of judges	<input type="radio"/> Parliament

- 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?
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

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

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

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?  
**15 members**
- Are there ex-officio members?  
**The President of the Kúria (Curia)**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?  
**All the 15 members of the National Council for the Judiciary are judges, with 14 elected members comprising 1 (regional) court of appeal judge, 6 general court judges, 7 district court judges. Judges having at least five years judicial experience may be elected as members of the National Council for the Judiciary.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)  
**All members of the National Council for the Judiciary are judges, but its meetings may be attended, in a consultative capacity, by the President of the National Office for the Judiciary, the minister responsible for justice, the Chief Public Prosecutor, the President of the Hungarian Bar Association, the President of the Hungarian Association of Notaries Public, the President of the National Council for the Judiciary, as well as experts invited by those attending the meeting, in a consultative capacity, and the representatives of civil and other interest-representation organisations invited by the President of the National Council for the Judiciary.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)  
**Members of the National Council for the Judiciary are elected by the conference of delegates. Delegates for the conference of delegates are elected by the plenary meeting of the Kúria (Curia) and the plenary sessions of the (regional) courts of appeal and the general courts, by a majority vote of those present. The eligibility criteria for candidacy and election for delegates to the conference of delegates are identical with the eligibility criteria for members of the National Council for the Judiciary. Proposals for elected members of the National Council for the Judiciary are made by a four-member nomination committee made up of the most senior delegates of the Kúria (Curia), the (regional) courts of appeal, the general courts and the district courts. However, further proposals can be made by any delegate.**
- Please describe the appointment system  
**Judges having at least five years judicial experience may be elected as members of the National Council for the Judiciary. Candidates having received the highest number of valid votes shall be considered as elected members, provided that more than 50 per cent (majority) of the votes have been received.**

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

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

***The following persons may not be elected as members of the National Council for the Judiciary :***

- ***any person who is subject to disciplinary or criminal proceedings;***
- ***any person being under disciplinary action;***
- ***any person against whom proceedings are pending for establishing incompetence;***
- ***any person who cannot, under the law, pursue adjudicative activities due to his position, and whose legal relationship as a judge is staying under the law;***
- ***any person who is considered within the meaning of the Code of Civil Procedure to be related to the President of the National Office for the Judiciary or the President or Vice-President of the Kúria (Curia), or the president or vice-president of a court of appeal or general court;***
- ***any person who in the year of election reaches the age stipulated as a reason for dismissal;***
- ***any person who formerly was a member of the National Council for the Judiciary .***

***A member of the National Council for the Judiciary may not vote on an issue concerning his person. Disciplinary proceedings may only be instituted against a member with the consent of the National Office for the Judiciary.***

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

- ***The office of President of the National Council for the Judiciary shall be occupied by the members taking turn at half-year intervals, beginning with the judge who has the longest service relationship as a judge, followed by the ones following in seniority.***
- ***In case of an obstacle, the place of the President of the National Council for the Judiciary is taken by the vice-president of the National Council for the Judiciary. The office of vice-president of the National Council for the Judiciary shall be occupied by the members taking turn at half-year intervals, beginning with the judge who has the second longest service relationship as a judge, followed by the ones following in seniority.***

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

***6 years***

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

***An elected judge member of the National Council for the Judiciary may not be recalled.***

***An elected judge member of the National Council for the Judiciary may be subjected to disciplinary proceeding solely with the consent of the National Council for the Judiciary.***

## Resources and management

11. Which body provides funding for the Council for the Judiciary?	<b>O Parliament</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<b>O yes</b>

## 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?  
**Earlier, the National Council for the Judiciary criticised the appointment practice of the former President of the National Office for the Judiciary, while the former President of the National Office for the Judiciary did not recognise the legitimacy of the National Council for the Judiciary because of the decrease of the number of members in the National Council for the Judiciary. The conflict became resolved after the new President of the National Office for the Judiciary took office.**

## 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 such conflict has ever occurred.**
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?  
**It annually publishes its opinion on the practice of the National Office for the Judiciary and the President of the Kúria (Curia) on the assessment of the applications for judicial heads positions.  
The National Council for the Judiciary may, by a resolution adopted by a two-thirds vote of its members, propose to the National Assembly the removal of the President of the National Office for the Judiciary from office.**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?  
**The President of the National Council for the Judiciary may invite the representative of an organisation to attend the meeting of the National Council for the Judiciary in a consultative capacity.**
18. How does the Council for the Judiciary in your judicial system interact with NGOs?  
**The President of the National Council for the Judiciary may invite the representative of an organisation to attend the meeting of the National Council for the Judiciary in a consultative capacity.**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?  
**The President of the National Council for the Judiciary may invite the representative of an organisation to attend the meeting of the National Council for the Judiciary in a consultative capacity.**

20. How does the Council for the Judiciary in your judicial system interact with media?  
***The annual scheduled meetings of the National Council for the Judiciary, the brief summaries of the meetings, and the minutes of the preliminary positions of the Presidents of the Kúria (Curia) and the National Office for the Judiciary on the person nominated for a given position shall be published on the central website. In respect of other issues the National Council for the Judiciary shall itself determine how and what information is to be provided for the media.***
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
***It has no such competence.***

### **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.  
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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?  
**No**
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?  
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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="checkbox"/> yes <input type="checkbox"/> no
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2. What is the exact title/denomination of this body? The Judicial Council of Ireland

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="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> 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 type="radio"/> other, please specify
Selection of new judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" 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 checked="" 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 checked="" 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="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

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 type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" 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 checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
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 checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
IT, including digitalisation of the judiciary and online hearings	<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 checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Salaries of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> Bodies within individual courts

	<input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
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- 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 is an independent body whose members are all of the Judges in Ireland and who constitute a separate and independent branch of Government.
- The function of the Council is to promote and maintain:
  - Excellence in the performance of judicial functions,
  - High standards of conduct among judges,
  - An independent Judiciary, and
  - Public confidence in the judiciary and in the administration of justice.
- 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?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 checked="" 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 checked="" type="radio"/> other, please specify <b>The Council may regulate its own business, subject to the Act</b>
Resources, funding, administration	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input checked="" type="radio"/> other, please specify <b>The Act provides that the funding and staffing be provided. That is subject to discussion and Central Government approval</b>
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?

All of the rules of the Judicial Council in Ireland are provided for in the Act. The membership is comprised of all of the judges in Ireland. There are no external or lay members.

There are certain functions which are reserved to be decided upon by the entirety of the Council, but most of the functions are carried out by the Board of the Council. The Board consists of the Presidents of the 5 Courts (which includes the Chief Justice), 5 elected judges and 1 co-opted judge.

There are statutory Committees which carry out certain of the Council's functions. They include judicial training, judicial conduct, guidelines on sentencing in criminal cases and guidelines on personal injury awards. There are further committees to oversee judicial support and welfare.

Two of the Committees include lay members recruited by the Government. They are not members of the Council however.

#### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? 166
- Are there ex-officio members? All judges are members by reason of their judicial office
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?

All members must be judges

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

No

6. Please describe the procedure of appointment:

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

The Act provides that every judge is a member of the Council. A judge becomes a Council member upon appointment as a judge by the President of Ireland.

- Please describe the appointment system See previous question
- If members are elected by Parliament, are these members elected with a simple or qualified majority? N/A
- 

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

This only applies to independence while on the Council. The Council and certain Committees enjoy independence under the Act.

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

The holders of these posts (called the Chairperson and Vice Chairperson) are stipulated under the Judicial Council Act. The Chief Justice and President of the Court of Appeal, the two most senior judges in Ireland, hold the positions.

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

A judge is a member of the Judicial Council from appointment as a judge until such time as they cease to be a judge, usually at the age of 70.

A Board member is either an *ex officio* member, or serves for 4 years.

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

No. If the Government removes a judge from office under the Constitution, this may be considered removal against his/her will but it is a consequence of no longer being a judge.

#### Resources and management

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

There may be competing interests, such as in relation to the provision of funding and support for the Council, but not what would be termed conflict.

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?



**There is no formal mechanism for this to take place.**

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

**This does not take place.**

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

**Generally speaking this does not take place.**

Early experience has been that if an NGO prepares a report recommending that the Judicial Council consider for example certain approaches to training and sentencing, it may decide to consider implementing the recommendation.

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

**Members of the Council network widely and interact as members of various international judicial bodies. It is a mandatory requirement of the Judicial Council Act that the Judicial Council develop relations with international bodies representing judges. This is particularly the case with international judicial training bodies.**

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

**Through the administrative support only, not through judges, and only on scheduled occasions.**

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

**None at present. The legislation proposed by the Department of Justice to manage judicial appointments in the future will include up to 4 judges, including 2 judges elected by the Judicial Council.**

#### **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.

**The Council in Ireland is in its early stages, having been established on 17<sup>th</sup> December 2019. The challenges faced arise from the slow development of adequate administrative and non-judicial support functions required to progress some of the committees' work.**

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

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? There is currently a vote pending by the members in respect of the introduction of Personal Injuries Guidelines for Judges.

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

## Italy/Italie

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="radio"/> <b>yes</b> <input type="radio"/> no
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2. What is the exact title/denomination of this body?

The exact denomination of the Italian Council for the Judiciary is Consiglio Superiore della Magistratura

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"/> <b>HJC</b> <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"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" type="radio"/> <b>HJC</b> <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"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
Administration of the judiciary	<input checked="" type="radio"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <input checked="" type="radio"/> <b>Court Presidents</b> <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
Selection of new judges	<input checked="" type="radio"/> <b>HJC (on the basis of a legal reservation)</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input checked="" type="radio"/> <b>HJC</b> <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 checked="" type="radio"/> bodies within individual courts <b>(Consigli giudiziari and Comitato Direttivo at the Supreme Court)</b> <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="radio"/> HJC <input checked="" 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 checked="" type="radio"/> other, please specify <b>Attorney General at the Supreme Court</b>
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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
Providing input on legislative projects	<input type="radio"/> HJC <input checked="" 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

Training of judges	<input checked="" type="radio"/> <b>HJC</b> <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"/> <b>other</b> , please specify <b>Scuola Superiore della Magistratura</b>
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts (CED)</b> <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ (established by the law)</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify

- 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?

See at § 4.

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

Existence of a Council for the Judiciary	<input checked="" type="radio"/> <b>Constitution</b> <input type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input checked="" type="radio"/> <b>Constitution</b> <input checked="" type="radio"/> <b>Law</b> <input type="radio"/> other, please specify

Selection of members including tenure and removal during tenure	<b>xO Constitution</b> <b>xO Law</b> O other, please specify
Tasks	<b>xO Constitution</b> <b>xO Law</b> O other, please specify
Resources, funding, administration	O Constitution <b>xO Law</b> O other, please specify
Independence	<b>xO Constitution</b> O Law O 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?

At the time of the fall of Fascism and the Liberation of Nazi occupation in 1945, the status of the judiciary in Italy was defined by the Judicature Act adopted in 1941. It was based on two fundamental pillars: on one hand, the explicit rejection of any form of independence of the judiciary and, on the other, the pyramidal and hierarchical structure of the judiciary, a legacy of the Napoleonic "Grande Loi" of 1810. In its Report to Parliament, the Minister of Justice Grandi spoke that way about the independence of the judiciary: "in regulating the status of judges I naturally rejected the principle of 'self government' of the judiciary. This principle would be incompatible with the very idea of the fascist state ... it is unacceptable that within the state exist independent bodies, or autocracies or castes that are not subject to the unitary supreme power." Consistent with these principles, the Minister of Justice was the "supreme head of the administration of justice and politically responsible for the smooth and proper functioning of that administration". He exercised his oversight on all judges and prosecutors directly or through the Chief Justices. The Minister of Justice decisively influenced judges' career. He appointed the members of the Superior Council of the Judiciary that was in charge of the recruitment, assignments and transfers of judges and prosecutors. The Presidents of the Courts of Appeal and the President of the Supreme Court (Corte di Cassazione) were appointed, like the ambassadors and prefects, by the Council of Ministers. The Minister of Justice was the sole holder of the disciplinary powers on judges and prosecutors, while the disciplinary court established within the Ministry of Justice issued simple advice for Minister's final decision.

Already in 1925 the National Association of Magistrates had been dissolved as a result of the general ban on trade union activities.

These contextual elements may help to better understand the origin and scope of the provisions of the Republican Constitution of 1948 relating to the independence of the judiciary, and the peculiar constitutional place of the Superior Council of the Judiciary (Consiglio Superiore della Magistratura – CSM) in this regard.

**The constitutional principles.** The need for the judiciary to be independent of government - the so called "external" independence of the judiciary - is clearly affirmed by article 104 of the 1948 Constitution, which states: "The judiciary is autonomous and independent of all other powers." The independence of the judiciary is confirmed by article 101, which states: "Justice is administered on behalf of the people. Judges are only subject to the law."

These constitutional rules would prevent a return of control or supervision over the judiciary, not only from the government, but also by the legislature, in a setting characterized by the rule of law as the fundamental regulatory element of social life. It should be noted, moreover, that all of the above provisions refer to both the judiciary as an institution and to judges as individuals exercising public powers, demonstrating a clear vision of the need to provide the judiciary as a whole, as well as each and every single judge (and prosecutor), with specific status and protections from any undue influence. The external profile of judicial independence is reinforced by article 106 of the Constitution, which states: "The appointment of judges must be made by public competitive exam" (the Constitution provides for two possible exceptions to public competitive recruitment: the appointment, even by election, of

honorary judges for all functions performed by single judges; the appointment by the CSM of full university professors of law and lawyers with at least fifteen years practice before the higher courts as judge at the Supreme Court of Cassation "for outstanding merit"). This clear constitutional directive reduces the risk of external interference in the judiciary that could be produced by alternative forms of recruitment, such as political appointment or election. The open competition, characterized by objective criteria for admission and the anonymity of the written exams seems to be the most suitable instrument to ensure not only the technical competence of future judges, but also social, political and ideological diversity within the judiciary. This diversity ultimately ensures that justice will actually be given, as solemnly stated by article 101, "on behalf of the people."

Pursuant to article 107, "Members of the judiciary cannot be removed from office. They cannot be fired, suspended or transferred to other jurisdictions or functions except by decision of the Superior Council of the Judiciary for reasons and with the possibility of defense as defined by the law, or by their own consent". Judges and prosecutors are appointed for life. Judicial independence could indeed be seriously affected if they could be exempted from service or transferred without appropriate guarantees. Except in case of breaches of discipline, therefore, the magistrate can only change his/her functions and be transferred to a different court at his/her request and following specific deliberation of the CSM. The change/transfer is decided at the end of an open competition between the candidates.

Also the hierarchical structure of the judicial system has been openly challenged by the Constitution adopted in 1948, which explicitly considers the need to keep any single judge (and prosecutor) free from undue influence coming from within the judiciary. To do so, the Constitution contains specific "anti-hierarchical" rules, such as article 107, paragraph 3, which states "Judges may only be distinguished by function", and the above-mentioned art. 101 ("judges are only subject to the law"). Together, these elements define an entirely new regulatory framework, characterized by a horizontal organization, and the introduction of a democratic management of the judiciary and its members.

In this constitutional framework, the independence of the judiciary is guaranteed in the Italian system by the establishment of the Supreme Council of the Judiciary (Consiglio Superiore della Magistratura – CSM), designed and structured as a true constitutional self-governing body of the judiciary. The Italian Constitutional Court in several decisions defined the CSM as "a body of constitutional rank." While it performs also administrative tasks, it remains outside the structure of the central administration of the State and doesn't belong to the government. Dealing with the functioning of courts, its principal goal is to ensure that in the performance of their duties the members of the judiciary (judges and prosecutors) will only be subject to the law.

The Council adopts all measures affecting the *status* of judges (from recruitment through public competition, to assignment and transfer procedures, promotions, up to termination of service). It also provides for the recruitment and management of the activity of honorary magistrates. Moreover, it has the task of judging the disciplinarily relevant conduct held by the magistrates. The latter competence is attributed to him by law no. 195 of 1958 which generally governs the constitution and powers of the Council itself.

The CSM is articulated into advisory commissions, which are currently nine, each composed by six members, four judges/prosecutors and two non-magistrates (lay-members). The advisory commissions, each of which is entrusted with a specific matter, prepare the files and formulate proposals for subsequent deliberation by the Plenary Assembly (called Plenum). Most of the time, the Plenary Assembly is presided over by the Vice President (unless the President of the Republic chooses to chair it), and includes all the members of the CSM. The Disciplinary Section also operates within the Council, which is responsible for judging the behavior of magistrates subjected to disciplinary actions. The Disciplinary Section is made up of six members, four magistrates and two lay members, including the Vice President of the CSM who presides over it. In the disciplinary area the CSM acts as a judicial body. Its

decisions are therefore subject to appeal to the Court of Cassation (Corte di cassazione-Sezioni Unite civili).

In the new constitutional framework, the powers of the Minister of Justice remain significant. Article 110 of the Constitution states in this regard that "Subject to the powers of the CSM, the organization and operation of services related to justice are conferred to the Minister of Justice". According article 107 "The Minister of Justice has the power to set in motion disciplinary action". The Minister of Justice is the only minister to be expressly mentioned in the Constitution. The Constitution stresses in this way - once again – the important place it entrusts to the judiciary and its status.

The MoJ is responsible for the recruitment and management of staff (clerks, assistants, bailiffs, marshals, etc.), and the regulation of the legal professions (lawyers, notaries). He is also in charge of providing the financial and material resources needed for the daily work of courts and tribunals, including local supplies, facilities, digital networks and technical support. While is CSM's duty to appoint the chief justices, Minister's agreement is also needed to do so. However, if the Minister doesn't concur with CSM's proposal, the latter can in any case proceed. The Minister of Justice can obtain information on the functioning of the courts and on the professional behavior of judges. He can also order inspections and administrative investigations, in order to perform its official duties in the field of administrative management and disciplinary matters. He relies in that regard on the General Inspection Service, which is composed by 28 judges and prosecutors seconded at the Ministry of Justice.

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

The members are 27.

- Are there ex-officio members?

Yes, there are: The President of the Republic, The President of the Supreme Court (*Suprema Corte di cassazione*), The Attorney General at the Supreme Court (*Procuratore Generale della Repubblica presso la Suprema Corte di cassazione*)

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

2/3 of the members must be magistrates (16 members: 12 judges and 4 prosecutors) and 1/3 are appointed by the Parliament in joint session (8 members: university professors and lawyers who have been practicing for at least fifteen years)

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

Yes, they can.

Four members of the Council are prosecutors who work in the General Prosecutors at the Courts of Appeal or the Public Prosecutors at the Courts; eight members are chosen among full university professors and lawyers who have been practicing for at least fifteen years

6. Please describe the procedure of appointment:

- The non ex-officio members, whose number has been set at twenty-four, are elected 2/3 by all the magistrates and 1/3 by Parliament meeting in joint session. The elected

office has a duration of four years, with the prohibition of immediate re-election. Of the sixteen members elected by the magistrates (so-called toga or stipendiary members), two are chosen among those who perform legitimacy functions at the Court of Cassation, ten from the judges of merit (at the Courts of Appeal or Courts), four among the prosecutors (who work in the General Prosecutors at the Courts of Appeal or the Public Prosecutors at the Courts). The eight members elected by the Parliament (so-called lay members) are chosen from university professors in law and lawyers who have been practicing for at least fifteen years.

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

In order to guarantee maximum autonomy and independence of the judiciary from the legislative and executive powers, the Superior Council is chaired by the President of the Republic, who in Italy embodies the national unity and is not government's leader.

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

The President of the Council is, *ex officio*, the President of the Republic. Art. 104 of the Constitution provides that the Council elects a Vice President among the members designated by Parliament. The latter replaces the President in case of absence or impediment and exercises the functions delegated by the President. He then chairs the Presidential Committee (composed of the President of the Court of Cassation and the Attorney General at the same), which is assigned the task of promoting the activities of the Council, implementing its resolutions and managing the budget. The Vice President is a "two-faced" body; he represents the Council before the President and the President at the Council and plays a leading role in the planning and direction of the Council's work. The Presidential Committee, as specified in art. 8, paragraph 1, of the Internal Regulations, "promotes the activities of the Council and implements its decisions". It arises - as a collegial body and independently of the faculties available to its members individually - upstream and downstream of the Council's work but does not assume its external representation.

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

The term of office is four years.

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

Members of the Council cannot be removed from office against their will. Members elected from among judges and prosecutors continue to be subject to disciplinary rules and may be dismissed following disciplinary proceedings.

### Resources and management

<p>11. Which body provides funding for the Council for the Judiciary?</p>	<p><input type="radio"/> MoJ  <input type="radio"/> Parliament</p> <p><b>X</b> <input checked="" type="radio"/> <b>other, if so specify.</b> Financial and accounting autonomy is guaranteed to the Superior Council of the Judiciary. The sums allocated by law in the state budget for the year 2021 to the functioning of the CSM totaling 48.503.008,50 euros.</p>
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<p>12. Is the administration of the Council for the Judiciary independent from other branches of government?</p>	<p><b>X</b> <b>O</b> <b>yes</b> <b>O</b> <b>no</b> The CSM is a constitutional body as it is expressly enshrined in the Constitution, which sets forth its composition (Art. 104) and its duties (Art. 105).The Council's relations with the Government are based on the principles of autonomy and independence of the Judicial Order and especially involve aspects linked to the organization and good functioning of the justice-related services that Art. 110 of the Constitution assigns to the responsibility of the Minister. The CSM is called upon to express its opinion on the bills proposed by the government concerning the judicial system and the administration of justice; it can also make proposals to change judicial districts and on all matters concerning the organization of justice-related services.</p> <p>Also, the Council's relations with the Parliament are based on principles of autonomy and independence: the CSM can send to the Parliament, through the Minister, an annual Report on the state of justice, highlighting problems and setting forth proposals.</p>
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### **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?
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?

The CSM has often been criticized, even by the members of the judiciary, for the criteria and methods followed in the appointment of the chief justices. The CSM followed up in this field also the requests received by the Presidents Napolitano and Mattarella. This effort translated into the rationalization of the CSM's discretion and practices, in application of the principles of meritocracy and efficiency provided for by the Constitution and the "Consolidated Law on Judicial Management" of 2015. The need to reward merit was again recently emphasized, without consideration for the possible membership of the candidates to the various associations of magistrates. The need to rationalize and speed up the procedures aimed at filling vacant posts has also been repeatedly reported.

### **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?

In the past there have been disputes between the Government and the Superior Council of the Judiciary, even resulting in proceedings before the Constitutional Court, on the nature and methods of cooperation, especially in a "hinge" sector between the protection of the independence of the judiciary and the efficiency of the judicial system: the appointment of chief justices. The Constitutional Court (decision no. 379 of 1992) established that the relations between the CSM and the executive power must be based on the principle of "loyal collaboration", which implies repeated consultation activities, with a final decision, in the event of persistence of disagreement, of the CSM.

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 CSM can appeal to the Constitutional Court for conflict of attributions between State powers (Conflitto di attribuzioni tra poteri dello Stato – art. 134 Cost.). In the past, for instance, such a proceeding was initiated by the CSM against the Minister of Justice (regarding his intervention in the appointment of chief justices), the Court of Auditors (with reference to the Court of Auditors' claim to subject the financial management of the CSM to control) and administrative judges (who exercise judicial control over the acts adopted by the CSM in matters other than disciplinary issues).

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

In the area of corruption prevention, Italy's approach changed with the creation, in 2012, of the National Anti-corruption Authority (ANAC), which in recent years has seen its role and powers increase. ANAC is an independent authority. It is also responsible for the supervision and regulation of public contracts, a competence complemented by the collection of data on public procurement and on companies operating in the public sector. ANAC is also the recipient of reports of offenses committed in public administrations. The CSM has often asked ANAC for the preventive opinions required by law on public procurement contracts.

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

The CSM cooperates where appropriate with national and international NGOs to carry out its institutional tasks.

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

Associations of judges participate in the election of the 16 elected member magistrates of the CSM. The code of ethics of the National Association of Magistrates, however, reaffirms that once the magistrate is elected to representative bodies, he / she works without an imperative mandate with regard to electors or associated groups. The associations also promote a constant internal and external debate on the activity and choices of the CSM.

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

The CSM has an office for institutional communication, whose activity is addressed to the media and, without prejudice to the prerogatives of the Vice-President and the individual members, includes the functioning of the Council's Website and, where appropriate, the use of other means of telematic communication identified by resolution adopted by the Plenary Assembly. The CSM has also a Press Office, which is vested with the powers provided for by art. 9 of the law of 7 June 2000, n. 150. The organization, the structure and the equipment of the Press Office are established by a specific resolution approved by the Council. The Council adopts also a resolution



containing the guidelines for the coordination and respective activities of aforementioned offices.

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

The CSM submits every judge to a professional evaluation every four years. There are seven levels of seniority (ranks). To obtain the promotion to the superior rank, the candidate can present copies of his decisions/sentences and other documents he/she deems pertinent and useful to assess his/her professional skills. The Superior Council of the Judiciary examines also the statistics related to the candidate's judicial activity throughout the four-year period, compares these data with the data of other judges and prosecutors working in the same jurisdiction, and considers the report made on candidate's work and training activities by a local auxiliary body consisting of the Chief Justice, the District Attorney General and a number of local judges – not less than five - elected by their peers. In this way, the assessment is based as much as possible on documents and verifiable data, and the influence of the highest hierarchies is mitigated by the intervention of lower level magistrates in the decision-making process.

The Minister of Justice can obtain information on the courts' functioning and the professional behavior of judges. He can also order inspections and administrative investigations, in order to perform its official duties in the field of administrative management and disciplinary matters. He relies in that regard on the General Inspection Service, which is composed by 28 judges and prosecutors seconded at the Ministry of Justice.

### **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.

In 2019, the CSM faced integrity issues following serious allegations related to the appointment of high-level prosecutors, formulated following a criminal investigation that led to the resignation of five members of the CSM. New elections were held to replace some of these members. Disciplinary proceedings have been initiated. In addition, the National Magistrates Association has expelled one of the magistrates who in the past was the Association's President. Concerns raised by that criminal investigation prompted the Government to propose, on 7 August 2020, a draft law for the reform of the CSM, which provides for an increase in its members, the establishment of 19 territorial constituencies and the creation of a new disciplinary committee. The reform project also introduces new rules to increase transparency in the appointment of senior judges and prosecutors, with the possibility of introducing a draw for the selection of candidates for the CSM.

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

There have been no significant changes in recent years.

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?

No significant reforms have been adopted in recent years. See what is stated in the previous paragraph 22.

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?

## Latvia/Lettonie

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
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2. What is the exact title/denomination of this body?

**Tieslietu padome**

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="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Administration of the judiciary	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board (COURT ADMINISTRATION) <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Selection of new judges	<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 checked="" type="checkbox"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<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 checked="" type="checkbox"/> A special Judicial Appointment Body

	<input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify Judicial Qualification Committee
Evaluation of court performance	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <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 <b>(1)</b> the Judicial Disciplinary Committee <b>(2)</b> Disciplinary Court.
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify  Judicial Ethics Commission
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" 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 Court Administration hires a media specialist
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board

	<input checked="" type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify Judges participate in working groups
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 checked="" type="checkbox"/> Judicial Administration Board (Court administration) <input type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify The Latvian Judicial Training Centre (LJTC) - Foundation, based on the agreement with the Court Administration
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 type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> other, please specify Court administration
The allocation of financial resources to the judiciary including individual courts In regard to the Supreme Court	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> other, please specify Court Administration
Salaries of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> Bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> 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? Yes  
Is there additional information that would be useful to understand the role of the Council for the Judiciary within your country?  
Please, find additional information below:

### Functions

#### The Council for the Judiciary provides an opinion:

- On budget requests of courts
- On the candidates for the position of a judge of the Constitutional Court (provides opinion to the Saeima (Parliament))
- On the candidates for the position of a judge of the Supreme Court (provides opinion to the Plenary Session of the Supreme Court)

**The Council for the Judiciary submits proposals to the Saeima (Parliament):**

- On the total number of judges in the district (city) courts, in Administrative District Court, Regional Court, Administrative Regional Court and the Senate (Supreme Court).
- On dismissal of the Chief Justice of the Supreme Court from the office of his/her own will or due to appointment in other office.
- On dismissal of judges from the post due to state of health, if that forbids to continue work of a judge or if he/she received negative statement in re-assessment of professional activity of a judge.
- On the most suitable candidate for the position of the Prosecutor General (Section 89.<sup>11</sup>, Paragraph 4.<sup>1</sup> of the Law "On Judicial Power")

**Decisions of the Council for the Judiciary in conceptual and organisational issues related to court system:**

- Development and approval of Regulation of the Council for the Judiciary
- Approval of Regulation of the Judges' Conference
- Convocation of the Judges' Conference, setting issues to be included in agenda
- Approval of Regulation of the Judicial Ethics Commission
- Approval of Regulation of the Judicial Qualifications Committee
- Approval of Procedure for using of judge's robe and insignia
- Approval of sample of judge's identification card
- Determination of district (city) courts and land registry offices, as well as the area of activity and location of district (city) courts, their courthouses and land registry offices.
- Determination of the area of activity of regional courts and courthouses of regional courts.
- Determination of number of judges in every district (city) court (upon the proposal of the Minister of Justice).
- Determination of number of judges in every regional court (upon the proposal of the Minister of Justice).
- Determination of number of judges in Departments of the Senate (upon the proposal of the Chief Justice of the Supreme Court).
- Adoption of decisions on the transfer of a vacant judge's position within the area of court's activity (upon the proposal of the Minister of Justice)
- In case of reorganization of a district (city) court, approves plan of reorganization of the court and decides on transfer of a judge of this court (also without his or her consent) to work to another district (city) court in the same area of activity of the regional court or in another area of activity of the regional court, if reorganized district (city) court is merged with district (city) court located in the area of activity of another regional court
- Determination of the procedure for judges' selection, traineeships and qualification examinations
- Approval of regulations of competition for selection of candidates for the post of a judge
- Determination of content and procedure for assessing judges' professional knowledge and samples of documents necessary for assessment
- Approval of judges' list, pursuant to which regular assessment of judges' professional knowledge will be performed successively
- Approval of basic principles for judges' specialisation
- Approval of procedure for determining the work-load of a case
- Examination of information submitted by Chairs of courts about standard of terms of review of cases in courts
- Confirmation of the contents of curricula for judges, employees of courts and land registry offices (upon the proposal of the Chief Justice of the Supreme Court or the Minister of Justice)
- Hearing out of annual report on work prepared by the Court Administration
- Development of guidelines in connection with other organizational issues of courts

### **Decisions of the Council for the Judiciary related to issues of judicial careers:**

- Determination of a concrete district (city) court with the corresponding place of performance of judge's duties in the area of activity of the court (pursuant to decision of the Saeima on the appointment of a judge as a judge of a district (city) court)
- Determination of a concrete regional court or its courthouse with the corresponding place of performance of judge's duties in the area of activity of the court (pursuant to decision of the Saeima on the appointment of a judge as a judge of regional court)
- Decision on transferring of a judge to work within the same court instance (pursuant to recommendation of the Minister of Justice)
- Transfer of a judge to another place of performance of judge' duties within the area of court activity (at the proposal of the Minister of Justice, with the consent of the judge)
- Transfer of a judge to a higher court instance (to regional court - based on a positive opinion of the Judicial Qualification Committee; to the Supreme Court - upon a recommendation of the Chief Justice of the Supreme Court, based on a positive opinion of the general meeting of a corresponding department of the Senate)
- Transfer of a judge to a lower court instance (with the consent of the judge)
- In case of vacant post or temporary absence of a judge of a district (city) court the Council for the Judiciary may instruct a judge of another district (city) court, the Judge Emeritus or the judge of a regional court (upon recommendation of the Minister of Justice) to execute duties of a judge for the period not exceeding two years
- In case of vacant post or temporary absence of a judge of a regional court, the Council for the Judiciary may instruct a judge of another regional court or judge of a district (city) court to substitute the judge absent (upon recommendation of the Minister of Justice, on the basis of positive statement of the Judicial Qualification Committee) for the period not exceeding two years
- In case of vacant post or temporary absence of a judge of the Senate, the Council for the Judiciary may instruct a judge of a regional court (upon recommendation of the Chief Justice of the Supreme Court, on the basis of positive statement of the respective department of the Senate) to substitute a judge for the period not exceeding two years
- Approval of the criteria for the preparation of the opinion of the general meeting of the Senate's judges on a candidate for a position of a judge of the Supreme Court or on a judge applying to replace a judge of the Supreme Court (upon the proposal of the Chief Justice of the Supreme Court).
- Appointment of the chair of the district (city) court and the chair of the regional court for a term of five years and releases the chair of the court from office prematurely on his own choice or at the recommendation of the Minister of Justice if the chair of a court has committed gross violations or is unable to perform his duties to ensure the quality management of the administrative work of the court.
- Granting the title of the Judge Emeritus to a judge who has worked in good faith and has terminated the duties of a judge.

### **Applications to the Constitutional Court**

In cases and procedures specified by the Constitutional Court Law, the Council for the Judiciary may submit an application regarding the initiation of a matter to the Constitutional Court, appealing against compliance of legal standards to the Constitution, if those touch upon issues related to judiciary.

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### **Legal basis**

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

Existence of a Council for the Judiciary	<input type="radio"/> Constitution <input 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. All the functions and legal regulation is provided by law "On Judicial Power"*

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

In accordance with Article 89<sup>1</sup> of the law "On Judicial Power", the composition of the Judicial Council consists of 15 members – eight permanent members (officials) and seven elected members.

The Judicial Council has the following permanent members:

- 1) The Chief Justice of the Supreme Court;
- 2) The President of the Constitutional Court;
- 3) The Minister of Justice;
- 4) The Chairperson of the Legal Affairs Committee of the Saeima;
- 5) The Prosecutor General;
- 6) The Chair of the Latvian Council of Sworn Advocates;
- 7) The Chair of the Latvian Council of Sworn Notaries;
- 8) The Chair of the Latvian Council of Sworn Bailiffs.

A permanent member (official) may authorise another person for the participation in a meeting of the Judicial Council.

The Judicial Council has following elected members:

- 1) A judge elected by the Plenary Session of the Supreme Court; and
- 2) Six judges elected by a conference of judges.

The Judicial Conference elects one member of the Judicial Council from among judges of Land Registry offices; three members are elected from among judges of district (city) courts and two judges are elected from among judges of regional courts.

The term of office of an elected member of the Judicial Council shall be four years. The member may be re-elected, but not more than twice in succession. The status of an elected member of the Judicial Council may not be consistent with the fulfilment of the duties of a member of the Judicial Disciplinary Committee, a member of the Disciplinary Court, a



member of the Judicial Qualification Committee or a member of the Judicial Ethics Commission.

The Ombudsman and the Director of the Court Administration or the authorised representatives thereof, a representative delegated by an expert in jurisprudence approved by the Latvian Academy of Sciences, as well as representatives from associations of judges may participate in the work of the Judicial Council in an advisory capacity.

- Are there ex-officio members?

Please, find the answer above.

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

Please, find the answer above.

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

Please, find the answer above.

6. Please describe the procedure of appointment:

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

The candidates can apply themselves or they are nominated by the court, or members of the court.

- Please describe the appointment system

The Judicial Council has following elected members:

- 1) A judge elected by the Plenary Session of the Supreme Court; and
- 2) Six judges elected by a conference of judges.

The Judicial Conference elects one member of the Judicial Council from among judges of Land Registry offices; three members are elected from among judges of district (city) courts and two judges are elected from among judges of regional courts.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

N/A

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

These issues are covered by law “On Judicial Power”:

Article 89.<sup>4</sup> Restriction for the Elected Members of the Judicial Council

The status of an elected member of the Judicial Council may not be combined with the fulfilment of the duties of a member of the Judicial Disciplinary Committee, a member of the Disciplinary Court, a member of the Judicial Qualification Committee or a member of the Judicial Ethics Commission.

Article 89.<sup>5</sup> Suspension and Recusal of a Member of the Judicial Council

(1) The Judicial Council shall suspend an elected member of the Judicial Council from the fulfilment of the duties of a member of the Judicial Council, if the Minister for Justice or the President of the Supreme Court has suspended the relevant judge from the fulfilment of the duties of the office of a judge in accordance with Section 84 of this Law.

(2) If a member of the Judicial Council considers that there are circumstances which could give rise to justifiable doubt as to his or her impartiality in deciding any matter, he or she shall recuse themselves from participation in the deciding of the relevant matter.

(3) When the matter of submitting the application of the Judicial Council on the initiation of a case to the Constitutional Court is being decided, the President of the Constitutional Court shall not participate in the deciding of this matter.

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

These issues are covered by law "On Judicial Power":

Section 89.<sup>7</sup> Chair of the Judicial Council

(1) The President of the Supreme Court is the Chair of the Judicial Council.

(2) The Chair of the Judicial Council shall:

- 1) lead the work of the Judicial Council;
- 2) convene meetings of the Judicial Council and determine their agenda;
- 3) represent the Judicial Council and sign decisions and other documents of the Judicial Council.

Section 89.<sup>8</sup> Deputy Chair of the Judicial Council

(1) The Judicial Council shall elect a Deputy Chair of the Judicial Council from among the judges represented therein.

(2) The Deputy Chair of the Judicial Council shall fulfil the duties of the Chair of the Judicial Council in the absence thereof, as well as fulfil other duties determined by the Chair of the Judicial Council.

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

These issues are covered by law "On Judicial Power":

Article 89.<sup>3</sup> Term of Office of the Members of the Judicial Council

(1) The term of office of an elected member of the Judicial Council shall be four years. A member of the Judicial Council may be re-elected, but for not more than two consecutive times.

(2) If the powers of an elected member of the Judicial Council for some reason expire before the end of the term of office, another member of the Judicial Council shall be elected at the next meeting of the Judges' Conference for the term of office specified in Paragraph one of this Section.

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

These issues are covered by law "On Judicial Power":

Section 89.<sup>6</sup> Expiry of the Powers of a Member of the Judicial Council

(1) The powers of an elected member of the Judicial Council shall expire if:

1) his or her term of office as a member of the Judicial Council is terminated;

2) his or her powers as a judge have terminated;

3) he or she renounces the fulfilment of the duties of a member of the Judicial Council, notifying the Chair of the Judicial Council thereof in writing.

(2) The powers of a permanent member (official) of the Judicial Council shall expire if his or her official powers have expired.

(3) If a judge who has been elected to the composition of the Judicial Council is transferred to a court of a different level, he or she shall retain the powers as a member of the Judicial Council until the next Judges' Conference, at which another representative from the court of the corresponding level is elected.

## Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> other, if so specify The Supreme Court Law "On Judicial Power" Article 89. <sup>10</sup> Ensuring the Work of the Judicial Council The work of the Judicial Council shall be ensured by the secretariat of the Judicial Council which is a division of the Supreme Court.
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 such conflicts have ever occurred.
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 such conflicts have ever occurred.

## 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?

There have been different opinions on the necessity and implementation of judicial reforms. The opinion of the judiciary has not been heard by the executive and legislative powers.

1. Example: The creation of the new Economic Court

As rightly put by the European Commission 2020 Rule of Law Report Country Chapter on the rule of law situation in Latvia, "this reform proved controversial, as the Council for the Judiciary issued two opinions against establishing a separate 'economic court', stating there is no evidence that it would bring improvements in quality and efficiency. In their opinion, a reform of the criminal procedure, as well as specialisation of judges within the existing courts (notably in cases of economic and financial crime) would be a more suitable solution.

2. On January 22, 2021, the Minister of Justice Janis Bordans gave a statement to the media on the course and result of the proceedings in the so-called "M case". In the article on the DELFI portal titled "Bordans is indignant about the judgement in the M and O case; he questions the professionalism of the judge"; it is stated by the Minister that "In a situation where there is a case that has a major impact on the public's confidence in the judiciary, this case, as a result of the judge's deliberate action, reaches a judge regarding whom the facts are known and the judges themselves have established that judge is not having the best reputation, nor he has the highest evaluation of professional work in the judiciary."

In this situation, the Judicial Council 20.02.2021 issued a RESOLUTION STATING FOLLOWING:

1. A full judgment is not yet available in the case in question. Consequently, it is not possible at present for anyone who has not taken part in the proceedings to express a reasoned opinion on the quality of this judgment. In addition, this judgment is not in force and can be appealed before a higher court.
2. A distinction must be made between criticism of a judgment, a court or a judge and insults. Criticism means expressing a civilized, concrete and reasoned opinion about shortcomings and mistakes. Dislike of the outcome of the judgment does not in itself give rise to criticism, especially if it is not followed by a reasoned justification. (..)
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 Judicial Council may issue a resolutions, write an opinion to all the involved institutions. It can organize meetings, initiate public discussions.
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?  
No direct cooperation.
18. How does the Council for the Judiciary in your judicial system interact with NGOs?  
*Involvement of Judicial NGOs – participation in the meetings of the Judicial Council, issuing opinions. No other NGOs are involved.*
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?  
*Involvement of association of jugdes – participation in the meetings of the Judicial Council.*
20. How does the Council for the Judiciary in your judicial system interact with media?  
The media division within the Supreme Court ensures all the communication. Besides, once a year a Media Day is organized inviting all the journalists. In addition, twice per year a Bulletin is issued covering the most important news, articles related to the Judicial Council, independence of judiciary.
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
Evaluation of judges is the responsibility of the Judicial Qualification committee.

### **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.
  - The Rule of Law report<sup>1</sup> points out that “the Council for the Judiciary is experiencing a shortage of human resources, which could impede the exercise of its new powers.” The Judicial Council has 4 employees.
  - On 13 November, 2020 the Judicial Council heard a report from the working group on the causes of the long litigation and proposals to remedy it. At its February meeting, the Judicial Council called on the Supreme Court to set up

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<sup>1</sup> COMMISSION STAFF WORKING DOCUMENT 2020 Rule of Law Report Country Chapter on the rule of law situation in Latvia, SWD/2020/313 final

a working group to analyze the causes of lengthy proceedings in Latvian civil, criminal and administrative cases, develop proposals to address these causes, and examine the findings of the European Court of Human Rights. The Report was sent to all judges of Latvia, the involved ministries, as well as other involved parties (police, lawyers, prosecutors etc)

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

After having been granted additional powers with a view to strengthening judicial independence, the Council for the Judiciary adopted a new procedure for selecting candidate judges. In 2018, amendments to the Law on the Judicial Power entered into force, transferring a number of competences from the executive and the legislature to the Council for the Judiciary. This concerned, notably, the powers to appoint court presidents (previously by the Minister for Justice), to transfer a judge (previously by the Parliament), to approve judicial training (previously by the Court Administration, a body under the Ministry for Justice), and to determine the procedure for selecting candidate judges (previously by the Cabinet of Ministers).<sup>2</sup> In April 2020, the Council developed and approved a new procedure for the selection of candidate-judges of district (city) and regional courts.<sup>3</sup> Candidate judges are selected through an open competition organised by a commission established by the Council for three years, which is composed of three senators (Supreme Court judges), three judges of regional courts, and three judges of district (city) courts.

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?

Yes, the amendments to the law "On Judicial Power". Please, see the details above. In addition: on 29.01.2021 the Judicial Council discussed the project of the Strategy for following years. Adoption of the strategy is planned in spring 2021.

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

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<sup>2</sup> COMMISSION STAFF WORKING DOCUMENT 2020 Rule of Law Report Country Chapter on the rule of law situation in Latvia, SWD/2020/313 final

<sup>3</sup> Procedure became applicable as of June 2020, when the amendments to the Law on Judicial Power entered into force.

## Lithuania/Lituanie

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> <b>yes</b> <input type="checkbox"/> no
2. What is the exact title/denomination of this body? <b>THE JUDICIAL COUNCIL / TEISĖJŲ TARYBA</b>	
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="checkbox"/> <b>HJC</b> <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"/> <b>The National Courts Administration – a special institution, independent from the executive authorities</b> <input checked="" type="checkbox"/> <b>Association of Judges</b>
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Administration of the judiciary	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board – <input type="checkbox"/> <b>The National Courts Administration – a special institution, independent from the executive authorities</b> <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify <input checked="" type="checkbox"/> <b>Presidents of higher courts</b>
Selection of new judges	<input checked="" type="checkbox"/> <b>HJC</b> <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 checked="" type="checkbox"/> A special Judicial Appointment Body – <input checked="" type="checkbox"/> <b>Selection commission of candidates to judicial office</b> <input checked="" type="checkbox"/> <b>President of the Republic</b> <input checked="" type="checkbox"/> <b>Parliament -SEIMAS</b>

	<p>(Persons seeking to become a judge are selected by the Selection Commission of candidates to judicial office. The purpose of the Selection Commission is to assist The President of the Republic in selecting the most suitable candidates for the positions of specific court judges.</p> <p>The Judicial Council gives an informed advice to the President of the Republic in respect of the appointment of judges and their promotion. <b>If the Judicial Council refuses to give advice, a judge may not be appointed.</b></p> <p>Judges of regional courts, regional administrative courts, judges of the Court of Appeals and judges of the Supreme administrative court shall be appointed by the President of the Republic. Judges of the Supreme Court shall be appointed by the Seimas on the nomination of the President of the Republic).</p>
<p>Selection of judges for promotion</p>	<p><b>x HJC</b>  <input type="radio"/> MoJ  <b>x Parliament</b>  <input type="radio"/> Court Presidents  <input type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input checked="" type="radio"/> A special Judicial Appointment Body  <b>Selection commission of candidates to judicial office</b>  <input checked="" type="radio"/> <b>President of the Republic</b>          ((Persons seeking a career as a judge are selected by the Selection Commission of candidates to judicial office. The purpose of the Selection Commission is to assist The President of the Republic in selecting the most suitable candidates for the positions of specific court judges.</p> <p>The Judicial Council gives an informed advice to the President of the Republic in respect of the appointment of judges and their promotion. <b>If the Judicial Council refuses to give advice, a judge may not be appointed.</b></p> <p>Judges of regional courts, regional administrative courts, judges of the Court of Appeals and judges of the Supreme administrative court shall be appointed by the President of the Republic. Judges of the Supreme Court shall be appointed by the Seimas on the nomination of the President of the Republic).</p>

Evaluation of judges	<p><b>x HJC</b>  <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  <b>X a special body - Permanent Commission for the Assessment of Activities of Judges</b></p>
Evaluation of court performance	<p><b>x HJC</b>  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <b>x Court Presidents</b>  <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-  <b>X Presidents of higher courts</b></p>
Conducting disciplinary procedures	<p>- 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  <b>X a special body - Judicial Ethics and Discipline Commission</b>  <b>X a special body- The Judicial Court of Honour</b>  <b>x The Supreme Court</b></p>
Drafting and enforcing a code of ethics	<p><b>x HJC</b>  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <b>x Court Presidents</b>  <input type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <b>x Association of Judges</b>  <input type="radio"/> other, please specify  <b>X General meeting of judges</b></p>
Public relations/media coverage for the judiciary, or individual courts	<p><b>x HJC</b>  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <b>x Court Presidents</b>  <b>x bodies within individual courts</b>  <b>x Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities</b>  <input type="radio"/> Association of Judges  <input type="radio"/> other, please specify</p>
Providing input on legislative projects	<p><b>x HJC</b>  <b>x MoJ</b></p>



	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board- <b>The National Courts Administration - a special institution, independent from the executive authorities</b> <input checked="" type="radio"/> <i>Association of Judges</i> <input checked="" type="radio"/> <i>President of the Republic</i>
Training of judges	<input checked="" type="radio"/> <i>HJC</i> <input checked="" type="radio"/> <i>MoJ</i> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="radio"/> Judicial Administration Board - <b>The National Courts Administration - a special institution, independent from the executive authorities</b> <input checked="" type="radio"/> <b>Association of Judges</b> <input type="radio"/> other, please specify
IT, including digitalisation of the judiciary and online hearings	<input checked="" type="radio"/> <i>HJC</i> <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <input checked="" type="radio"/> <b>bodies within individual courts</b> <input checked="" type="radio"/> Judicial Administration Board - <b>The National Courts Administration - a special institution, independent from the executive authorities</b> <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="radio"/> <i>HJC</i> <input type="radio"/> MoJ <input checked="" type="radio"/> <b>Parliament</b> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities</b> <input type="radio"/> other, please specify <input checked="" type="radio"/> <b>The Government of Lithuania</b>
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="radio"/> <b>Parliament</b> <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 Judicial Council gives an informed advice to the President of the Republic in respect of the appointment or removal of presidents of courts to or from the office. **An advice of the Judicial Council is binding for the President.***

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

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

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

### Composition and Membership

5. The composition of the Council for the Judiciary:
- How many members are there? **There are 17 members at the Judicial Council**
  - Are there ex-officio members? **Yes, The President of the Supreme court, The President of the Supreme administrative Court and the President of the Court of Appeals are ex-officio members of the Judicial Council**
  - How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances? **All judges of the Judicial Council must be judges. A judge whose period of service in judicial office is less than three years or on whom disciplinary penalty has been imposed may not be elected a member of the Judicial Council.**

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions). **No, all judges of the Judicial Council must be judges.**
6. Please describe the procedure of appointment:
- Who nominates the members? (judges or other institutions or authorities – please specify)  
**The candidates shall be nominated and elected during the General Meeting of Judges by the representatives of the relevant courts.**
  - Please describe the appointment system  
  
**Other than ex-officio members of The Judicial Council are judges elected by the General Meeting of Judges: three from the Supreme Court, two from the Court of Appeals and one Supreme Administrative Court, three from all regional courts, one from all regional administrative courts and four from all district courts. Only judges working in different courts may be elected to the Judicial Council from the district courts and district courts.**
  - If members are elected by Parliament, are these members elected with a simple or qualified 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 Judicial Council are selected by secret ballot.**
8. How is the President and/or Vice-President of the Council selected and appointed? **The Chairman of the Judicial Council, the Deputy Chairman and secretary shall be elected by secret ballot for two years by the Judicial Council from the Judicial Council members.**
9. What is the term of office for a member of the Council? **Four years**
10. May a member be removed from office against his/her will and, if so, under what circumstances? **Yes. It's stipulated in Law on Courts that the term of office of the judge shall expire, inter alia, when 1) the decision of the Judicial Court of Honour to impose on him/her a disciplinary penalty becomes effective (except for the Chairmen of the Supreme Court, the Court of Appeals, the Supreme Administrative Court; they are ex officio members of the Judicial Council); 2) he/she is withdrawn from his post as Judicial Council member by a reasoned decision of the General Meeting of Judges that the judge fails to perform the functions of the Judicial Council member assigned to him. (except for the Chairmen of the Supreme Court, the Court of Appeals, the Supreme Administrative Court; they are ex officio members of the Judicial Council).**

## Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> other, if so specify - <b>The National Courts Administration - a special institution, independent from the executive authorities</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> 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 real conflicts, but of course, not all judges are always happy with decisions of the Judicial Council; all judges have the right to address the Judicial Council and to raise questions or problems to be solved; the Judicial Council examines the matter publicly and tries to make a decision, that is in the best interest of whole judiciary- but not the best for separate group of interests or individual judge.***

**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 Judicial Council tries to raise the issue publicly and to draw the attention of society and other branches of government.***

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

***There are no formal rules of interaction, but consultations, common working groups with competent state institutions ad hoc are available.***

***The judiciary pursues an internal corruption prevention policy.***

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

***There are no formal rules of interaction. Ad hoc consultations, common working groups are available.***

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

***There are no formal rules of interaction. Associations of judges have the right to address the Judicial Council and to raise actual issues, ad hoc consultations and common working groups are available.***

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

***Meetings of the Judicial Council are open to public; the Judicial Council communicates with media through a special website of judiciary, Facebook account; the Judicial Council makes public statements; the President and members of the Judicial Council personally communicate with the media.***

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

**NO,**

***But judges are vetted by other state institutions before the President of the Republic makes decision on appointment to the office or promotion.***

## 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.

***Insufficient funding of judiciary. Lack of objective and transparent criteria in budgetary procedure threatens the principle of separation of powers. Insufficient funding may have long-lasting adverse effects on the quality of the judiciary.***

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?

***Yes, number of members of the Judicial Council was reduced recently (in 2020) in order to make it's functioning more effective. Too early to draw conclusions about effects.***

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?

## Luxembourg

### Généralités

1. Votre système judiciaire dispose-t-il d'un Conseil de la Justice?	<input type="radio"/> oui <input checked="" type="radio"/> non
2. Quel est le titre ou la dénomination exacte de cet organe ?	
3. <i>Les acteurs judiciaires devraient répondre à cette question, que leur système prévoit ou non un Conseil de la Justice: quel ministère ou organe, par exemple le Conseil de la Justice (souvent dénommé Conseil supérieur de la magistrature (CSM)) ou le ministère de la Justice (MdJ) est-il chargé des fonctions ci-après ou en mesure de s'en acquitter ? Plusieurs institutions pourraient être associées, auquel cas plusieurs cases pourront être cochées.</i>	
Défendre et favoriser l'indépendance des juges et de la justice/l'État de droit	<input type="radio"/> CSM <input type="radio"/> MdJ <input checked="" type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input checked="" type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Défendre les juges/le pouvoir judiciaire contre les attaques publiques	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input checked="" type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Administration de la justice	<input type="radio"/> CSM <input type="radio"/> MdJ <input checked="" type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input checked="" type="radio"/> Autre, veuillez préciser (Parquet général près de la Cour supérieure de justice)
Sélection de nouveaux juges	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Organe spécial de nomination des juges <input checked="" type="radio"/> Autre, veuillez préciser ( Commission de recrutement des attachés de justice, composée uniquement de magistrats( chefs de corps))

Promotion des juges	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input checked="" type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Organe spécial de nomination des juges <input checked="" type="radio"/> Autre, veuillez préciser ( élection par les membres de la Cour supérieure de justice pour les postes plus élevés de la carrière de magistrat)
Évaluation des juges	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Évaluation de la performance des tribunaux	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Procédures disciplinaires	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input checked="" type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input type="radio"/> Autre, veuillez préciser
Élaboration et application d'un code de déontologie	<input type="radio"/> CSM <input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Association de juges <input checked="" type="radio"/> Autre, veuillez préciser ( Commission spéciale composée de magistrats)

<p>Relations publiques/couverture médiatique du système judiciaire ou des différents tribunaux</p>	<p>O CSM  O MdJ  O Parlement  XO Présidents de tribunaux  O Organes au sein de différents tribunaux  O Commission d'administration des tribunaux  O Association de juges  XO Autre, veuillez préciser ( Service de presse rattaché au Parquet général près de la Cour supérieure de justice)</p>
<p>Contribution aux projets législatifs</p>	<p>O CSM  XO MdJ  XO Présidents de tribunaux  O Organes au sein de différents tribunaux  O Commission d'administration des tribunaux  XO Association de juges ( pour des lois affectant les intérêts de la magistrature)  O Autre, veuillez préciser</p>
<p>Formation des juges</p>	<p>O CSM  O MdJ  O Présidents de tribunaux  O Organes au sein de différents tribunaux  O Commission d'administration des tribunaux  O Association de juges  XO Autre, veuillez préciser ( collaboration avec ENM française, formations organisées par le Parquet général près de la Cour supérieure de justice, chefs de corps )</p>
<p>TI, notamment numérisation du système judiciaire et audiences en ligne</p>	<p>O CSM  O MdJ  O Parlement  O Présidents de tribunaux  O Organes au sein de différents tribunaux  O Commission d'administration des tribunaux  XO Autre, veuillez préciser ( Parquet général près de la Cour supérieure de justice)</p>
<p>Allocation de ressources financières au système judiciaire, en particulier aux différents tribunaux</p>	<p>O CSM  XO MdJ  O Parlement  O Présidents de tribunaux  O Organes au sein de différents tribunaux  O Commission d'administration des tribunaux  XO Autre, veuillez préciser ( Parquet général près de la Cour supérieure de justice)</p>



Salaires des juges	<input type="radio"/> CSM <input type="radio"/> MdJ <input checked="" type="radio"/> Parlement <input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser
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- *S'il existe un Conseil de la Justice dans votre pays, a-t-il des fonctions autres que celles mentionnées ici ? Est-il en mesure de nommer ou de révoquer des présidents de tribunaux ? D'autres informations seraient-elles utiles pour comprendre le rôle du Conseil de la Justice dans votre pays ?*
- *S'il n'existe pas de Conseil de la Justice dans votre pays, d'autres institutions importantes et des règles formelles ou informelles permettent-elles de comprendre le fonctionnement du système judiciaire dans votre pays ?* système basé sur la cooptation des magistrats par leurs pairs (élection par les magistrats composant la Cour supérieure de justice pour les postes dépassant un certain niveau de la hiérarchie) et sur une discipline et une formation gérées en interne. Système satisfaisant jusque-là en pratique, mais ne répondant plus aux standards internationaux et ne fournissant pas de garanties institutionnelles.

### Base juridique

4. Veuillez préciser les sources juridiques qui réglementent les aspects ci-après du Conseil de la Justice dans votre système

Existence d'un Conseil de la Justice	<input checked="" type="radio"/> Constitution ( voir sub Loi) <input checked="" type="radio"/> Loi ( projet de loi déposé, discussions en cours en attendant une réforme de la Constitution permettant d'ancrer l'existence du Conseil de la Justice dans la Constitution) <input type="radio"/> Autre, veuillez préciser
Composition	<input type="radio"/> Constitution <input type="radio"/> Loi <input type="radio"/> Autre, veuillez préciser
Sélection des membres, notamment durée d'exercice et révocation en cours d'exercice	<input type="radio"/> Constitution <input type="radio"/> Loi <input type="radio"/> Autre, veuillez préciser
Missions	<input type="radio"/> Constitution <input type="radio"/> Loi <input type="radio"/> Autre, veuillez préciser
Ressources, financement, administration	<input type="radio"/> Constitution <input type="radio"/> Loi <input type="radio"/> Autre, veuillez préciser
Indépendance	<input type="radio"/> Constitution <input type="radio"/> Loi <input type="radio"/> Autre, veuillez préciser

- *D'autres règles formelles ou informelles permettent-elles de comprendre le rôle et le fonctionnement du Conseil de la Justice dans votre pays ?*

## Composition et organisation

5. Composition du Conseil de la Justice:
  - Combien de membres compte-t-il ?
  - Compte-t-il des membres de droit ?
  - Combien de membres doivent-ils être juges ? Des qualifications ou une expérience particulière leur sont-elles demandées ? Doivent-ils venir de systèmes ou d'instances judiciaires différents ?
  - Peut-on être membre du Conseil sans être juge et des non-juges doivent-ils en être membres ? Veuillez préciser (nombre, qualifications/fonctions particulières)
6. Veuillez décrire la procédure de nomination :
  - Qui nomme les membres ? (Des juges ou d'autres institutions ou autorités – veuillez préciser)
  - Veuillez décrire le système de nomination
  - Si les membres sont élus par le parlement, le sont-ils à la majorité simple ou qualifiée ?
7. Comment l'intégrité et l'indépendance des membres sont-elles garanties pendant la procédure de sélection et la durée pendant laquelle les membres exercent leurs fonctions ?
8. Comment le président et/ou le vice-président du Conseil sont-ils sélectionnés et nommés ?
9. Quelle est la durée des fonctions d'un membre du Conseil ?
10. Un membre peut-il être démis de ses fonctions contre sa volonté et, dans l'affirmative, dans quelles circonstances ?

## Ressources et gestion

11. Quel organe assure le financement du Conseil de la Justice?	<input type="radio"/> MdJ <input type="radio"/> Parlement <input type="radio"/> Autre, veuillez préciser
12. L'administration du Conseil de la Justice est-elle indépendante des autres pouvoirs de l'État ?	<input type="radio"/> oui <input type="radio"/> non

## Relations au sein du Conseil de la Justice et du pouvoir judiciaire

13. Y a-t-il eu des conflits internes graves au sein du Conseil de la Justice qui ont eu de profondes répercussions sur son fonctionnement ? Dans l'affirmative, quelle en était la nature et ont-ils été réglés ?
14. Des conflits ont-ils éclaté entre le Conseil de la Justice et le pouvoir judiciaire ? Les juges ont-ils eu le sentiment que le Conseil de la Justice ne représentait pas leurs intérêts ? Dans l'affirmative, pourquoi et comment le conflit a-t-il été réglé ?

## **Relations avec les autres pouvoirs de l'État, les organismes publics, la société civile et les médias**

15. Des conflits ont-ils surgi entre le Conseil de la Justice et les pouvoirs exécutif ou législatif ? Dans l'affirmative, quelle en a été la nature et comment ont-ils été résolus ?
16. Quels moyens juridiques et politiques le Conseil de la Justice peut-il employer dans votre système s'il estime qu'il a été porté atteinte à son rôle constitutionnel ?
17. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les organes de lutte contre la corruption ?
18. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les ONG ?
19. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les associations de juges ?
20. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les médias ?
21. Quel est le rôle éventuel du Conseil de la Justice dans le vetting (contrôle) des juges ?

### **Défis, évolution**

22. Le Conseil de la Justice fait-il face, dans votre système, à des défis particuliers ? Dans l'affirmative quelle en est la nature ? Ces défis pourraient-ils être dus, entre autres, à l'évolution politique et économique, aux changements sociétaux, à la corruption, à la pandémie de covid-19 ou à des enjeux technologiques comme la numérisation du système judiciaire ?
23. Le rôle du Conseil de la Justice-t-il évolué, dans votre système, ces dernières années ? Dans l'affirmative, comment ?
24. Des réformes ont-elles porté récemment sur le Conseil de la Justice? Dans l'affirmative, quels étaient les objectifs de ces réformes et ont-elles été couronnées de succès ?
25. *Au cas où il n'existerait pas de Conseil de la Justice dans votre système, est-il question d'en créer un ? Dans l'affirmative, quels sont les arguments pour et contre ? Pensez-vous qu'un Conseil de la Justice pourrait aider à résoudre des difficultés qui pourraient se poser dans votre système ? Un tel conseil a-t-il des chances d'être créé ?* Tel que mentionné ci-dessus, un projet de loi prévoit la création d'un Conseil de la Justice. Un tel organe va certainement voir le jour dans les années à venir, le projet étant actuellement retardé par la réforme de la Constitution nécessaire à son ancrage dans ce texte. Le projet est soutenu par l'ensemble des parties intéressées qui y voient le meilleur moyen de garantir l'indépendance de la justice tout en créant de la transparence au niveau de son mode de fonctionnement et de sa gestion. Des discussions subsistent au niveau de la composition, du fonctionnement et des attributions précises de ce nouvel organe, dans l'objectif de garantir une réelle indépendance de la Justice.

## Monaco

### Généralités

1. Votre système judiciaire dispose-t-il d'un Conseil de la Justice?	<input checked="" type="checkbox"/> oui <input type="checkbox"/> non
2. Quel est le titre ou la dénomination exacte de cet organe ? <b>Haut Conseil de la Magistrature (H.C.M)</b>	
3. Les acteurs judiciaires devraient répondre à cette question, que leur système prévoit ou non un Conseil de la Justice: quel ministère ou organe, par exemple le Conseil de la Justice (souvent dénommé Conseil supérieur de la magistrature (CSM)) ou le ministère de la Justice (MdJ) est-il chargé des fonctions ci-après ou en mesure de s'en acquitter ? Plusieurs institutions pourraient être associées, auquel cas plusieurs cases pourront être cochées.	
Défendre et favoriser l'indépendance des juges et de la justice/l'État de droit	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input checked="" type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Défendre les juges/le pouvoir judiciaire contre les attaques publiques	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux

	<input checked="" type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Administration de la justice	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Sélection de nouveaux juges	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input checked="" type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input checked="" type="checkbox"/> Organe spécial de nomination des juges <input type="checkbox"/> Autre, veuillez préciser
Promotion des juges	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input checked="" type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Organe spécial de nomination des juges <input type="checkbox"/> Autre, veuillez préciser
Évaluation des juges	<input type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input checked="" type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Évaluation de la performance des tribunaux	<input type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Procédures disciplinaires	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser

Elaboration et application d'un code de déontologie	<input checked="" type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Relations publiques/couverture médiatique du système judiciaire ou des différents tribunaux	<input type="checkbox"/> CSM <input type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Contribution aux projets législatifs	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
Formation des juges	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Association de juges <input type="checkbox"/> Autre, veuillez préciser
TI, notamment numérisation du système judiciaire et audiences en ligne	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Autre, veuillez préciser
Allocation de ressources financières au système judiciaire, en particulier aux différents tribunaux	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Présidents de tribunaux <input type="checkbox"/> Organes au sein de différents tribunaux <input type="checkbox"/> Commission d'administration des tribunaux <input type="checkbox"/> Autre, veuillez préciser
Salaires des juges	<input type="checkbox"/> CSM <input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement

	<input type="radio"/> Présidents de tribunaux <input type="radio"/> Organes au sein de différents tribunaux <input type="radio"/> Commission d'administration des tribunaux <input type="radio"/> Autre, veuillez préciser
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- S'il existe un Conseil de la Justice dans votre pays, a-t-il des fonctions autres que celles mentionnées ici ? Est-il en mesure de nommer ou de révoquer des présidents de tribunaux ? D'autres informations seraient-elles utiles pour comprendre le rôle du Conseil de la Justice dans votre pays ?  
Le H.C.M peut être consulté par le Prince sur toute question portant sur l'organisation ou sur le fonctionnement de la justice.
- S'il n'existe pas de Conseil de la Justice dans votre pays, d'autres institutions importantes et des règles formelles ou informelles permettent-elles de comprendre le fonctionnement du système judiciaire dans votre pays ?

#### Base juridique

4. Veuillez préciser les sources juridiques qui réglementent les aspects ci-après du Conseil de la Justice dans votre système

Existence d'un Conseil de la Justice	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Loi <input type="radio"/> Autre, veuillez préciser
Composition	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Loi <input type="radio"/> Autre, veuillez préciser
Sélection des membres, notamment durée d'exercice et révocation en cours d'exercice	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Loi <input type="radio"/> Autre, veuillez préciser
Missions	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Loi <input type="radio"/> Autre, veuillez préciser
Ressources, financement, administration	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Loi <input type="radio"/> Autre, veuillez préciser
Indépendance	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Loi <input type="radio"/> Autre, veuillez préciser

- D'autres règles formelles ou informelles permettent-elles de comprendre le rôle et le fonctionnement du Conseil de la Justice dans votre pays ?  
Le H.C.M. est informé dans un délai raisonnable des choix opérés pour le détachement ainsi que les demandes de renouvellement ou non renouvellement des magistrats détachés.

#### Composition et organisation

5. Composition du Conseil de la Justice:
- Combien de membres compte-t-il ?
  - Compte-t-il des membres de droit ?



- Combien de membres doivent-ils être juges ? Des qualifications ou une expérience particulière leur sont-elles demandées ? Doivent-ils venir de systèmes ou d'instances judiciaires différents ?
  - Peut-on être membre du Conseil sans être juge et des non-juges doivent-ils en être membres ? Veuillez préciser (nombre, qualifications/fonctions particulières)
6. Veuillez décrire la procédure de nomination :
- Qui nomme les membres ? (Des juges ou d'autres institutions ou autorités – veuillez préciser)
  - Veuillez décrire le système de nomination
  - Si les membres sont élus par le parlement, le sont-ils à la majorité simple ou qualifiée ?
7. Comment l'intégrité et l'indépendance des membres sont-elles garanties pendant la procédure de sélection et la durée pendant laquelle les membres exercent leurs fonctions ?
8. Comment le président et/ou le vice-président du Conseil sont-ils sélectionnés et nommés ?
9. Quelle est la durée des fonctions d'un membre du Conseil ?

*« Le haut conseil de la magistrature est composé comme suit :*

- *le directeur des services judiciaires, président ;*
- *le premier président de la cour de révision, vice-président ;*
- *un membre titulaire désigné, hors de son sein, par le conseil de la couronne ;*
- *un membre titulaire désigné, hors de son sein, par le conseil national ;*
- *un membre titulaire désigné, hors de son sein, par le tribunal suprême ;*
- *deux membres titulaires élus par le corps judiciaire en son sein, à l'exclusion des magistrats de la cour de révision, dans les conditions fixées par ordonnance souveraine.*

*La cour de révision, le conseil de la couronne, le conseil national et le tribunal suprême désignent également un membre suppléant ; le corps judiciaire élit aussi deux membres suppléants, hors la cour de révision. Chaque membre suppléant est chargé de remplacer le membre titulaire empêché.*

*Les membres titulaires et suppléants sont désignés ou élus pour des périodes de quatre ans, renouvelables. »*

10. Un membre peut-il être démis de ses fonctions contre sa volonté et, dans l'affirmative, dans quelles circonstances ?
- Non



## Ressources et gestion

11. Quel organe assure le financement du Conseil de la Justice?	<input checked="" type="checkbox"/> MdJ <input type="checkbox"/> Parlement <input type="checkbox"/> Autre, veuillez préciser
12. L'administration du Conseil de la Justice est-elle indépendante des autres pouvoirs de l'État ?	<input checked="" type="checkbox"/> oui <input type="checkbox"/> non

### Relations au sein du Conseil de la Justice et du pouvoir judiciaire

13. Y a-t-il eu des conflits internes graves au sein du Conseil de la Justice qui ont eu de profondes répercussions sur son fonctionnement ? Dans l'affirmative, quelle en était la nature et ont-ils été réglés ?

**Non**

14. Des conflits ont-ils éclaté entre le Conseil de la Justice et le pouvoir judiciaire ? Les juges ont-ils eu le sentiment que le Conseil de la Justice ne représentait pas leurs intérêts ? Dans l'affirmative, pourquoi et comment le conflit a-t-il été réglé ?

**Non**

### Relations avec les autres pouvoirs de l'État, les organismes publics, la société civile et les médias

15. Des conflits ont-ils surgi entre le Conseil de la Justice et les pouvoirs exécutif ou législatif ? Dans l'affirmative, quelle en a été la nature et comment ont-ils été résolus ?

**Non**

16. Quels moyens juridiques et politiques le Conseil de la Justice peut-il employer dans votre système s'il estime qu'il a été porté atteinte à son rôle constitutionnel ?

**Le Président du H.C.M adresse chaque année un rapport d'activité au Prince.**

17. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les organes de lutte contre la corruption ?

**Des membres du H.C.M ont déjà été entendus par des membres du GRECO.**

18. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les ONG ?

**Il n'existe pas de collaboration avec les O.N.G.**

19. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les associations de juges ?

**A ce jour, aucune collaboration n'a été établie entre le H.C.M et le syndicat des magistrats de la Principauté de Monaco.**

20. Comment le Conseil de la Justice collabore-t-il, dans votre système, avec les médias ?

**Les membres du H.C.M sont tenus d'une obligation de discrétion et sont soumis au secret professionnel.**

21. Quel est le rôle éventuel du Conseil de la Justice dans le vetting (contrôle) des juges ?

**Le H.C.M intervient seulement dans la nomination et l'avancement des magistrats puis dans un cadre disciplinaire.**

## Défis, évolution

22. Le Conseil de la Justice fait-il face, dans votre système, à des défis particuliers ? Dans l'affirmative quelle en est la nature ? Ces défis pourraient-ils être dus, entre autres, à l'évolution politique et économique, aux changements sociétaux, à la corruption, à la pandémie de covid-19 ou à des enjeux technologiques comme la numérisation du système judiciaire ?  
**La composition du H.C.M devrait être revue afin d'être davantage conforme aux standards européen imposant la présence au sein des Conseils de Justice de la moitié au moins des juges élus par leurs pairs.**
23. Le rôle du Conseil de la Justice-t-il évolué, dans votre système, ces dernières années ? Dans l'affirmative, comment ?  
**Le H.C.M participe au processus de sélection et de recrutement des magistrats.**
24. Des réformes ont-elles porté récemment sur le Conseil de la Justice? Dans l'affirmative, quels étaient les objectifs de ces réformes et ont-elles été couronnées de succès ?  
**La loi du 8 juillet 2020 a modifié le second alinéa de l'article 1<sup>er</sup> de la loi du 16 novembre 2009 portant statut de la magistrature qui dispose alors que le H.C.M veille avec le ministre de la Justice à l'application dudit statut et s'assurent du respect du principe de l'indépendance des juges garanti par l'article 88 de la Constitution.**
25. Au cas où il n'existerait pas de Conseil de la Justice dans votre système, est-il question d'en créer un ? Dans l'affirmative, quels sont les arguments pour et contre ? Pensez-vous qu'un Conseil de la Justice pourrait aider à résoudre des difficultés qui pourraient se poser dans votre système ? Un tel conseil a-t-il des chances d'être créé ?

## Montenegro/Monténégro

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> <b>yes</b> <input type="checkbox"/> no
2. What is the exact title/denomination of this body? <b>Judicial Council of Montenegro/Sudski savjet Crne Gore</b>	
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="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Administration of the judiciary	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> <b>MoJ</b> <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
Selection of new judges	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify

Evaluation of judges	<input checked="" type="checkbox"/> <b>HJC</b> <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
Evaluation of court performance	<input 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
Conducting disciplinary procedures	<input checked="" type="checkbox"/> <b>HJC</b> <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 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 checked="" type="checkbox"/> <b>Conference of judges</b>
Public relations/media coverage for the judiciary, or individual courts	<input 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 checked="" type="checkbox"/> <b>Supreme Court of Montenegro</b>
Providing input on legislative projects	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Training of judges	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board

	<b>x Association of Judges</b> <b>x Training Center in the Judiciary and State's prosecutor office</b>
IT, including digitalisation of the judiciary and online hearings	<b>x HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<b>x HJC</b> <input type="radio"/> MoJ <b>x Parliament</b> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <b>x Parliament- The Law on Public Sector Wages</b> <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?

**According to the Constitution , Judicial Council:**

- 1) elects and dismisses the President of the Supreme Court;**
- 2) elect and dismiss the President of the Judicial Council;**
- 3) submit to the Assembly an annual report on the work of the Judicial Council and the overall situation in the judiciary;**
- 4) elect and dismiss a judge, court president and lay judge;**
- 5) consider the report on the work of the court, petitions and complaints on the work of the court and take positions on them;**
- 6) determine the termination of the judicial function;**
- 7) determines the number of judges and lay judges;**
- 8) propose to the Government the amount of funds for the work of courts;**

**The Judicial Council decides by a majority vote of all members except in cases prescribed by the Constitution. In procedures of disciplinary responsibility of judges, the minister in charge of judicial affairs does not vote**

According to the Law on Judges and Judicial Council, Judicial Council is authorized to:

- 1) decide on the disciplinary responsibility of judges and court presidents;
  - 2) keep records of data on judges and court presidents;
  - 3) consider complaints against the work of judges and court presidents
  - 4) set out indicative benchmarks for the required number of judges and other civil servants and court employees;
  - 5) give an opinion on the incompatibility of performing certain tasks with performing the judicial function;
  - 6) form the Judges' Evaluation Commission
  - 7) selects a disciplinary prosecutor;
  - 8) adopt the rules of procedure of the Judicial Council;
  - 9) determine the methodology for the preparation of reports on the work of courts and the annual schedule of work in the court.
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

#### Legal basis

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

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

## Composition and Membership

5. **The composition of the Council for the Judiciary in Montenegro is prescribed by the Constitution.**

**The Judicial Council has a president and nine members. The members of the Judicial Council are:**

**1) the President of the Supreme Court;**

**2) four judges elected and dismissed by the Conference of Judges, taking into account the equal representation of courts and judges;**

**3) four eminent lawyers elected and dismissed by the Assembly, at the proposal of the competent working body of the Assembly upon a public invitation ( 2/3 majority)**

**4) the minister in charge of justice**

- **Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)**

6. **Please describe the procedure of appointment:**

- **Who nominates the members? (judges or other institutions or authorities – please specify) The members of the Judicial Council from the ranks of judges are: 1) three members from the ranks of judges of the Supreme Court of Montenegro, the Court of Appeals of Montenegro, the Administrative Court of Montenegro, the High Court for Misdemeanors of Montenegro, the Commercial Court of Montenegro and higher courts, who have at least ten years of work experience as a judge; 2) one member from the ranks of basic court judges.**

**The procedure of preparation of the list of candidates for election of members of the Judicial Council from among judges and the procedure of election of members of the Judicial Council from among judges at the Conference of Judges is carried out by the Election Commission, which has a president and two members. judge of all courts. Members of the Commission may not be candidates for members of the Judicial Council. The proposal of the candidate for the election of the members of the Judicial Council is determined: 1) at a special session of judges of the Supreme Court at which two candidates from that court are proposed; 2) at special sessions of judges of the Court of Appeals, the Administrative Court, the High Court for Misdemeanors, the Commercial Court and higher courts at which one candidate from each court is proposed. The list of eight candidates, in alphabetical order, is made by the Selection Committee.**

- **Please describe the appointment system As a member of the Judicial Council from among eminent lawyers may be elected a person who has at least fifteen years of work experience in legal affairs and enjoys a personal and professional reputation, that he has not been convicted of criminal offenses that make judges unfit to perform judicial office in accordance with this law. The competent working body of the Parliament of Montenegro is announcing a public call for the election of a member of the Judicial Council from the ranks of eminent lawyers in the Official Gazette of Montenegro and in at least one of the printed media. The competent working body of the Assembly publishes on the website of the Assembly the list of registered candidates which must be available to the public, at least ten days from the day of publication. The**

**proposal for the election of a member of the Judicial Council from the ranks of eminent jurists shall be submitted to the Assembly by the competent working body of the Assembly. The proposal for election contains as many candidates as there are elected members of the Judicial Council.**

- If members are elected by Parliament, are these members elected with a simple or qualified majority? **2/3 majority**
7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
  8. How is the President and/or Vice-President of the Council selected and appointed? **The President of the Judicial Council is elected by the Judicial Council from among its members, who are not holders of judicial office, by a two-thirds majority of the members of the Judicial Council.**
  9. What is the term of office for a member of the Council? **4 years**
  10. May a member be removed from office against his/her will and, if so, under what circumstances? **A term of office of a member of the Judicial Council shall end before the expiration of the term for which he was elected, if: his function on the basis of which he was elected to the Judicial Council is terminated; if she/he resigns or be sentenced to unconditional imprisonment.**

#### **Resources and management**

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Financial resources for the work of the Judicial Council are provided within the section of the budget of Montenegro for the judiciary as a special program. The Judicial Council proposes annual budget for the work of the Judicial Council to the Government of Montenegro.</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input type="radio"/> yes <input checked="" 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? **Not as known**
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? **Not conflict per se, but we had the situation that 4 members from among eminent**



lawyers were not elected in Parliament ( 2/3 votes). So, in order to overcome this situation, the Parliament passed the Amendments to the Law of judges and Judicial Council, that prescribed that The President and members of the Judicial Council from among eminent lawyers, whose term of office expires due to the expiration of the term for which they were elected, shall continue to perform their duties until the election and proclamation of new members of the Judicial Council from among eminent lawyers.

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? **Public reactions**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? **No interaction is prescribed by the law**
18. How does the Council for the Judiciary in your judicial system interact with NGOs? **Members of the NGOs can be, and they usually are present at the sessions of the Judicial Council. Some NGOs share their views and suggestions on necessary changes in the judiciary**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
20. How does the Council for the Judiciary in your judicial system interact with media? **Through its president, web site and through public statements.**
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges? **See above**

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

## Netherlands/Pays-Bas

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
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2. What is the exact title/denomination of this body?  
Raad voor de rechtspraak (Council for the Judiciary)

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	X HJC X MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board X Association of Judges X other, please specify, Nederlandse Orde van Advocaten (NOvA). Dutch Association of Lawyers.
Defending judges/the judiciary against public attacks	X HJC X MoJ X Court Presidents ( <i>In the Dutch Judiciary, the court president works closely with the two other board members. One judge and one non-judge member.</i> ) O bodies within individual courts O Judicial Administration Board X Association of Judges O other, please specify
Administration of the judiciary	X HJC O MoJ X Court Presidents O bodies within individual courts O Judicial Administration Board O Association of Judges O other, please specify
Selection of new judges	O HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board O A special Judicial Appointment Body X other, please specify The Council for the Judiciary has delegated the task of selection of judges to the <a href="#">national committee of selection of judges</a> . This committee exists of judges, public

	administrators, researchers, lawyers and public prosecutors <sup>1</sup> .
Selection of judges for promotion	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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 checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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 Supreme Court
Drafting and enforcing a code of ethics	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ

<sup>1</sup> Additional information on *appointment* of judges:

After selection, candidates start their training. Training is partly organized by the local courts and partly by the Training and study Centre for the Judiciary ([Studiecentrum Rechtspleging](#)), the joint training institute of the judicial system of the Netherlands and the Public Prosecution Service. After successfully ending training, the Council for the Judiciary recommends the candidate to be appointed as a judge. The Minister of Justice and Security checks if the applicant fulfils the legal requirements to be appointed by the King. The Minister of Justice and Security has in all cases followed the recommendation by the Council for the Judiciary. The King finally appoints the candidate by Royal Decree as arranged in [Article 117 of the Constitution](#) (*Grondwet*) and [Article 2 Law on the legal position of judges](#). The candidate becomes judge for life (more specific: till the age of 70).

	<input type="radio"/> Parliament <input checked="" 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 Communication departments of the individual courts
Providing input on legislative projects	<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 checked="" type="radio"/> other, please specify Landelijk Overleg Vakinhoud (National committee of judges) The aim of the LOV is to promote unity of law, legal certainty, expertise and improvement of work processes within the Judiciary. Each jurisdiction has its own LOV/ committee. The LOV's provide input on legislative projects via the Council for the Judiciary.
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify Training and study centre for the judiciary (SSR)
IT, including digitalisation of the judiciary and online hearings	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> other, please specify ICT Service of the Judiciary (IVO Rechtspraak)
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board

	X other, please specify The Collective Labor Agreement (in Dutch: CAO) is the responsibility of the MoJ and association of judges (NVvR).
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- 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 for the Judiciary is part of the judiciary system, but does not administer justice itself. It has taken over responsibility over a number of tasks from the Minister of Justice. These tasks are operational in nature and include the allocation of budgets, supervision of financial management, personnel policy, ICT and housing. The Council supports the courts in executing their tasks in these areas. Another central task of the Council is to promote quality within the judiciary system and to advise on new legislation which has implications for the administration of justice. The Council also acts as a spokesperson for the judiciary on both national and international levels. [See art. 91, 92, 94, 95, 97 and 100 Law on the judicial system.](#)

#### Appointment of court president<sup>2</sup>

The Council for the Judiciary recommends a candidate for appointment to MoJ. After agreement of the Minister the candidate is appointed as court president by Royal Decree. The Council for the Judiciary is obliged in the selection procedure for a court president to involve the Board of the Court and the Works Council (Ondernemingsraad). Also, the courts council (gerechtshofvergadering) has the right to be heard. [See articles 15, 22, 28 Law on the Judicial Organization.](#)

#### Remove of court president

In the event of serious suspicion of incapacity for reasons other than illness, the Council may propose to the MoJ to nominate one or more members of the board (including the court president) for suspension. [Article 38 Law on the judicial system.](#)

- 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?

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

<sup>2</sup> Please be noted that the appointment of court presidents and the other board members are at the moment under discussion. Alterations to this procedure might take place very soon. CCJE will be notified when this happens.

	O other, please specify
Tasks	O Constitution X Law O other, please specify
Resources, funding, administration	O Constitution X Law O other, please specify
Independence	O Constitution X Law O 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?

[The Council for the Judiciary | Judiciary \(rechtspraak.nl\)](http://www.rechtspraak.nl)

Mission, Vision and Agenda of the Judiciary. See attachment<sup>3</sup>.

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

Currently the Council for the Judiciary has four members. In the event of an equality of votes, the vote of the chairman is decisive. The chairman is by law a judge, as is the majority or half of the Council. According to [art. 84 Law on judicial system](#) the Council must consist of a minimum of three and a maximum of five members.

- Are there ex-officio members?

No.

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

According to [art. 84 Law on judicial system](#) if the Council consists of three or four members, or five members, as the case may be, two members or three members respectively must be judges [...]. The other members of the Council are non-judges [...].

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

Yes. See previous question.

6. Please describe the procedure of appointment:

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

When a position is vacant, the Council publishes the vacancy in national news outlets. First, candidates will have an interview with the members of the Council for the Judiciary. Thereafter, a commission existing of a court president, a representative of the Netherlands Association for the Judiciary (Nederlandse Vereniging voor de

<sup>3</sup> This document will be translated and sent to CCJE within two weeks.

Rechtspraak, [NVvR](#)), a board member of a district court (non-judge member), a member of the Board of Delegates and a representative of the Ministry of Justice and Security will recommend one or more candidates (max. 3). The commission is preceded by the president of the court. Candidate members of the Council for the Judiciary will be recommended by the commission to the Ministry of Justice and Security, and appointed by Royal Decree. [Art. 85 Law on judicial system](#).

- Please describe the appointment system

See previous question.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?  
N/a

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

By law, [art. 44 en 44a Wrra](#), these articles indicate which ancillary activities can be carried out by a member of the council and which cannot. The Council members are also bound to [Protocol Onderzoek Integriteitsschendingen.doc \(minjus.nl\)](#). This protocol states when an issue concerning integrity violation needs to be reported and what the procedure and communication plan for these issues are.

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

The President and/or Vice-President are selected and appointed the same way as the other members of the Council. See previous question.

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

According to [art. 84 Law on judicial system](#) the term of office for members of the Council is six years. They may be reappointed once for a term of three years.

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

The Minister of Justice can nominate members of the Council for suspension and dismissal due to (serious suspicion of) incapacity other than due to illness. Suspension and dismissal are effected by Royal Decree ([art. 107 Law on judicial system](#)). Appeal against such a decision can be filed at the Supreme Court ([art. 108 Law on judicial system](#)).

## Resources and management

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

Severe internal conflicts that affected the functioning of the Council have not occurred.

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?

Within the judiciary it has been discussed whether judges should have a greater influence on the selection of the management of the judiciary, court boards and Council for the Judiciary.

This issue has also been raised by members of parliament in a resolution. The Minister for Justice and Security has informed the parliament by letter that the Council for the Judiciary is in dialogue with its constituency on the selection of board members of the courts and members of the Council for the Judiciary.

As a follow up the minister asked the Council of State to advice on the matter. The Advisory Division of the Council of State (23 September 2020) has issued a guidance on the process of appointment of members of board members in the Judiciary. The Advisory Division of the Council of State concludes there is no need to alter the current legal system. The system is in accordance with the principles of the rule of law and the international standards. It was recommended, not required, by the Advisory Division of the Council of State to enlarge the role of local judges in the appointment process at their specific court and it was recommended to increase transparency of the appointment procedures for local employees.

More generally, the relationship between the Council and the courts works on the basis of checks and balances. When trying to find the right balance, some friction is both inevitable and necessary.

### **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?

In recent years, several judicial decisions led to societal and political discussion: f.e. following [the PAS ruling of the Council of State](#), or the [Urgenda ruling](#) or [the ruling on the return of IS children](#). When the Urgenda case was in proceedings before the Supreme Court, the government argued that the judge should not meddle in political decision-making and order the making of law. In view of the relations between the state powers, it is solely the task of the legislator to decide whether certain legislation is made. The State argued that the underlying question of the case should be decided by the legislator and not by the (civil law) judge. Some parliamentary politicians criticised the judges for the above mentioned rulings and stated that the judges took the place of the politicians by giving these verdicts. The criticism focused on the term “dicastocracy” i.e. ‘government by the judges’ and resulted in [a round table](#) on the subject organised by the House of Representatives of the Netherlands.

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?

Council for the Judiciary has regular meetings with the Minister of Justice. If it feels that its constitutional role has been infringed this will be discussed during these meetings. If



the Council cannot reach an agreement with the Minister, the Council can turn to the (chairman of the) House of Representatives.

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

Each court has an integrity commission and a confidential advisor. The tasks of these two is to advice on integrity issues. In addition, the HRM department of the Council also advices courts, might they have questions on integrity issues. In more severe cases such as corruption investigation will be done by the National Police Internal Investigations Department (in Dutch: Rijksrecherche). This organization is affiliated to the Public Prosecution Office (in Dutch: Openbaar Ministerie). Corruption is prosecuted by specialized prosecutors of the Public Prosecution Office. Cases of integrity or corruption that relate to judges are handled by the Supreme Court.

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

Council for the Judiciary has good relations with several NGO's such as CILC and (Center for International Legal Cooperation) and NHC (Netherlands Helsinki Commission). CILC is an independent Dutch non-profit organisation, which provides expertise to developing and transition countries engaged in legal and judicial reform. With this NGO the Council has worked on various projects concerning the judiciary. NHC promotes human rights and a strong rule of law and democracy in European countries. The emphasis with NHC is slightly more on human rights, but where the rule of law is concerned there have been a number of projects in recent years in which the Council cooperated with NHC.

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

Yes. The Council has regular consultations with Netherlands Association for the Judiciary (Nederlandse Vereniging voor de Rechtspraak, [NVvR](#)). The consultations focuses on various topics such as the procedure for selection and appointment of court presidents/ court board members and the code for integrity.

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

Transparency is an important aim for the judiciary. Therefore it is important for the Judiciary to maintain a good relationship with the press in the Netherlands. During the last 15 years press guidelines were developed, the judiciary has allowed to broadcast court cases that could be of particular interest to the public, and is explaining judicial decisions to the media. Within the Council for the Judiciary there is a Communication Department. In close cooperation with the communications advisors in the courts the department has started a number of information 'streams/ channels', each with its own goal and target audience.

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

The Council has no role in the vetting of judges.

## **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.

[The Council for Public Administration](#) (Raad voor het Openbaar Bestuur, ROB) recently stated in its advisory report on the rule of law in The Netherlands ([“Een sterke rechtsstaat, verbinden beschermen in een pluriforme samenleving”](#)) that the judiciary in the Netherlands is under pressure and over demanded. The Council for Public Administration concludes that formally the independence of the judiciary is guaranteed. However, the Council sees clear signs that the level of knowledge, attitude and conduct of parties involved on the value of an independent judiciary put the position of the judiciary under pressure. According to the advisory report, challenges for the judiciary include the increasing workload due to more complex cases and vague legislation, a strong orientation on efficiency of the judiciary and access to the judiciary.

Furthermore, the Judiciary has formulated 5 objectives for the new long term mission, vision and agenda of the Dutch Judiciary (please see attachment).<sup>4</sup>

1. Judiciary is timely and predictable.
2. Access to justice is provided digitally and in an easily accessible manner. Access to justice is facilitated for litigants who are insufficiently able to participate in digitally accessible case law.
3. The Judiciary actively cooperates in networks and is reliable in this. This collaboration is not without obligation. In this cooperation, the independent and impartial role of the judge is safeguarded.
4. The Judiciary works with a human touch. Humanity determines the way we carry out our work. We see the person behind the legal file. Our communication has a personal approach where possible
5. The Judiciary has a diverse composition and ensures inclusiveness. This means that we ensure that everyone feels at home in the organization and can be themselves. We create opportunities for learning from each other and work together. We are driven by the values formulated in the mission statement. Directors and managers encourage ownership of everyone who works for the Judiciary and give them confidence.

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?

No.

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.

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<sup>4</sup> As stated at question 4, this document will be translated and sent to CCJE within two weeks.

## North Macedonia/Macédoine du Nord

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> <b>yes</b> <input type="checkbox"/> no
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2. What is the exact title/denomination of this body? **Judicial council of the Republic of North Macedonia**

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="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Administration of the judiciary	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> <b>MoJ</b> <input checked="" type="checkbox"/> <b>Court Presidents</b> <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
Selection of new judges	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify

Evaluation of judges	<input checked="" type="checkbox"/> <b>HJC</b> <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
Evaluation of court performance	<input checked="" type="checkbox"/> <b>HJC</b> <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
Conducting disciplinary procedures	<input checked="" type="checkbox"/> <b>HJC</b> <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 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 checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> <b>HJC</b> <input checked="" type="checkbox"/> <b>MoJ</b> <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Training of judges	<input 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="radio"/> Association of Judges <input type="radio"/> other, please specify  <b>Academy for Judges and Public Prosecutors „Pavel Shatev”</b>
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="radio"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify <b>Judicial Budget Council of the Republic of North Macedonia</b>
Salaries of judges	<input checked="" type="radio"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <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?

**Yes, the Judicial system in RSM exists and it elects and dismisses the presidents of the courts.**

- 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?

**Nothing in particular.**

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

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

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? **15 members**
- Are there ex-officio members? **Yes, 2 members, the President of the Supreme Court of RSM and Minister of Justice of the RSM**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?

**Out of 15 members, 8 members must be judges and ex officio the President of the Supreme Court of RSM, one member is elected by the Supreme Court of the Republic of Northern Macedonia, 4 from appellate areas, two members are elected from among the judges members of the community which is more of 20% of the population in the Republic of Northern Macedonia by all judges registered in the Judicial Election Directory and one member is elected from among the judges belonging to the communities that are less than 20% of the population in the Republic of Northern Macedonia by all judges registered in Judicial Election Directory.**

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

**Yes, 6 members are non- judges by function, the Minister of Justice of the RSM is a ex-officio member, two members are from the MoJ as the state advisers, one member from the Appeal court Skopje as the adviser , one member from the Basis Criminal Court Skopje as the associate and one member as the Attorney General from the Attorney General office Skopje.**

6. Please describe the procedure of appointment:

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

**Every group nominates their candidates by choice**

- Please describe the appointment system

**Three members of the Council are elected by the Assembly of RSM, Two members of the Council are nominated by the President of RSM, and the election is done by the Assembly of RSM, the election of judges is done by elections held on the same day in all courts in RSM, The candidate who received the highest number of votes per constituency is nominated as an elected member.**

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

**By a majority vote of the total number of MPs, whereby there must be a majority vote of the total number of MPs belonging to the communities that are not a majority in the Republic of Northern Macedonia**

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

**They have the same immunity as the judges , they may not be held accountable for voting or opinion given their duty to the Judicial Council**

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

**The President of the Council and his Deputy are elected from among the members of the Council with the right to vote, who are elected by the Assembly of the Republic of Northern Macedonia. They are elected by at least eight votes of the eligible members. The mandate of the President of the Council and the Deputy is two years without the right to be re-elected.**

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

**The mandate of the members of the Council is six years with the right to another election. The President of the Supreme Court of the Republic of Northern Macedonia and the Minister for justice with the termination of their function and their mandate in the Council.**

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

**Yes, by initiating a procedure for disciplinary responsibility for a member of the Council by each member with the right to vote or by at least 20 judges**

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> other, if so specify <b>The budget of RSM from the part marked with Judicial power</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<b>X</b> 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 conflicts**

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 conflicts**

## **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 conflicts**

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?

**Initiatives to the Constitutional Court and a proposal to amend legal solutions**

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

**They are independent bodies with a clear division of competencies**

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

**It cooperates with the non-governmental sector**

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

**Good cooperation. Concluding a Memorandum of Cooperation. The association is always here when there is a need to defend the role and importance of the Judicial Council as a guarantor of the independence of judges.**

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

**There is cooperation. The President of the Judicial Council has good communication with the media, makes public statements, there is a public relations office, a website of the Judicial Council.**

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

**Yes, a Startup Methodology for evaluating the work of a judge based on the fulfillment of the qualitative criteria for the judicial work, that takes time to determine its success**



## 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.

**Lack of resources and strategy for online trials. lack of resources and needed staff.**

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?

**Law on Judicial Council adopted on May 16, 2019**

**The Methodology for evaluating the work of a judge based on the fulfillment of the qualitative criteria for the judicial work was adopted, as well as the form for evaluation and scoring of the fulfillment of the qualitative criteria for the work of the judge. methodology at the start, it takes time to show.**

**The Judicial Council also adopted the Methodology for Qualitative Evaluation of Court Presidents and the Form for Qualitative Evaluation of Court Presidents.**

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?

**Not applicable**

Shpend Devaja  
Judge of Supreme Court of  
Republic of North Macedonia

## Norway/Norvège

### General

1. Is there a Council for the Judiciary in your judicial system?	X yes O no
2. What is the exact title/denomination of this body? <b>Domstoladministrasjonen/ The Norwegian Courts Administration</b>	
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="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 checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input 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
Administration of the judiciary	<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 type="checkbox"/> other, please specify
Selection of new judges	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <b>Formal appointment by the King in Council (Government)</b> <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> other, please specify <b>Appointment of Chief Justice of the Supreme Court without involvement of the Judicial Appointment board.</b>
Selection of judges for promotion	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> 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 <b>Not applicable for Norway</b>
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <b>Not applicable for Norway</b>
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 checked="" type="radio"/> other, please specify <b>Parliament's Auditor General</b>
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="radio"/> other, please specify <b>Independent Disciplinary Board (The Supervisory Committee for Judges)</b>
Drafting and enforcing a code of ethics	<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 checked="" type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" 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
Providing input on legislative projects	<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

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 <b>Judges training committee appointed by the Council following consultation with the Norwegian Association of Judges.</b>
IT, including digitalisation of the judiciary and online hearings	<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"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Salaries of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> Bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> other, please specify <b>The salaries for judges and court presidents in first and second instance courts are fixed by the Government pursuant to an agreement with the state and following consultations between Government and the Council. Prior to fixing also consultations between the Council and the Norwegian Association of Judges. Salaries for the Supreme court judges are fixed by the Parliament.</b>

- 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 is also responsible for general quality work. The Council is not in a position to remove Court presidents.**
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

## Legal basis

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

Existence of a Council for the Judiciary	<input type="radio"/> Constitution <input 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? **9**
- Are there ex-officio members? **No**
- How many members must be judges? **4 judges**. Do they need specific qualifications or experiences, must they come from different court systems or instances? **1 judge shall come from Land Consolidation Courts. Except for this judge the practice has been that 1 judge from each instance is represented in the Council.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions) **Yes, 2 practicing lawyers, 1 member from other court personnel, and 2 members from the public.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify) **All members except for members from the public are appointed by the King in Council (The Government). The public members are appointed by the Parliament.**
- Please describe the appointment system **Appointment of judges following prior consultation with the Norwegian association of Judges**
- If members are elected by Parliament, are these members elected with a simple or qualified majority? **With simple majority.**

7. How is integrity and independence of members ensured in the selection process and during their time on the Council? **By law**
8. How is the President and/or Vice-President of the Council selected and appointed? **The president is appointed by the Government following consultations as described above. The vice president is elected by the council.**
9. What is the term of office for a member of the Council? **4 years with a possibility to be re-appointed for 1 more 4 year period.**
10. May a member be removed from office against his/her will and, if so, under what circumstances? **Yes, the King in Council (Government) may remove the Council in the event of lack of follow-up of their duties pursuant to the law or regulations including lack of follow-up of criticism by the Office of the Auditor General.**

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	X MoJ X Parliament O other, if so specify
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<b>X yes Pursuant to legislation the King in Council (Government) may instruct the council following prior consultation from the council. This right of instruction has never been exercised.</b>

### 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 serious conflicts. However, individual judges have from time to time argued that the Council has not represented their interests properly. There are regular consultations between the Council and the Norwegian Association of Judges.**

### 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 conflicts**
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? **Problems would be subject for discussions in regular meetings with the Minister of Justice and with the Standing Committee for the judiciary in the Parliament.**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? **The judiciary has, inter alia, been subject to a recent evaluation by Greco.**

18. How does the Council for the Judiciary in your judicial system interact with NGOs? **No particular interaction with NGOs.**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges? **There are regular consultations with the Norwegian Association of Judges.**
20. How does the Council for the Judiciary in your judicial system interact with media? **Information officers are employed by the secretariat of the Council and court president of bigger courts, and there is also a group of “media judges” appointed by the Norwegian Association of Judges and working together with the Council.**
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges? **There has never been vetting of judges in Norway.**

### **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. **No particular problems, except for those shown above.**
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? **There is an ongoing reform process in Norway now. A commission appointed by the Government has recently delivered a report proposing various amendments to the Constitution and legislation with the purpose of enhancing the independence and accountability of the judiciary. The proposed changes are many, but include securing the independence of the Council in the Constitution, appointment and composition of the Council, termination of the present right for the Government to instruct the Council and the financing of the judiciary. The report is presently under consideration by the MoJ.**
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?

## Poland/Pologne

### 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?

Krajowa Rada Sądownictwa (KRS) / National Council of the Judiciary

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 checked="" type="radio"/> Court Presidents <input checked="" 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 checked="" type="radio"/> Court Presidents <input checked="" 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 checked="" type="radio"/> Court Presidents <input checked="" 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  <p>Court directors, appointed by MoJ</p>
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 <p>Following the motion presented by the KRS, judges are appointed by the President of the Republic of Poland</p>
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 checked="" type="radio"/> other, please specify Following the motion presented by the KRS, judges are appointed (promoted) by the President of the Republic of Poland
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Evaluation of court performance	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" 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 - Disciplinary proceedings representatives. - Disciplinary courts – in the first instance courts of appeal, in the second instance – Disciplinary Chamber of the Supreme Court (in the case of Supreme Court Judges and selected categories of [grave] misconduct – two different panels of Disciplinary Chamber of SC)
Drafting and enforcing a code of ethics	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents – in terms of enforcement <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 It is the statutory competence of the KRS to "adopt a set of rules of professional ethics of judges and deputy judges and to ensure the complied thereof" as well as to interpret it, while its violation may give rise to liability before a disciplinary court. Proceedings are conducted by disciplinary representatives at the courts (or the Disciplinary

	<p>Representative for Judges of Common Courts and his Deputies), at the request of the competent authorities – e.g. HCJ (i.e. KRS), Court president (e.g. on the basis of a complaint filed containing an application for disciplinary action, if he/she considers it justified in this respect); the KRS may request the initiation of proceedings to the relevant disciplinary representative (who in the disciplinary proceedings have a function corresponding to the public prosecutor)</p>
Public relations/media coverage for the judiciary, or individual courts	<p> <input checked="" type="radio"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input type="radio"/> Court Presidents  <input checked="" type="radio"/> bodies within individual courts – courts' spokespersons (sometimes one for civil and another for criminal matters)  <input type="radio"/> Judicial Administration Board  <input type="radio"/> Association of Judges  <input type="radio"/> other, please specify </p>
Providing input on legislative projects	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input checked="" 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 checked="" type="radio"/> other, please specify  Drafts of many legislative acts are sent, via the court presidents, to all judges and they may, acting in accordance with reporting chain procedures, make their observations. </p>
Training of judges	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input checked="" 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  National School of Judiciary and Public Prosecution [main organ in this respect] </p>
IT, including digitalisation of the judiciary and online hearings	<p> <input type="radio"/> HJC  <input checked="" type="radio"/> MoJ  <input type="radio"/> Parliament  <input checked="" type="radio"/> Court Presidents  <input checked="" type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input type="radio"/> other, please specify </p>
The allocation of financial resources to the judiciary including individual courts	<p> <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 checked="" type="radio"/> other, please specify </p>

	<p>The <u>budget of the common courts</u> is determined by the budget law voted annually by parliament. The budgetary plans of the ordinary courts prepared by the directors of the appellate courts are submitted to the KRS (HCJ) and MoJ. The National Council for the Judiciary shall, within one month, submit to the MoJ a proposal to draw up a draft plan of the revenue and expenditure of the ordinary courts together with its observations and reservations. The draft revenue and expenditure plans of the common courts shall be forwarded by the MoJ to the Minister competent for public finances for inclusion in the draft budget law. The administrator of budgetary part corresponding to the common courts is the Minister of Justice. The budget plans of the <u>Supreme Court</u> are presented by the First President of the SN. The budget plans of the <u>administrative judiciary</u> (Supreme Administrative Court and provincial administrative courts) are prepared and presented by the President of the Supreme Administrative Court (NSA).</p>
Salaries of judges	<ul style="list-style-type: none"> <li><input type="radio"/> HJC</li> <li><input type="radio"/> MoJ</li> <li><input checked="" type="radio"/> Parliament</li> <li><input type="radio"/> Court Presidents</li> <li><input type="radio"/> Bodies within individual courts</li> <li><input type="radio"/> Judicial Administration Board</li> <li><input type="radio"/> other, please specify</li> </ul> <p>The judicial remuneration shall be regulated by law, ensuring that (in accordance with Article 178(2) of the Polish Constitution) <i>"Judges are provided with working conditions and remuneration corresponding to the dignity of the office and the extent of their duties."</i></p> <p>In the case of ordinary courts, Article 91(1c) binds them with the average salary in the country. The basic salary of a judge in a given year shall be based on the average salary in the second quarter of the previous year. If the average salary is lower than the average salary announced in the preceding year, the basis for determining the basic salary of the judge in the previous amount is assumed (and therefore not reduced). The judge's basic salary shall be determined at the rates whose amount shall be determined using the multipliers of the basis for determining the basic salary in the country.</p>

- 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 have the power to appoint or dismiss presidents of courts. On the other hand, it expresses its opinion on the dismissal of the President or Vice-President of the Ordinary Court and of the President or Deputy President of the Military Court.

In addition, within the framework of its competence, the Council:

- in the field of training: issues opinions on judicial application training programmes and annual timetables for training activities in the field of judges' training and professional development; indicates one member of the Programme Board of the National School of Judiciary and Public Prosecution; expresses its opinion on the appointment and dismissal of the Director of the National School of Judiciary and Public Prosecution;

- supervises the processing of personal data by the Constitutional Tribunal, Tribunal of State, Supreme Court, Supreme Administrative Court and courts of appeal, in the context of their proceedings;

examine applications for retirement;

- elects a disciplinary representative for judges and deputy judges of ordinary courts disciplinary representative of military court judges (but at the same time cannot dismiss them);

- hears the appeals of judges against the division of activities in the court;

- examines applications for retirement from active service; considers the motions of judges (in inactive service) for return to the active service at the post of judge.

- 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? 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 checked="" type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input checked="" type="radio"/> Constitution - Article 187, in general terms <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<input checked="" type="radio"/> Constitution (Article 186) In the most general terms, i.e.: - safeguards the independence of courts and judges. - may apply to the Constitutional Court for the constitutionality of normative acts in so far as they concern the independence of the courts and the independence of judges.

	<input checked="" type="radio"/> Law All other tasks are included in the acts of statutory rank, in particular in the Law on the KRS and in the Law on the Common Courts System, as well as in the laws relating to other branches of the judiciary. <input checked="" type="radio"/> other, please specify Rules of Procedure of the National Council for the Judiciary (adopted by Council's resolution)
Resources, funding, administration	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Independence	<input checked="" type="radio"/> Constitution To the extent that it ensures the tenure (the irrevocable 4-year term of office) for elected, judicial members of the Council. <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? –

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? 25
- Are there ex-officio members? Yes, there are. First President of the Supreme Court, Minister of Justice, President of the Supreme Administrative Court.
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?

Judges – in active service – are fifteen members of the Council selected from among the candidates submitted - judges of the Supreme Court, ordinary courts, administrative courts and military courts, elected for a joint 4-year term. There are no specific requirements, but when making a choice, the Sejm, if possible, takes into account the need to represent judges of different types and tiers of the courts in the Council.

The following members are also judges: 1<sup>st</sup> President of the Supreme Court and President of the Supreme Administrative Court. A person appointed by the President of the Republic may also be judge.

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

Yes, it is possible and this potentially applies to 8 people out of 25 members: 4 members of the Sejm (lower house of parliament) elected by the Sejm itself, 2 senators elected by the Senate for a 4-year term, the Minister of Justice. Nor does a person appointed by the President of the Republic have to be the judge, although most often it is a judge in active service or *judge emeritus*.

6. Please describe the procedure of appointment:

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

A group of 25 judges or 2000 citizens of the Republic of Poland.

- Please describe the appointment system - see below
- If members are elected by Parliament, are these members elected with a simple or qualified majority?

The Sejm [lower house of parliament] elects 15 judges of the Council from among the nominated candidates for a joint four-year term, by a 3/5 majority in the presence of at least half of the statutory number of Members, by voting for the list of candidates.

In the case of failure to elect the members of the Council in this way, the Sejm shall elect the members of the Council by an absolute majority in the presence of at least half of the statutory number of its Members, by voting for the list of candidates.

The term of office of a member of the Council elected in view of the need to re-fill the mandate shall expire on the date of termination of the term of office of all the remaining members of the Council elected from among the judges.

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

In the selection process: For elected judicial members of the Council, who make up the majority of its composition, fairness and independence are ensured by transparency of the procedure, prior knowledge of the candidates, the possibility of debate (in the previous selection system, candidates were disclosed at the last minute and neither the debate nor list of candidates were made public). In addition, the Polish Constitution ensures that elected Members of the Council have the irrevocability of their joint 4-year term of office, which ensures their independence. In addition, the general guarantees of a member's independence as a judge strengthen his/her independence. Similarly, the general principles of accountability and access to the profession of judge strengthen confidence in his/her integrity, including as a member of the Council.

During the term of office of the Council, the integrity and independence of the members of the Council shall be ensured by the publicity of meetings broadcast live on the Internet, by the disclosure of resolutions published on the Council's website and by the institution of excluding a member of the Council from participating in resolutions which may not be fully impartial.

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

The Council shall elect a Chairperson, two Vice-Chairpersons and three members of the Presidium of the Council, from amongst its members. The term of office of each member of the Presidium of the Council shall be four years. Members of the Presidium of the Council may not serve more than two terms.

In the event of dismissal of a member of the Presidium of the Council, the Council shall make a supplementary choice at its next meeting.

The election of the Chairperson, Vice-Chairpersons and other members of the Presidium of the Council shall be carried out separately, with an unlimited number of candidates. If, on the first ballot, no candidate receives the required majority of votes, the candidate who received the least number of votes in the previous vote shall be excluded in each subsequent vote.

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

The Sejm elects fifteen members of the Council from among the judges of the Supreme Court, ordinary courts, administrative courts and military courts **for a joint four-year term**. The joint term of office of the new members of the Council elected from among the judges shall begin on the day following that on which they were elected.

The members of the Council of the previous term of office shall act until the date of commencement of the joint term of office of the new members of the Council.

The Sejm elects four members of the Council from among its members for a period **of four years**. The Senate elects two members of the Council from among senators, for a period **of four years**. The members of the Council elected by the Sejm and the Senate shall perform their functions until new members are elected. This can happen earlier than after 4 years – if the parliamentary term has been shortened.

A person appointed by the President of the Republic of Poland shall perform his/her functions in the Council without marking the term of office and may be dismissed at any time. The term of office of the person appointed by the President shall expire at the latest three months after the end of the Term of Office of the President or the emptying of the office of President of the Republic.

The First President of the Supreme Court, the President of the Supreme Administrative Court and the Minister of Justice shall be members of the Council for the duration of these functions.

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

A member of the Council may not be removed from office against his will, except for a person appointed by the President of the Republic, whom the President may revoke at any time. *Ex officio* members lose their post as they lose their duties. Judicial members of the Council shall lose their membership when they lose their status as judges or retire from active service.

The Minister ceases to be a member of the Council upon his dismissal from the Council of Ministers.

**Resources and management**

<p>11. Which body provides funding for the Council for the Judiciary?</p>	<p><input type="radio"/> MoJ  <input checked="" type="radio"/> Parliament  <input type="radio"/> other, if so specify</p> <p>The Council's revenue and expenditure shall form a <u>separate</u> part of the State budget. The draft revenue and expenditure plan shall be adopted by the Council and forwarded by the Chairman of the Council to the minister responsible for the budget drafting, for inclusion in the draft budget law adopted by the parliament each year.</p> <p>The administrator of budgetary part of funds corresponding to the Council shall be the <b>Chairman of the Council</b>.</p>
<p>12. Is the administration of the Council for the Judiciary independent from other branches of government?</p>	<p><input checked="" type="radio"/> yes <input type="radio"/> no</p>



## **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?

Differences of opinion arising, have so far been constructively resolved in a spirit of compromise and are resolved through discussion in order to obtain the necessary absolute majority for the resolutions.

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?

During the Council's more than 30 years in office, there have sometimes been criticisms of its action. This is natural, as there are both satisfied and dissatisfied persons in every environment and different points of view about the operation of the body concerned, including the KRS, are expressed.

## **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?

Yes, in many of Council's terms of office. They were of varying nature: concerned (among others) the rules on the remuneration of judges and other staff of the courts, the appointment of alumni of the National School of Judiciary and Public Prosecution as deputy judges (i.e. judge for a trial period, in Polish "asesor"), the amount of the common courts' budget. They were resolved through talks.

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 adopt a position on this matter, forwarding it to the relevant authorities, the media and also posting it on its website.

As regards legal remedies, the National Council for the Judiciary may apply to the Constitutional Tribunal for the constitutionality of legislative acts in so far as they concern the independence of the judiciary and the independence of judges. On the other hand, the Council itself, even if it considers that there has been an infringement of its powers, is not in a power to ask the Tribunal to resolve a competence dispute involving it. The authorities empowered to do so shall be: the President of the Republic of Poland; Marshal (speaker) of the Sejm; Marshal of the Senate; Prime Minister; President of the Supreme Audit Office; First President of the Supreme Court and President of the Supreme Administrative Court.

The last two persons are members of the National Council for the Judiciary and may make such a request if they consider it appropriate.

In theory, such a solution is permissible because the Constitutional Court, in Order No 1/20, considered that it was not inconceivable that a body other than that in dispute would make the request. The adoption of a different position would mean that the possibility of resolving a competence dispute would be limited to disputes between the entities referred to in Article 192 of the Constitution. However, the disposition of Article 189 speaks of the settlement of jurisdictional disputes between the central constitutional bodies of the State, which means that proceedings may be initiated before the Constitutional Tribunal for each of those bodies in dispute. Furthermore, the legislature, which, by designating, in Article 192 of the



Constitution, the entities entitled to make a request, did not limit the legitimacy of those entities by requiring those entities to have an interest in bringing proceedings.

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

The presidents of the appellate courts and the military circuit courts [*upper tier of military courts*] make a declaration of assets to the National Council for the Judiciary, which analyses the data contained therein and, if necessary, calls for their completion. The Council shall make public the information contained in the declarations of assets of the aforementioned court presidents, in its Public Information Bulletin. One copy of the declaration of assets shall be forwarded to the tax office competent for the judge's place of residence.

Any interaction may occur if doubts are raised as to the veracity of the data or if they themselves raise doubts.

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

If a lawyer, solicitor, notary, prosecutor or bailiff takes part in the procedure for appointment as a judge, the National Council for the Judiciary shall inform the relevant professional self-government of the meeting of the Council's team hearing that candidature. A representative of that self-government may attend a meeting of the team and give his/her opinion on the candidate.

Any NGO may submit its position, comments or proposals to the KRS. They shall be heard by the Complaints and Proposals Commission and, if necessary, by other substantive committees, by the Presidium and even by the Council *in pleno*.

The KRS is also in contact with representatives of trade unions of judicial staff workers.

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

The statutes of most judicial associations provide for the possibility of cooperation with the National Council for the Judiciary in order to achieve the objectives of the association's activities.

Interactions are, in principle, informal. On the other hand, judicial associations, like any stakeholder, may submit their opinions to the Council, in the form of resolutions, on the legal acts or other matters concerning judges. Consultation meetings between representatives of associations and representatives of the Council may also take place. In the course of preparing the judicial budget for the following year, it happens that the Council's budgetary committee consults representatives of associations or trade unions, in particular those of administrative staff of the judiciary.

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

The Council interacts with the media primarily through the action of the Council's spokesperson, assisted by a deputy spokesperson as well a press team from within the office staff. The members of the Council's management also appear in the media. The Council also issues communications and information (including for the press) on its website.

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

I. The verification / vetting of judges in Poland was of a very limited nature and mainly concerned the then-judges of the Supreme Court in June 1990. It involved shortening the five-year term of office (in force at that time) of judges of the Supreme Court under the Act of December 1990. The new composition of the Supreme Court was appointed by President W. Jaruzelski at the request of the National Council of the Judiciary. At that time, 57 judges were appointed to four chambers of the Supreme Court, including 22 judges from the previous limited-tenure composition of the Court. No verification whatsoever was carried out in other segments of the judiciary. Moreover, even no shallower kind of verification was carried out, as the National Council of the Judiciary ruled in March 1990, immediately after its constitution, that "judicial independence and irremovability of a judge constitute the main constitutional rule", which led to assumption that "the concepts of carrying out vetting in the judiciary environment using administrative and disciplinary methods are unacceptable.". This attitude has sometimes been assessed critically<sup>1</sup>.

In addition, for over a dozen years now, judges applying for a judicial position or promotion, have submitted lustration declarations in which they must disclose whether they were collaborators of the secret services between 1944-1990. Submitting a false lustration declaration results in launching disciplinary proceedings, resulting in the dismissal of a judge from office. The National Council of the Judiciary does not significantly participate in this procedure, but as the body to which lustration declarations are submitted along with the candidate's other documents, it submits them immediately to the Vetting Office of the Institute of National Remembrance for examination (i.e. verification of their truthfulness).

II. With regard to the second meaning of the word "lustration" - i.e. examination of the activities of courts or individual judges - the Council may order the:

1) visit of the court or its organisational unit (covering the full administrative activity of the court or division);

2) vetting in the court (covering selected issues from the court's activity);

3) vetting the work of a judge or a deputy judge whose individual case is subject to examination by the Council.

These activities must not encroach on an area in which judges and deputy judges are independent. They can be conducted by members of the Council or by judges delegated to the Council's Office.

### **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.

1) A large number of vacancies for judges' posts and - as a consequence - an increasing number of competitions to fill them;

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<sup>1</sup> see Antoni Dudek, *Rząd Tadeusza Mazowieckiego wobec reformy wymiaru sprawiedliwości*, in: „Chrześcijaństwo, Świat, Polityka”, 2018, issue 22 (2018), p. 125

2) A large number of candidates in relation to the vacancies (e.g. 13 people were candidates for one position at the Provincial Administrative Court in Białystok).

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

Regardless of the changes introduced in recent years, the basic competences of the National Council of the Judiciary (e.g. in the field of judicial career, issuing opinions on statutes, judicial ethics) have not changed significantly.

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?

Yes, in 2018 there was a change in the election procedure for the judicial part of the Council members. The aim was to democratise the Council and increase its mandate and social trust through, inter alia, election of judges by elected representatives of the public and facilitation of membership to the district court judges, who constitute nearly 70% of judges and, so far, have been represented in the Council to a negligible extent. Like the previous election system, the current one was criticised by part of the public, the political class and some of the judges themselves. As even the first term of the Council elected in this manner has not ended yet, it is not yet possible to make an unequivocal assessment of the balance of its operations. Undoubtedly, the current composition of the Council turned out to be much more open to judges of lower tiers of courts, which, in the opinion of some critics, is its disadvantage.

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?

In Poland, the National Council of the Judiciary functions since February 1990.

## Portugal/Portugal

### General

1. Is there a Council for the Judiciary in your judicial system?	Yes
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2. What is the exact title/denomination of this body?

**Conselho Superior da Magistratura (translated: Superior Council of Magistracy)**

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="checkbox"/> <b>HJC</b> <input checked="" type="checkbox"/> <b>MoJ</b> <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Administration of the judiciary	<input checked="" type="checkbox"/> <b>HJC</b> <input checked="" type="checkbox"/> <b>MoJ</b> <input checked="" type="checkbox"/> <b>Court Presidents</b> <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
Selection of new judges	<input checked="" type="checkbox"/> <b>HJC</b> <input checked="" type="checkbox"/> <b>MoJ</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify

Evaluation of judges	<input checked="" type="checkbox"/> <b>HJC</b> <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
Evaluation of court performance	<input checked="" type="checkbox"/> <b>HJC</b> <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
Conducting disciplinary procedures	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> <b>HJC</b> <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 checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> <b>HJC</b> <input checked="" type="checkbox"/> <b>MoJ</b> <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Training of judges	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> <b>MoJ</b> <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
IT, including digitalisation of the judiciary and online hearings	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> <b>MoJ</b> <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input checked="" type="radio"/> <b>Parliament</b> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify

- 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 appointment or removal of first instance's presidents of courts is an exclusive competence of the Portuguese Council.**

**For second instance courts and supreme courts there is an election of the President by the judges constituting the respective court.**

- 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?

**Not applicable.**

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

Independence	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
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- 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?

**Besides the Constitution the relevant laws are:**

**- the Law on the Organization of Judicial System (Law 62/2013, August 26, 2013) and the Statutes of Judges (Law 21/85, July 30, 1985 with the alterations of Law 67/2019, August 27, 2019)**

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

**Seventeen members.**

**The President of the Supreme Court is the President of the Council for the Judiciary. Seven Members are elected by the Parliament. Seven members are judges elected by their peers. Two members are appointed by the President of the Republic.**

- Are there ex-officio members?

**Only the President of the Supreme Court that is also President 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?

**Eight – seven plus the Supreme Court President.**

**They come from different instances and are all elected and are candidates on a list for Council's elections. One from Supreme Court (that is the Vice-President of the Council), two from Court of Appeal (of Lisbon and Porto) and four from First Instance (one from each Judicial District).**

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

**Yes, a total of nine. There is a majority of non-judges on Portuguese Council.**

**Two appointed by the President of the Republic and seven elected by the Parliament.**

**There are no specific conditions to be appointed/elected by the President/Parliament. It happened in the past that the President of the Republic chose retired judges.**

**They are members of the Council like any other member.**

6. Please describe the procedure of appointment:

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

**The President of the Supreme Court is “ex-officio” the President of the Council for the Judiciary. Seven Members are elected by the Parliament. Seven members are judges elected by their peers. Two members are appointed by the President of the Republic.**

- Please describe the appointment system

**Read previous answer.**

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

**Qualified majority of 2/3.**

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

**The members of Judicial Council, that are not judges, are subject to the legal regime of rights, duties and guarantees, with the due adaptations, that are imposed to all judges by the Statute of Judges (“Estatuto dos Magistrados Judiciais”) (article 148º Law 21/85).**

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

**The President is appointed “ex officio” since he/she is necessarily the President of Supreme Court.**

**The Vice-President is elected by all the judges of the three instances in a list that will choose seven member judges of the Council. The list more voted is the one that have the elected Vice-President; the other members are elected proportionately according to the votes of the different lists.**

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

**Since 2019, the mandate for member judges of the Council is 4 years; the mandate cannot be renewed. For the members that are not judges, the mandate coincides with the mandate of the organ (President of the Republic or Parliament) witch appoint these members.**

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

**In general terms, it is not possible. Only in particular circumstances related to any criminal or grave disciplinary faults or personal circumstances that lead the member to renounce to the mandate (article 147º of Law 21/85)**

**Resources and management**

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

**There are always disagreements about the way the Council manages the courts. Recently there were some conflicts on the role of Presidents of First Instance Courts and the extent of their powers. However, there were no structural conflicts to report.**

#### **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?

**There are not been any relevant public conflicts between the Council and the executive or legislative. The disagreements are normally settled through institutional dialogue.**

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 Judicial Council derives from constitutional norms. Therefore, it has the means attributed to institutions, at constitutional level, that should guarantee the separation of powers and an independent and impartial judiciary. That said, there is no formal specific legal means to protect its constitutional role besides the constitutional norms applied by all courts in particular by the Constitutional Tribunal.**

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

**There is no specific anti-corruption body to investigate corruption cases outside Prosecutorial Services and the specialized branches of Police Departments. Regarding prevention of corruption, it exists, since 2008, an independent administrative board named Corruption Prevention Council attached to the Court of Auditors aiming to develop a national action strategy in the field of prevention of corruption and related offences (Article 1 of Law 54/2008). The interaction with the Council of the Judiciary with this Corruption Prevention Council is the normal one between State institutions.**

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

**The NGOs – as any other organization of civil society – can interact with the Council for the Judiciary and engage in any cooperation or partnership agreed between organizations.**

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

**In Portugal there is only one association of judges that represents the vast majority of judges. There is an informal dialogue, more or less intense depending on the protagonists, but no formal or legal mechanisms of cooperation.**

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

**The Council has a Department of Communication.**

**Despite the improvement in the Council's communication, communication difficulties remain at the level of the districts and of the courts themselves, aggravating the distance between the courts and the citizens and making it difficult for the community to understand the judicial decisions, a circumstance which is particularly visible in cases covered by the media.**

**Also, the Council communicates with the media mostly through the President and Vice President, the web site and public statements.**

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

**There is no vetting of judges only the standard legal systems of appointment, promotion and disciplinary procedures within the judicial career. Vetting of judges should not, in general terms, exist as recommended by CCJE.**

### **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 is no majority of Judges among Council's members. It is an issue of a constitutional and legal nature, because it doesn't meet the standards of independence set by the Council of Europe.**

**The control of Information Technology, totally external to the Council, which makes the judiciary dependent on the management of the IT tools by a third party, which is dependent on the Ministry of Justice. This is a sensitive matter, given that legal proceedings in Portugal are dematerialised and processed electronically.**

**A recent case of corruption of judges promptly solved by the Council at disciplinary level but still pending at a criminal level raised new concerns on how to deal with these cases in the future.**

**A structural problem is the lack of human and financial resources specially if compared with Judicial Councils of neighbourhood countries.**

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

**The scope of intervention of the Superior Council of the Magistracy is increasingly extended to more complex areas, such as the competences - derived from the Law of Organisation of the Judicial System – of monitoring and processing data related to the management and performance of the 1st and 2nd Instance courts.**

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?

**No major reforms have been occurring concerning the Council for the Judiciary although in recent years the new management of courts including “full time” Presidents of First Instance Courts, appointed by the Council, and the new**

**developments on Digital Justice implied increasing responsibilities for the Council and their members.**

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?

**Not applicable.**

## Romania/Roumanie

### 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?

#### Concil Superior of Magistracy

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 type="radio"/> Association of Judges <input type="radio"/> other, please specify
Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
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 type="radio"/> other, please specify
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 checked="" 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="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
Drafting and enforcing a code of ethics	<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
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input checked="" type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" 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
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <b>National Institute of Magistracy</b>
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify

- 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?

**Romania's Superior Council of Magistracy has the above-mentioned competences. The Division of Judges of the Superior Council of Magistracy appoints and removes the president, vice presidents and division presidents of the High Court of Cassation and Justice; appoints judges in leadership positions, under the law and regulations; issues orders to suspend judges.**

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country? \_

### Legal basis

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

Existence of a Council for the Judiciary	<input checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify

Selection of members including tenure and removal during tenure	<input checked="" 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 checked="" 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? \_

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

**Romania's Superior Council of Magistracy consists of 19 members: 9 judges and 5 prosecutors; 2 civil society representatives, who are law professionals and enjoy a high professional and moral reputation.**

- Are there ex-officio members?

**3 are ex officio members: the President of the High Court of Cassation and Justice, who represents the authority of the judges, the Minister of Justice and the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice.**

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

**The 9 judges must have a minimum of 7-year experience as judges.**

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

**As indicated above, only the two civil society representatives may be professionals other than judges.**

**Romania's Superior Council of Magistracy consists of two divisions: the Division of Judges and the Division of Prosecutors.**

**The Division of Judges of the Superior Council of Magistracy consists of 2 judges from the High Court of Cassation and Justice, 3 judges from the courts of appeal, 2 judges from tribunals and 2 judges from the district courts.**

**The Division of Prosecutors of the Superior Council of Magistracy consists of 1 prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate or the Directorate for Investigating Organised Crime and Terrorism, 1 prosecutor from the prosecutor's offices attached to the courts of appeal, 2 prosecutors from the prosecutor's offices attached to the tribunals and 1 prosecutor from the prosecutor's offices attached to the district courts.**

6. Please describe the procedure of appointment:

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

**The 9 judges and the 5 prosecutors who are members of Romania's Superior Council of Magistracy are elected in the general assemblies of judges or prosecutors, as applicable. The members of the Superior Council of Magistracy are elected from among the judges and prosecutors appointed by the President of Romania, they must have a minimum of 7-year experience as judges or qualified prosecutors and must have no disciplinary record for the past 3 years.**

**Judges and prosecutors may campaign for their candidacies as members of the Superior Council of Magistracy before the assemblies of judges and prosecutors not later than two days before the election date. The candidacies of judges and prosecutors may be supported by the assemblies of judges and prosecutors, as well as by their professional associations.**

**Candidacies shall be submitted with the Leadership Board of the High Court of Cassation and Justice or, as applicable, with the Leadership Board of the Prosecutor's Office attached to the High Court of Cassation and Justice, including for the prosecutors with the National Anticorruption Directorate and the Directorate for Investigating Organised Crime and Terrorism, as well as with the leadership boards of the courts of appeal or with the leadership boards of the prosecutor's office attached to the courts of appeal. Candidacies shall include the following attachments: curriculum vitae, a project concerning the main goals to be pursued by the candidate judge or prosecutor if elected as member of the Superior Council of Magistracy, as well as, when applicable, any documents supporting the candidacy, an affidavit indicating that the candidate was not part of, and did not collaborate with, the intelligence services before 1990 for persons who were 16 years old as at 1 January 1990, an affidavit indicating that the candidate is not and has not been an agent, including undercover agent, informer or collaborator with any of the intelligence services and an affidavit indicating that the candidate has no personal interests that influence or might influence their objectivity and impartiality in fulfilling their duties under the law.**

**The leadership boards of the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the courts of appeal and of the prosecutor's offices attached to the courts of appeal shall check whether the candidates meet the requirements within 5 days after the candidacy submission cut-off date, and the resolution of that leadership board shall be immediately published on that court's or prosecutor's office's website.**

**Candidates or, as applicable, judges or prosecutors with the courts or prosecutor's offices for which the candidacy was submitted may file appeals against the above-mentioned resolutions.**

**Appeals shall be filed with the Superior Council of Magistracy and shall be settled by resolution issued by the appropriate division of the Superior Council of Magistracy within 7 days after its registration.**

**The resolution issued by the appropriate division of the Superior Council of Magistracy may be appealed by candidates, judges or prosecutors with the courts or prosecutor's offices for which the candidacy was submitted. The appeal shall be filed before the First Civil Division of the High Court of Cassation and Justice, shall be settled within 7 days after its registration, serving notice on the parties, and the resolution shall be final.**



The judges with the High Court of Cassation and Justice elect in their general assembly, by way of secret, direct and personal ballot, 2 members of the Superior Council of Magistracy from among the judges that have submitted candidacies, and the prosecutors with the Prosecutor's Office attached to the High Court of Cassation and Justice, the prosecutors with the National Anticorruption Directorate and the prosecutors with the Directorate for Investigating Organised Crime and Terrorism elect in their general joint assembly, by way of secret, direct and personal ballot, 1 member of the Superior Council of Magistracy from among the prosecutors that have submitted candidacies. The prosecutors with the local structures of those prosecutor's offices also vote in the general assembly. If none of the candidates has the majority of votes, a second round of elections shall be held, with the judges and prosecutors ranking first and second in the first round running. The candidate who has the highest number of votes in the second round shall be elected as the member of the Superior Council of Magistracy.

The votes cast in the courts of appeal, tribunals and specialised tribunals within the jurisdiction of each court of appeal, and by the judges within the jurisdiction of each court of appeal, shall be secret, direct and personal.

All lists of judges and prosecutors are submitted to the Superior Council of Magistracy at least 20 days before the date scheduled for the general assemblies. The Superior Council of Magistracy shall send to each court and each prosecutor's office a number of stamped ballots equal to the number of judges and prosecutors in that prosecutor's office, plus 10%. The Superior Council of Magistracy shall decide the form and contents of the ballots and shall provide for the printing of the ballots.

General assemblies shall be convened in every court and every prosecutor's office, and shall be deemed to be validly convened if the majority of judges or, as applicable, prosecutors are in attendance. General assemblies shall be presided over by the magistrate with the longest seniority as a judge or prosecutor who has not submitted a candidacy to become a member of the Superior Council of Magistracy.

The judge or prosecutor who presided over the general assembly, together with the 2 judges or prosecutors designated by the general assemblies before the voting process shall count the votes, prepare the report on the election process and outcome, and submit it to the Superior Council of Magistracy, and indicate the names of the judges or prosecutors appointed as the candidate for the position as a member of the Superior Council of Magistracy, and prepare and submit to the Superior Council of Magistracy the list of the candidates in the descending order of votes received in the general assemblies.

The Superior Council of Magistracy shall aggregate the outcome of the voting process in the jurisdictions of all the courts of appeal and all prosecutor's offices attached to the courts of appeal.

The following shall be elected as members of the Superior Council of Magistracy: 3 judges from the courts of appeal who received the highest number of votes nationwide, 2 judges from tribunals and specialised tribunals who received the highest number of votes nationwide, 2 judges from district courts who received the highest number of votes nationwide, 1 prosecutor from the prosecutor's offices attached to the courts of appeal who received the highest number of votes nationwide, 2 prosecutors from the prosecutor's offices attached to tribunals and specialised tribunals who received the highest number of votes nationwide and 1 prosecutor from the prosecutor's offices attached to district courts who received the highest number of votes nationwide.

The Superior Council of Magistracy shall check the lawfulness of the appointment and election processes ex officio or upon a complaint of any judge or prosecutor. For the purpose of filing a complaint, judges and prosecutors shall be entitled to check the reports on the election process and outcome, as well as the ballots.

Any objections to the lawfulness of the appointment and election process may be filed with the appropriate division of the Superior Council of Magistracy within 15 days after the date when the voting outcome has been determined. The objections shall be settled by the Plenum of the Superior Council of Magistracy within 5 days

after the complaint date. A substantiated resolution for the objection shall be served on the persons who filed the complaint.

If breaches of the law are found in the appointment and election processes, the appropriate division of the Superior Council of Magistracy shall order the actions necessary to remove such breaches, including repeating the election process, only in the courts or prosecutor's offices where law violations resulted in the election outcome being influenced.

The Superior Council of Magistracy shall prepare the final list of elected magistrates and submit it to the Senate's Permanent Bureau.

Before submitting the list to the Senate's Permanent Bureau, The National Council for the Study of the Securitate Archives shall check and report whether the elected judges and prosecutors were part of, or collaborated with, the intelligence services before 1990, within 15 days after a request from the Superior Council of Magistracy; the Supreme Council of National Defence shall check and report to the Superior Council of Magistracy the outcome of verifications on whether the elected judges and prosecutors are undercover officers, collaborators or informers of the intelligence services within 15 days after a request from the Superior Council of Magistracy.

The Senate's Permanent Bureau shall forward the list to the Committee for legal matters, appointments, discipline, immunity and validations in order to prepare a report.

The Senate, with the attendance of the majority of its members and based on the report prepared by the Committee for legal matters, appointments, discipline, immunity and validations, shall validate the list of magistrates elected as members of the Superior Council of Magistracy.

Regarding the election of the 2 civil society representatives with the Superior Council of Magistracy, the professional organisations of legal professionals, the professional boards of the accredited schools of law and the associations and foundations the goal of which is defending human rights, may each submit a candidate with the Senate's Permanent Bureau.

Civil society representatives who meet the following requirements may be elected as members of the Superior Council of Magistracy: they are law professionals, with an experience of at least 7 years in a legal profession or in the higher law education system, enjoying a high professional and moral reputation, have not been part of the intelligence services neither before, nor after 1990, not having collaborated with the intelligence services in any way and having no personal interests that influence or might influence their objectivity and impartiality in fulfilling their duties under the law. They shall submit an authenticated affidavit that they were not operative agents and did not collaborate in any way with any of the intelligence services neither before, nor after 1990, and that they are not members of any political party and have not held any public offices in the last 5 years.

The propositions for candidacies shall be submitted with the Senate's Permanent Bureau 90 to 60 days before the term of the Superior Council of Magistracy members expires, accompanied with the court resolution or statutory act establishing the concerned legal entities, with the articles of incorporation and bylaws of the concerned legal entities, as well as with their taxation records.

The period when the candidacy propositions are submitted shall be published in the Official Journal of Romania, Part III, as well as on the webpage of the Superior Council of Magistracy.

The list of candidates and the documents shall be posted on the webpages of the Senate and the Superior Council of Magistracy within 5 days after the end of their submission period.

The Senate shall choose the 2 civil society representatives from among these candidates, according to the process stipulated in the chamber's regulations.

The Senate's resolutions validating and electing the members of the Superior Council of Magistracy shall be published in the Official Journal of Romania, Part I.

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

**Yes, the integrity and independence of the members are warranted throughout the selection process and while the members exercise their competences, as also shown by the election process, with checks being carried out regarding the indicated requirements, with judges and prosecutors having the opportunity to express their positions regarding the candidates, with general assemblies independently debating the projects concerning the main goals to be pursued by judges or prosecutors if elected with the Superior Council of Magistracy. Furthermore, as to the matter of integrity, candidates must know and comply with the Code of Conduct for Judges and Prosecutors.**

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

**Romania's Superior Council of Magistracy is headed by a president, assisted by a vice president, who are elected for a 1-year term by the Plenum, with at least 15 members of the Superior Council of Magistracy in attendance, based on the votes cast by the majority of the attending members among the judges and prosecutors representing different divisions. The president cannot run for another term.**

**One judge and one prosecutor shall be candidates for the positions as president and vice president. They shall be appointed by the Superior Council of Magistracy's Division of Judges and Division of Prosecutors, respectively, from among the members of the Superior Council of Magistracy, with at least 2/3 of the members of the divisions attending and based on the votes cast by the majority of the attending members.**

**The candidates for president and vice president shall submit their candidacies, each accompanied with a project for the pursued goals in their respective divisions.**

**The respective divisions of the Superior Council of Magistracy shall review and debate the submitted candidacies and shall appoint the candidates for president and vice president of the Superior Council of Magistracy.**

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

**The term of a Council member spans 6 years.**

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

**The current law applicable to the organisation and functioning of the Superior Council of Magistracy stipulates the cases and process for removing an elected member of the Superior Council of Magistracy.**

**An elected member of the Superior Council of Magistracy may be dismissed during their term if:**

**a) that person no longer meets the legal requirements to be an elected member of the Superior Council of Magistracy;**

**b) that person has been subject to disciplinary action as stipulated under the law for judges and prosecutors, and that action has been ruled to be final;**

**c) based on a report prepared by the Judicial Inspectorate, the appropriate division of the Superior Council of Magistracy has found that the concerned person has failed to discharge or improperly, grossly, repeatedly and unreasonably discharged their duties under the law.**

**As to the process, the appropriate division of the Superior Council of Magistracy (either the division for judges, or the division for prosecutors) shall find whether one of the assumptions under para 1(a) and 1(b) applies, upon being notified by a majority of the judges in the Division for Judges or by a majority of the prosecutors in the Division of Prosecutors, as applicable, as well as upon being notified by any general assembly.**

In the case stipulated under para 1(c), the process for removing a Council member shall be conducted as follows:

a) a removal motion may be initiated by at least 2/3 of the general assemblies of courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose removal is sought;

b) the motion shall specifically indicate the legal duty which that person has failed to discharge or has grossly, repeatedly and unreasonably discharged, as well as the reasons generating those circumstances. The motion shall be inadmissible if it concerns the way in which the elected member has exercised their voting rights, since the mandate of elected members is not imperative;

c) the removal motion shall be submitted to the proper division of the Superior Council of Magistracy, which shall order the Judicial Inspectorate to make the required investigations. Such investigations shall be carried out no later than 90 days after the Judicial Inspectorate has been notified. The Chief Inspector may issue an order to extend the investigation period, if there are well grounded reasons justifying that order, applying the requirements of Art. 46(1) accordingly;

d) the report prepared by the Judicial Inspectorate shall be submitted to the appropriate division of the Superior Council of Magistracy, which shall relay it to the concerned judge or prosecutor. The concerned judge or prosecutor may object to the report within 30 days after being served with it. The final report shall be submitted to the general assemblies of courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose removal is sought;

e) for the purpose of debating the report, the appropriate division of the Superior Council of Magistracy shall summon all the general assemblies of the courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose removal is sought, and shall schedule one single date and time for such assemblies to be held;

f) the person subject to the removal process may make their case before the judges or prosecutors in any suitable way by the date of the general assemblies;

g) if 2/3 of the votes validly cast by the judges or prosecutors convening for the general assemblies of the courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose removal is sought are for the removal motion, the appropriate division of the Superior Council of Magistracy shall acknowledge the resolutions passed by the general assemblies;

h) the general assemblies of the courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose removal is sought shall be validly convened if attended by at least 2/3 of the total number of judges or prosecutors. The resolutions of the general assemblies shall pass if voted for by at least 2/3 of the total number of judges or prosecutors.

The provisions of para (1) to (3) shall also apply accordingly to the removal of elected members of the High Court of Cassation and Justice.

Removal from the position as president or vice president for failure to discharge or improperly discharge the duties stipulated under Art. 24(3) (a) to (g) shall be subject to a motion submitted by one third of the members of the Superior Council of Magistracy and shall pass with a majority of the Council Plenum votes, with at least 2/3 of its members attending. The resolution of the Plenum shall be prepared within 20 days and shall be served immediately.

The removal resolution may be appealed against within 15 days after service before the Division for Administrative and Taxation Disputes of the High Court of Cassation and Justice within 15 days after its service. The appeal shall be judged by a panel consisting of 3 judges. The enforcement of the resolution shall be lawfully stayed upon the filing of an appeal. The resolution settling the appeal shall be final.

## Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> other, if so specify <b>Romania's Superior Council of Magistracy has its own budget</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input type="radio"/> <b>X</b> 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 Superior Council of Magistracy carries out its activities based on a cross-institutional dialogue and in accordance with the principles of fair cooperation and transparent communication with the other branches of government, i.e., the legislative and executive branches, as well as with the other state government agencies.**

**Romania's Superior Council of Magistracy prepares an annual report on the state of justice and a report on its activity. Both reports are presented before the joint Chambers of the Parliament of Romania by 15 February of the following year and published in the Official Journal of Romania, Part III, and on the webpage of the Superior Council of Magistracy.**

**When needed, a dialogue with other authorities occurs based on a mandate entrusted by the Plenum of the Superior Council of Magistracy upon the president, vice president and other members to attend formal meetings on the activity of the judicial branch, followed by press releases regarding the subject of discussions and the actions to be taken. There were no cases of infringement on the constitutional role of the Superior Council of Magistracy.**

**Legally speaking, the Plenum of the Superior Council of Magistracy may submit opinions on matters of justice to the Ombudsperson, or may make assessments on whether there is any conflict exclusively concerning the justice system between this branch and other branches of government, by submitting a complaint with the Constitutional Court.**

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

**Within the limits of its legal competences, Romania's Superior Council of Magistracy works together with the anticorruption agencies, participates in discussing the**

anticorruption strategy and the required actions, according to its competences in the justice system, as well as participating in projects contributing to the specialised training of judges and prosecutors in investigating and judging cases of corruption, through the National Institute of Magistracy and other educational partners.

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

**The Superior Council of Magistracy works with NGOs in educational projects to train magistrates or in making the role of the Superior Council of Magistracy in the general society more transparent, with an emphasis on the independence of the judicial system, in providing individuals with a transparent and efficient access to the justice system.**

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

**Romania's Superior Council of Magistracy works well with professional associations of judges, inviting their representatives to attend meetings that involve consulting with the associations of judges and prosecutors on specific matters concerning the judicial system. Their comments on matters of the judicial system's activity are reviewed, opinions are issued and actions are taken when required.**

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

**The Superior Council of Magistracy has a properly applied strategy in its relationship with the media, through its spokesperson, press releases and press statements. All media reports on matters in connection with the activity and careers of magistrates are reviewed urgently in order to properly inform the general public. Meetings with the media representatives are organised in order to improve and make the dialogue with the media more transparent. Materials were prepared and circulated on the role of media in reflecting the role of the judicial system, and a Guide to the relationship with the media has been prepared.**

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

**The Superior Council of Magistracy guarantees the independence of magistrates in Romania and oversees the strengthening of the warranties for an independent judicial system, according to the competences of both its Plenum and its separate divisions. Following complaints regarding the activity of magistrates, the Superior Council of Magistracy takes action by notifying the Judicial Inspectorate to carry out the required verifications regarding the raised concerns. Based on the actions proposed by the Judicial Inspectorate, the Superior Council of Magistracy takes action in accordance with its legal competences.**

### **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.

**Of course, Romania's Superior Council of Magistracy constantly designs its activity for the purpose of strengthening its role in guaranteeing the independence of the justice system, and undertaking a process of review and institutional resilience to the reality of the Romanian magistrates' careers, and showing openness to initiatives of digitalising the justice systems. Actions were taken to mitigate the adverse effects of**

**the pandemic, as regards the activity of both courts and prosecutor's offices, through the use of technology.**

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

**Yes, the role of Romania's Superior Council of Magistracy has seen a proactive progress in strengthening the warranties for the magistrates' independence, in initiating or participating in partnerships on various educational projects, in making justice and access to justice more transparent and efficient, in strengthening its role as a communicator to the broader society, in defending the judicial system and the magistrates against attacks from legal entities or individuals regarding the judiciary activity, in participating in the debates on the draft justice laws with the Parliament of Romania.**

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?

**The justice laws are currently under reassessment in Romania, with proposed amendments being subject to opinions and, subsequently, to debate, including amendments concerning the Superior Council of Magistracy. The proposed amendments are currently subject to consultation, and will subsequently be debated in the Parliament.**

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? \_

**Judge ph. In Law Rodica Aida Popa  
High Court of Cassation and Justice, Criminal Section**

**19 February 2021**

## Russian Federation/*Fédération de Russie*

### General

1. Is there a Council for the Judiciary in your judicial system?	<input type="radio"/> yes
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2. What is the exact title/denomination of this body?  
 All-Russia Congress of Judges [Всероссийский съезд судей];  
 Council of Judges of the Russian Federation [Совет судей Российской Федерации];  
 conferences of judges of constituent entities of the Russian Federation [конференции судей субъектов Российской Федерации];  
 councils of judges of constituent entities of the Russian Federation [советы судей субъектов Российской Федерации];  
 councils of judges of individual courts [советы судей судов];  
 general assemblies of judges of individual courts [общие собрания судей судов].
3. This question should be answered by members from both legal systems with and without a Council for the Judiciary: Which department or body - for example the Council for the Judiciary (often denominated as High Judicial Council (HJC)) or Ministry of Justice (MoJ) - is responsible for or is in position to perform the following tasks? More than one institution might be involved, so more than one box can be ticked.

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> other, please specify the All-Russia Congress of Judges, the Council of Judges of the Russian Federation, conferences and councils of judges of constituent entities of the Russian Federation, councils of judges of courts
Defending judges/the judiciary against public attacks	
Administration of the judiciary	<input type="radio"/> other, please specify All-Russia Congress of Judges, Council of Judges, conferences and councils of judges of constituent entities, councils of judges of courts
Selection of new judges	<input type="radio"/> other, please specify the High Examination Commission, the High Qualification Board of Judges of the Russian Federation
Selection of judges for promotion	<input type="radio"/> other, please specify High Qualification Board of Judges
Evaluation of judges	<input type="radio"/> other, please specify High Qualification Board of Judges
Evaluation of court performance	<input type="radio"/> other, please specify the Supreme Court of the Russian Federation
Conducting disciplinary procedures	<input type="radio"/> other, please specify the Council of Judges, the High Qualification Board of Judges



Drafting and enforcing a code of ethics	O other, please specify the All-Russia Congress of Judges, the Council of Judges, conferences and councils of judges of constituent entities, councils of judges of courts
Public relations/media coverage for the judiciary, or individual courts	O other, please specify the All-Russia Congress of Judges, the Council of Judges, conferences and councils of judges of constituent entities, councils of judges of courts, the Judicial Department at the Supreme Court of the Russian Federation
Providing input on legislative projects	O other, please specify the Supreme Court, the All-Russia Congress of Judges, the Council of Judges, conferences and councils of judges of constituent entities, councils of judges of courts, the Judicial Department at the Supreme Court
Training of judges	O other, please specify the Supreme Court, the Judicial Department at the Supreme Court, Russian State University of Justice
IT, including digitalisation of the judiciary and online hearings	O other, please specify the Judicial Department at the Supreme Court, a special commission under the Council of Judges
The allocation of financial resources to the judiciary including individual courts	O other, please specify The Ministry of Finance allocates the resources and the Judicial Department at the Supreme Court distributes them.
Salaries of judges	O other, please specify the Judicial Department at the Supreme Court

- 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 activities of the Council of Judges are based on the principles of judicial independence and prohibition to interfere in court activities, free discussion and collective consideration of issues. The main powers of the Council are established in Art. 10 of Federal Law "On Bodies of the Judiciary in the Russian Federation".

- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

## Legal basis

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

Existence of a Council for the Judiciary	<input type="radio"/> Law <input type="radio"/> other, please specify Rules of Procedure of the All-Russia Congress of Judges and of conferences of judges of constituent entities of the Russian Federation, Rules of Procedure of the Council of Judges, of councils of judges of constituent entities and of individual courts
Composition	<input type="radio"/> Law
Selection of members including tenure and removal during tenure	<input type="radio"/> Law
Tasks	<input type="radio"/> Law <input type="radio"/> other, please specify Rules of Procedure of the All-Russia Congress of Judges and of conferences of judges of constituent entities, Rules of Procedure of the Council of Judges, of councils of judges of constituent entities and of individual courts
Resources, funding, administration	<input type="radio"/> Law
Independence	<input type="radio"/> Law

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

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

147 to be elected at the upcoming 10<sup>th</sup> All-Russia Congress of Judges.

- Are there ex-officio members?

All members are elected in accordance with representation quota stipulated in the corresponding law.

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

All members of the Council of Judges of the Russian Federation must be acting judges or judges in honorary retirement; they must be elected from the courts of all types and levels.

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

They cannot. Persons not vested with judicial powers may be drawn to the activities of the Council of Judges as experts, members of workgroups, etc. They do not vote.

6. Please describe the procedure of appointment:

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

They are elected by delegates (who are judges) at congresses or conferences; in-between such events, they are elected by the corresponding councils of judges.

- Please describe the appointment system

The Council of Judges of the Russian Federation is formed by the All-Russia Congress of Judges from the ranks of judges of federal courts and judges of courts of constituent entities in accordance with representation quotas stipulated in Art. 8 of Federal Law “On Bodies of the Judiciary”.

Members of the Council of Judges of Russia, representing the judges of courts of all types and levels, are elected by secret vote of the congress delegates of the corresponding courts, from their own ranks, at separate delegate meetings. Judges who get the most votes of the congress delegates participating in the vote at a separate delegate meeting (if more than a half of the congress delegates of the corresponding courts participate in the vote) are regarded as elected to the Council.

Members of the Council of Judges of Russia, proposed by the conferences of judges, are elected by a secret vote of the congress delegates. Judges who get the most votes of congress delegates participating in the vote are regarded as elected to the Council.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

They are not elected by the Parliament.

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

The procedures of selection, proposal/entry of candidates, voting, confirmation, as well as the issues of the Council’s working procedures are regulated by Federal Law “On Bodies of the Judiciary”, by Rules of Procedure of the All-Russia Congress of Judges and of conferences of judges of constituent entities, by Rules of Procedure of the Council of Judges, of council of judges of constituent entities of the Russian Federation and of individual courts.

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

At the first plenary session, the Council members elect the President and the Vice-Presidents from their own ranks.

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

4 years. After that term expires, the powers of elected bodies of the judiciary are preserved until the next congress, conference or general assembly takes place.

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

If he/she commits a disciplinary offence, or if a decision to terminate her/his judicial powers enters into force, except when judicial powers are terminated in the course of honorary resignation or honorary removal.

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> other, if so specify The Judicial Department at the Supreme Court
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input type="radio"/> yes

### Relations within the Council for the Judiciary and within the judiciary

13. Have there been any severe internal conflicts within the Council for the Judiciary that have seriously affected its functioning? If yes, what was the character of these conflicts and have they been solved?

No conflicts have taken place so far.

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 conflicts have taken place so far.

### 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?

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?

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

A special commission has been created under the Council of Judges.

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

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

Within their competence, the Council of Judges of Russia, as well as other bodies of the judiciary, engages in direct relations with bodies of judiciary and professional unions (associations) of judges of other countries, as well as with international organisations and mass media.

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

A special commission has been created under the Council of Judges.

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

This issue is within the competence of the High Qualification Board of Judges.

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

New general jurisdiction courts of cassation and appeal, a military court of cassation and military appellate court have recently been created. Therefore, amendments were introduced into Federal Law “On Bodies of the Judiciary” pertaining to representation of their judges within the Council of Judges.

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?

## San Marino/Saint-Marin

### General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
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2. What is the exact title/denomination of this body?

**The exact denomination is CONSIGLIO GIUDIZIARIO PLENARIO. Worth mentioning is that the Republic of San Marino has recently embarked on a process of reform of its entire legislation on the judicial system. San Marino Parliament (called Great and General Council) decided on 24 June 2020 to launch the reform of the legislation on the judicial system in line with the European standards. With a subsequent Decision dated 5 October 2020, the current Government of the Republic of San Marino has consequently set up a specific Joint Working Group (composed of lawyers, judges and university professors) to draft the reform text in line with international standards. The work of this Joint Working Group is currently ongoing.**

**This reform project, which will be launched shortly, envisages significant changes to the judicial system and therefore also to the Judicial Council in plenary session, in line with the European standards and fully respecting the specificities of the Republic of San Marino.**

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="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" 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
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" 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
Administration of the judiciary	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" 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
Selection of new judges	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input 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 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 checked="" type="radio"/> other, please specify <p><b>The current legislation does not provide for a system of periodic evaluation of the judges' activity. It is envisaged exclusively in the case of disciplinary measures or in the case of career advancement, promotion or appointment.</b></p> <p><b>The draft reform not yet deposited, and currently being drafted by the Working Group, also provides for procedures for periodic evaluation of the judges' activity.</b></p>
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="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 checked="" type="radio"/> other, please specify <p><b>The Permanent Parliamentary Commission for Justice is one of the parties entitled to initiate disciplinary proceedings against judges. The decision on the admissibility and on the merits of the procedure is in any case</b></p>

	<p><b>the responsibility of the Guarantors' Panel on the Constitutionality of Rules, which is composed of three judges (and is similar to a Constitutional Court).</b></p> <p><b>The current legislation exclusively provides for removal as the only disciplinary sanction. The draft reform provides instead for several disciplinary sanctions to be applied gradually.</b></p>
Drafting and enforcing a code of ethics	<p><input type="radio"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input type="radio"/> Parliament</p> <p><input type="radio"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> Association of Judges</p> <p><input checked="" type="checkbox"/> other, please specify</p> <p><b>A code of conduct for judges, drawn up in consultation with the judges and approved by the Judicial Council in plenary session, currently exists.</b></p> <p><b>This code of conduct is intended to provide the judges with ethical guidelines to be followed, also with a view to improving control of their independence.</b></p>
Public relations/media coverage for the judiciary, or individual courts	<p><input checked="" type="checkbox"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input type="radio"/> Parliament</p> <p><input checked="" type="checkbox"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p>
Providing input on legislative projects	<p><input checked="" type="checkbox"/> HJC</p> <p><input checked="" type="checkbox"/> MoJ</p> <p><input checked="" type="checkbox"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p>
Training of judges	<p><input checked="" type="checkbox"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input checked="" type="checkbox"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p>
IT, including digitalisation of the judiciary and online hearings	<p><input checked="" type="checkbox"/> HJC</p> <p><input checked="" type="checkbox"/> MoJ</p> <p><input checked="" type="checkbox"/> Parliament</p> <p><input type="radio"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> other, please specify</p>



The allocation of financial resources to the judiciary including individual courts	<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
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?

**Besides being responsible for appointing and recruiting judges and for initiating disciplinary actions, the Judicial Council in plenary session can suspend judges upon their request, or in case of precautionary needs. The Judicial Council in plenary session is also competent to appoint the Head of the Court for a maximum term of 5 years and his/her Alternate. The legislation currently in force contains no provision giving any party the power to revoke the mandate of the Head of the Court.**
- 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?

**Nothing in particular.**

### 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

**It should be noted that the draft reform of the judicial system currently being drafted envisages, in line with the standards, that all mechanisms to monitor the independence and autonomy of the judiciary be provided for in the constitutional law.**

- 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?  
**Nothing in particular.**

## **Composition and Membership**

5. The composition of the Council for the Judiciary:

- How many members are there?  
**22. Worth mentioning is that the draft reform of the judicial system currently being drafted envisages a reduction in the number of members.**
- Are there ex-officio members?  
**Yes, the Minister of Justice. It should be noted that the draft reform currently being drafted no longer provides for the presence of the Minister of Justice.**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?  
**There are 11 judges. In order to participate, according to the law they must meet an experience requirement based on seniority and position held. San Marino legal system does not provide for differentiated courts. All instances are represented in the current Judicial Council in plenary session. Worth recalling is also that the only "full-time" judges (who therefore carry out the jurisdictional activity in San Marino as their primary activity) are first instance judges, whereas higher judges carry out their activity "part-time" (i.e. together with other primary activities). Only recently, with new internal recruitments, some "full-time" appeal judges were appointed.  
It should be noted that the reform project currently being drafted envisages an elective system for participation in the Judicial Council in plenary session.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)  
**Among the members, 11 are non-judges. These are the Minister of Justice and 10 members elected by the Parliament from among its members. The draft reform of the judicial system currently being drafted envisages an elective system also for non-judges who are members, based on specific skills and qualifications, and no longer provides for the presence of the Minister of Justice.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)  
**Members who are not judges are appointed by the Parliament from among its members by a 2/3 majority.**

- Please describe the appointment system. **Previous answers.**
  - If members are elected by Parliament, are these members elected with a simple or qualified majority? **Qualified Majority.**
7. How is integrity and independence of members ensured in the selection process and during their time on the Council?  
**The current legislation does not provide for the immunity in favour of members who are judges, whereas non-judges who are members have parliamentary immunity.  
This aspect will also be regulated in the draft reform of the judicial system currently being drafted.**
  8. How is the President and/or Vice-President of the Council selected and appointed?  
**The Judicial Council in plenary session is chaired by the two Heads of State (called Captains Regent) who serve for six months and are elected from among the members of Parliament. Their task is to chair the meetings and direct their works without any right to vote or to enter into the merits of the debate.**
  9. What is the term of office for a member of the Council?  
**The current legislation does not provide for a term of office. The draft reform of the judicial system currently being drafted provides instead for a specific term of office.**
  10. May a member be removed from office against his/her will and, if so, under what circumstances? **No.**

### 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?  
**In past years there were no conflicts but normal exchanges of views among members. On the contrary, in recent years there have been some conflicts within the Judicial Council in plenary session concerning appointment, tasks and recruitment. To date, these conflicts are being solved. Those concerned had the opportunity to lodge a formal appeal through judicial procedure against the decisions taken by the Judicial Council in plenary session.**
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?  
**Only in recent years have some judges challenged the decisions of the Judicial Council in plenary session. These conflicts concern matters related to appointment, tasks and recruitment. Also in this case, the judges concerned had the opportunity to formally appeal against the decisions taken.**

## 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?  
**In past years there were no conflicts but normal exchanges of views. In more recent years, approximately from 2017 onwards, conflicts have arisen in connection with individual tasks. In some cases, the legitimacy of the appointment procedure of some judges was also questioned. There were also tensions concerning recent legislative interventions. In particular, some judges expressed criticism with respect to Qualified Law no. 1 of 26 February 2019 adopted in the previous legislature and concerning also the composition rules of the Judicial Council in plenary session. Criticism was also expressed by other judges with respect to the subsequent Qualified Law no. 1 of 20 February 2020 adopted in this legislature in order to solve interpretative doubts that had arisen precisely with respect to the composition of the Judicial Council in plenary session. The Heads of State (Captains Regent) presiding over the Judicial Council requested a legal opinion from an authoritative Italian constitutionalist (former President of the Italian Constitutional Court) in order to correctly apply Qualified Law no. 1 of 20 February 2020 and thus solve the doubts arisen. The draft reform of the judicial system currently being drafted also provides for new rules on the composition of the Judicial Council in plenary session.**
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 current law does not provide for many remedies in case of violation of the role of the Judicial Council in plenary session. In the event that the role of the Judicial Council in plenary session is violated, the Heads of State (Captains Regent), who preside over the Judicial Council and who are the guarantors of the balance among State powers, may take protective measures, including at public and/or political level. Also the Judicial Council in plenary session may interact with the media.**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? **There are not anti-corruption bodies.**
18. How does the Council for the Judiciary in your judicial system interact with NGOs? **There are not NGOs.**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges? **There are not associations of judges.**
20. How does the Council for the Judiciary in your judicial system interact with media?  
**The meetings of the Judicial Council in plenary session are not open to the public. However, the Judicial Council in plenary session may transmit press releases to the media to provide information about the decisions taken.**
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
**Consiglio Giudiziario Plenario has not such role, and in my opinion sole idea vetting of judges is wrong.**

## 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.

**In my opinion, the most important challenge, both for the Judicial Council in plenary session and for the entire judicial system is the forthcoming reform of the judicial system, which is currently being drafted. This reform will have to lead to an evolved judicial system that complies with the highest standards and is better adapted to technological developments and the digitalisation, which has also been imposed by the recent worldwide pandemic, compatibly with the specificities of the Republic of San Marino.**

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

**Yes, I believe that the role of the Judicial Council in plenary session has changed significantly in recent years. This is particularly true for the judiciary, which has been characterised by the recruitment of young judges and by the need for reform and adjustment of the judicial system. In this regard, the recent establishment of a Joint Working Group (also composed of lawyers, judges and academic professors) by the Government for the purpose of drawing up the draft reform of the judicial system is important.**

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?

**In recent years there have been several reforms concerning the Judicial Council in plenary session. Indeed, in the previous legislature, Qualified Law no. 1 of 26 February 2019 concerning also the composition rules of the Judicial Council in plenary session was adopted. In order to solve some doubts that arose regarding the composition of the Judicial Council in plenary session, Qualified Law no. 1 of 20 February 2020 was subsequently adopted in this legislature. The Heads of State (Captains Regent) presiding over the Judicial Council requested a legal opinion from an authoritative Italian constitutionalist (former President of the Italian Constitutional Court) in order to correctly apply Qualified Law no. 1 of 20 February 2020 and thus solve the doubts arisen.**

**The draft reform of the judicial system currently being drafted also provides for new rules on the composition of the Judicial Council in plenary session, which should solve doubts on the composition and the problems emerged.**

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?

**Not applicable.**

## Slovak Republic/République slovaque

### General

1. Is there a Council for the Judiciary in your judicial system?	<b>X yes</b>
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2. What is the exact title/denomination of this body?

**Súdna rada Slovenskej republiky/The Judicial Council of the Slovak republic**

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="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> <b>bodies within individual courts</b> <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> <b>bodies within individual courts</b> <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Administration of the judiciary	<input checked="" type="checkbox"/> <b>HJC</b> <input checked="" type="checkbox"/> <b>MoJ</b> <input checked="" type="checkbox"/> <b>Court Presidents</b> <input checked="" type="checkbox"/> <b>bodies within individual courts</b> <input checked="" type="checkbox"/> <b>Judicial Administration Board</b> <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Selection of new judges	<input checked="" type="checkbox"/> <b>HJC</b> (presents to the President of the Slovak Republic proposals for candidates for appointment as judges) <input checked="" type="checkbox"/> <b>MoJ</b> (through the members of a selection board whom nominates) <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> <b>bodies within individual courts</b> (through the members of a selection board whom nominate) <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> <b>other, please specify</b> Judges are appointed by the President of the Slovak republic
Selection of judges for promotion	<input checked="" type="checkbox"/> <b>HJC</b> (decides on the transfer of judges) <input checked="" type="checkbox"/> <b>MoJ</b> (through the members of a selection board whom nominates)

	<input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> (appoint the members of the selection board) <input checked="" type="radio"/> <b>bodies within individual courts</b> (through the members of a selection board whom nominate) <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"/> <b>HJC</b> (through evaluation boards) <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts</b> (only judges of the Supreme Court): <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"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <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="radio"/> <b>HJC</b> (through disciplinary panels which creates) <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 checked="" type="radio"/> <b>other, please specify</b> as a part of the approved judicial reform, this agenda will be transferred to the Supreme Administrative Court)
Drafting and enforcing a code of ethics	<input checked="" type="radio"/> <b>HJC</b> <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="radio"/> <b>bodies within individual courts</b> <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input checked="" type="radio"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input checked="" type="radio"/> <b>Court Presidents</b> <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
Providing input on legislative projects	<input checked="" type="radio"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Training of judges	<input checked="" type="radio"/> <b>HJC</b> <input checked="" type="radio"/> <b>MoJ</b> <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"/> <b>other, please specify</b> The Judicial Academy of the Slovak republic
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input checked="" type="radio"/> <b>MoJ</b> (except for the Supreme Court which has its own budget) <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> <b>other, please specify</b> Judges' salaries are set by law

- 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?
  - **supervises whether a candidate for a judge or judge meets the requirements for his/her judge eligibility (judicial competence)**
  - **checks the status of judges' assets**
  - **presents to the President of the Slovak Republic proposals for appointment of the President and Vice-President of the Supreme Court, and proposals for their recall**
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?



## Legal basis

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

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

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

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?  
**18**
- Are there ex-officio members?  
**No**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?  
**9 members must be judges elected by judges. They don't need any specific qualifications or experiences. 1 member is elected from among the judges of the Supreme Court and 8 members are elected within 3 territorial districts.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)  
**9 members must be non-judges established by the Parliament, the President of the Slovak republic and the Government. He/she must be person who is of integrity, has university education in law and at least 15 years of professional practice**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)  
**9 members are elected by the judges from among the judges. Nomination of candidate may be submitted by the Council of Judges (of the Supreme Court, a**

**regional court or a district court), by a professional organization of judges, or by a minimum of ten judges.**

**3 non-judges members are elected by the Parliament with a simple majority. Nomination of candidate may be submitted by a member of the Parliament.**

**3 non-judges members are appointed by the President of the Slovak republic.**

**3 non-judges members are elected by the Government.**

- Please describe the appointment system  
**see above**
  - If members are elected by Parliament, are these members elected with a simple or qualified majority?  
**see above**
7. How is integrity and independence of members ensured in the selection process and during their time on the Council?  
**Non-judges members shall prove their integrity by an extract from the Criminal Register not older than three months.**
8. How is the President and/or Vice-President of the Council selected and appointed?  
**They are elected by the members of the Judicial Council from among the members of the Council**
9. What is the term of office for a member of the Council?  
**5 years**
10. May a member be removed from office against his/her will and, if so, under what circumstances?  
**Yes, at any time and without giving a reason**

### **Resources and management**

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input checked="" type="radio"/> <b>Parliament</b> <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"/> <b>yes</b> <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?
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?

**In connection with the current reform of the Slovak judiciary, some judges claim that the Judicial Council (or some of its members) does not sufficiently enforce and protect the independence of the judiciary.**

## **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?

**Especially in the question of the allocation of financial resources to the judiciary including individual courts.**

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 President of the Judicial Council may submit to the Constitutional Court a proposal for a decision on the conformity of a law concerning judiciary with the Constitution and constitutional laws**

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

**When assessing judicial competence, the Judicial Council is entitled to request information from law enforcement bodies and the secret Service.**

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

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

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

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

**See above**

## **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.

**Low public trust in judiciary, several corruption scandals involving judges as well**

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

**The Judicial Council has acquired new powers to assess the judicial competence and the status of judges' assets**

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?

**See paragraphs 22 a 23**

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?

## Slovenia/Slovénie

### General

1. Is there a Council for the Judiciary in your judicial system?	Yes
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2. What is the exact title/denomination of this body?

**Official name in Slovenian:** Sodni svet Republike Slovenije

**Official name in English:** Judicial Council of the Republic of Slovenia (hereinafter JC)

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="checkbox"/> HJC <input checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> Association of Judges
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> Association of Judges
Administration of the judiciary	<input checked="" type="checkbox"/> HJC (limited; see 3.5.) <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> Supreme Court
Selection of new judges	<input checked="" type="checkbox"/> HJC (selection and appointment) <input checked="" type="checkbox"/> Parliament (appointment)  <i>If the JC selects a candidate who has not been elected to the judicial office before it is obliged to propose such a candidate to the Parliament for the election.</i>
Selection of judges for promotion	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> Parliament (only for Supreme Court judges on the proposal of the JC)
Evaluation of judges	<input checked="" type="checkbox"/> Other  Judicial Personnel Councils established at higher courts and at the Supreme Court.  The Judicial Personnel Council of the Supreme Court is responsible for assessing performance of Supreme Court judges and judges of higher courts, the judicial personnel councils of higher courts are responsible for assessing performance of judges of local and district courts.  A judicial personnel council is composed of the president of the court ( <i>ex officio</i> ) and judge-members elected by their peers.

Evaluation of court performance	<ul style="list-style-type: none"> <li>x HJC (limited; see 3.5)</li> <li>x MoJ</li> <li>x Court Presidents</li> <li>x Supreme Court</li> </ul>
Conducting disciplinary procedures	x HJC (independent disciplinary bodies within the HJC)
Drafting and enforcing a code of ethics	<ul style="list-style-type: none"> <li>x HJC</li> <li>x Association of Judges</li> </ul>
Public relations/media coverage for the judiciary, or individual courts	<ul style="list-style-type: none"> <li>x Court Presidents</li> <li>x bodies within individual courts (optional – depends on each court)</li> <li>x Supreme Court</li> </ul>
Providing input on legislative projects	<ul style="list-style-type: none"> <li>x HJC</li> <li>x MoJ</li> <li>x Court Presidents</li> <li>x Association of Judges</li> </ul>
Training of judges	x MoJ
IT, including digitalisation of the judiciary and online hearings	<p>Other (Supreme Court)</p> <p>District and higher courts have an information technology service and the Supreme Court has an information technology centre as a special organisational unit. The information technology service of a district court also performs tasks for the needs of local courts within the territory of the district court.</p>
The allocation of financial resources to the judiciary including individual courts	<ul style="list-style-type: none"> <li>x Parliament</li> <li>x MoJ</li> <li>x Supreme Court</li> </ul> <p>The annual amount of funds for the salaries of judges and other court staff, for the operational costs of courts, for equipment costs and for the provision of spatial conditions is determined by the state budget.</p> <p>The amount of funds for the salaries of judges and court staff and for the operational costs of courts is provided by the state budget of the Republic of Slovenia for all courts on the basis of the financial plans of the individual courts at the budget user, i.e. the Supreme Court of the Republic of Slovenia.</p> <p>In order to harmonise the proposals for court financial plans and court staff plans in accordance with the Act regulating public finance and public employees, a judicial budget committee is established at the Supreme Court of the Republic of Slovenia, which is composed of representatives of the Supreme Court of the Republic of Slovenia, higher courts, district courts, JC and MoJ.</p>

	In the budget of the Republic of Slovenia, the funds for the purchase of equipment for courts and ensuring the spatial conditions for courts are determined and provided by the MoJ, while funds for the computerisation of courts are provided by the Supreme Court of the Republic of Slovenia.
Salaries of judges	x Parliament (The salaries of judges are determined by law)  x HJC (See 3.2.)

- 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 basic, constitutionally defined roles of the JC are the selection and nomination of candidates for election to the office of a judge (Article 130 of the Constitution) and the proposal of dismissal of judges (Article 132 of the Constitution).

In order to ensure the independence, effectiveness and accountability of the judiciary and to strengthen public trust in the judiciary, the JC has a number of other powers laid down in the Judicial Council Act (*Zakon o sodnem svetu*; hereinafter JCA; Article 23):

1. in respect of the selection, appointment and dismissal of judges, presidents and vice-presidents of courts:
  - to give a preliminary opinion in proceedings for the appointment of the Supreme Court president;
  - to propose to the National Assembly candidates for appointment as Supreme Court judges;
  - to appoint and dismiss presidents and vice-presidents of courts, with the exception of the Supreme Court president;
  - to select from among candidates for a vacant judicial post;
  - to propose to the National Assembly candidates to be elected to judicial office and to appoint judges following a call for vacant judicial posts;
  - to give a reasoned opinion in procedures for the dismissal of the Supreme Court president;
  - to notify the National Assembly of any final judgment of conviction against a judge;
  - to submit proposals to the National Assembly for the dismissal of a judge;
  - to issue declaratory decisions on the termination of judicial office or judicial service;
  
2. in respect of other personnel matters relating to judges:
  - to decide on the incompatibility of the judicial function;
  - to decide on the promotion to a higher judicial title;
  - to decide on faster promotion within salary grades, promotion to the title of senior judge or promotion to a higher judicial post;
  - to decide on extraordinary promotion to a higher judicial title;
  - to decide on confirmation of a negative assessment of judge's suitability for judicial service;

- to decide on the proposal for the elimination of violations of a judge who considers that their independence has been affected;
  - to decide on the complaints against decisions on transfer and/or appointment to a judicial post, a judicial title and/or a higher judicial title and against decisions on classification into salary grades;
  - to decide on the transfer of a judge;
  - to decide on the assignment of a judge to work at the Constitutional Court of the Republic of Slovenia, the Supreme Court, the Higher Court, the specialised department of a district court, the administrative and professional service of the JC or the Centre for Judicial Training, or to perform more demanding professional work at the ministry;
  - to decide on exemption from the performance of judicial service;
  - to decide on granting scholarships in the judicial area;
3. in respect of judicial ethics and integrity:
- to adopt the Code of Judicial Ethics;
  - to appoint the members of the Ethics and Integrity Commission;
  - to request consideration of ethical issues before the Ethics and Integrity Commission;
4. in respect of disciplinary responsibility of judges:
- to appoint disciplinary bodies;
  - to submit initiatives to initiate disciplinary proceedings against a judge;
  - to enforce disciplinary sanctions against a judge if, under the act governing the judicial service, a disciplinary sanction was imposed on them suspending their promotion, reducing their salary or transferring them to another court;
  - to decide on the measure of temporary suspension from the judicial service of the Supreme Court president;
  - to decide on complaints against the Supreme Court president's decision on temporary suspension of a judge from the judicial service;
5. Other tasks:
- to adopt criteria for the selection of candidates for a judicial post following a preliminary opinion of the minister and judicial work quality criteria for judges with regard to judicial service assessment;
  - to adopt instructions on the manner of election of members of personnel councils and issuance of calls for election;
  - to give consent to the policy for detecting and managing corruption risks and vulnerabilities at courts and monitoring its implementation;
  - to submit preliminary opinions on schemes of internal organisational units of courts;
  - to submit preliminary opinions in procedures for determining the number of judicial posts in a particular court;
  - to submit an opinion on the Supreme Court's annual report concerning the effectiveness and performance of the courts and on the proposed financial plan for the courts;
  - to submit opinions to the National Assembly and the ministry on laws governing the courts and the judicial service;
  - to submit requests for the initiation of proceedings for review of the constitutionality and legality of regulations in the event of their interference with the constitutional status or rights of the judiciary;
  - to submit reasoned requests for ordering a review of operations in a particular case;

- to submit opinions on orders for the detention of or the initiation of criminal proceedings against a judge and
- to perform other tasks if so stipulated

### 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	x Constitution
Composition	x Constitution
Selection of members including tenure and removal during tenure	x Constitution x Law (JCA)
Tasks	x Constitution x Law (JCA)
Resources, funding, administration	x Law (JCA)
Independence	x Constitution x Law (JCA)

- 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?

Within the framework determined by the JCA, the JC sets out its own manner of operation; it adopts, by a two-thirds majority vote of all members, its Rules of Procedure, which regulate in more detail its method of work, such as the organisation, convening and conduct of sessions, data protection method, procedures for the implementation of decisions, cooperation with other bodies, informing the public.

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? 11
- Are there ex-officio members? NO
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

The JC comprises eleven members. The National Assembly elects five members on a proposal of the President of the Republic from among university professors of law, attorneys, and other lawyers, whereas judges holding permanent judicial office elect six members from among their own ranks: one member is elected by judges of the Supreme Court, one member by judges of higher courts, one member by judges of district courts, one by judges of local courts and two members are elected by direct universal suffrage of all judges.



6. Please describe the procedure of appointment:

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

After the President of the Republic has published a call for proposals for potential candidates for JC membership, five members of the JC are elected by the National Assembly by secret ballot. On the list of candidates the number of proposed candidates must exceed the number of vacant posts but only to a maximum of twice the number of posts available.

Six judge members of the JC are elected by direct and secret ballot from among their peers. The judges who on the voting day hold judicial function and are registered in the judicial electoral register have the right to vote. Similarly, every judge has a right to stand as a candidate in the elections provided that on the voting day he or she holds a judicial function and is registered in the judicial electoral register. Candidates for JC members are nominated by their peers in writing or at the assembly of judges. A candidate is entered on the list when proposed by at least three judges.

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

The JCA provides for several provisions that protect the independence of JC members:

- It ensures the autonomy and independence in decision-making: when deciding on proposals for election to judicial office, promotion to a higher judicial post or other promotion of judges, confirmation of a negative assessment of a judge's suitability for the judicial service and the incompatibility of the judicial office, the JC independently assesses the fulfilment of conditions in accordance with the Judicial Service Act (Article 32, JCA).
- It ensures the functional immunity of members - a member of the JC participating in the JC's work can not be held accountable for any opinion expressed during decision-making (Article 11, JCA).
- It stipulates that the members of the JC may not be bound by any instructions when deciding (Article 28-3, JCA).
- It specifies the situations that can lead to the termination of office of a JC member (Article 14, JCA).

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

The president and vice-president are elected by the members from among themselves by secret ballot and by a two-thirds majority vote for a period of three years and may not be re-elected after the expiry of their term of office.

If the president is elected from among the judge members of the JC, it follows that the vice-president may be elected only from among the JC members elected by the National Assembly, and vice versa.

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

The term of office of a member of the JC is six years. Every three years, two or three members of the JC are elected by the National Assembly and three members of the JC are elected by and from among judges.

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

The circumstances that can lead to the termination of office of a JC member against his/her will are specified in the Article 14 of the JCA, as follows:

- 1. if he or she has been issued a disciplinary sanction by a competent professional organisation or if a competent professional organisation has found that a member, on the basis of his/her conduct, has violated the code of ethics, and is consequently deemed unfit to serve as a JC member;
- 2. if he or she is finally convicted of a criminal offence;
- 3.
  - a) by cessation of or dismissal from judicial office if the JC member is a judge;
  - b) in the event of permanent inability to perform his or her office or loss of the status on the basis of which a JC member who is not a judge was elected.

**Resources and management**

<p>11. Which body provides funding for the Council for the Judiciary?</p>	<p>Funds for the work of the JC are provided for in the state budget.</p> <p>As an autonomous and direct budget user, the JC adopts a budget proposal for its operation for each budgetary period by a two-thirds majority vote of its members and submits it to the Government (Article 56-1,2, JCA).</p>
<p>12. Is the administration of the Council for the Judiciary independent from other branches of government?</p>	<p>Yes</p>

**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?

First, some tensions between the JC and the courts, in particular the Supreme Court, need to be mentioned. Much to the disappointment of the Supreme Court, where judges are often seconded to perform task which, strictly speaking, do not fall within the category of adjudicating cases (e. g. modernization of court administration), the JC has tightened its approach as to the duration of (temporary) assignment of judges to higher instance courts/MoJ on the ground that a judge should, in principle, adjudicate cases, whereas the excessive length of assignments may impair his or her ability to hear cases. In the light of these tensions, the assignment of judges is likely to be subject to a more detailed regulation in the forthcoming amendment to judicial legislation.

Second, as regards the relations between individual judges and the JC, it should be noted that, over the last few years, the number of judges who have challenged the decisions of the JC pertaining to judicial career (selection, promotion etc.) before the court when they believed that they were unfairly treated in the process before the JC has increased.

### **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?

Two types of tensions between the JC and the legislative and executive branches of government may be highlighted. First, it has happened at several occasions that the National Assembly did not elect candidates proposed by the JC for election to judicial positions without stating clear reasons for doing so, which casts doubt as to whether judges are appointed on the basis of professional and personal qualities or on the basis of political preferences.

Another pressing problem are legislative processes where the JC is generally not given sufficient time to comment on the intended legislation in matters connected with the status of judges and administration of courts. The JC keeps drawing attention to this problem.

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?

As mentioned /see 3.2.), it is one of the most important tasks of the JC to decide on the proposal for the elimination of violations of a judge who considers that his or her independence has been affected. Additionally, the JCA gave the JC an important new competence to request for an assessment of the constitutionality of regulations that interfere with the constitutional position of the judiciary before the Constitutional Court.

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

There has not been much cooperation with the anti-corruption bodies lately. In the GRECO fourth evaluation round "Prevention of Corruption in respect of members of parliament, judges and prosecutors", however, the JC actively responded to the commission's questions and recommendations.

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

There has not been any cooperation with NGOs in past few years.

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

The Slovenian Association of Judges actively informs the JC about its activities and positions.

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

Publicity and transparency are ensured primarily through free access to documents under the Access to Public Information Act; public announcement of scheduled meetings and agendas, minutes of meetings and decisions taken. The JC also strives to answer journalists' questions in a timely and substantive manner. In case when an important position is adopted, the JC makes a press release and publishes it on its website and through the Slovenian Press Agency.

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

NA.

### **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.

The biggest problem of the JC is a tight budget. The JC has neither sufficient administrative, technical or professional support nor adequate informational technology for its operation. To meet the legitimate expectations of the public and the three branches of government for the efficient and quality work of the JC certain changes in the substantive and organizational area of the JC's work are also required. For instance, pursuant to Article 18-5 of the Judicial service Act, the JC has the possibility to perform psychological tests and tests of professional knowledge, personality traits, abilities and skills of candidates in selection procedures for judicial positions. Unfortunately, this has not been possible due to inadequate financial and human resources. The allocated funds also do not enable the body to actively participate in the wider international (especially European) legal arena.

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

The powers of the JC have been expanded significantly since its establishment in 1990; first with the adoption of the Courts Act in 1994, to be followed by numerous amendments to judicial legislation, in particular the Courts Act, the Judicial Service Act and the JCA. With all these changes, the role of the JC as the guardian of the autonomy and independence of the judiciary on the one hand and as the custodian of the quality of work of courts and judges and the public reputation of the judiciary on the other was strengthened and emphasized.

Since the adoption of the JCA in 2017, the status of the JC has been comprehensively regulated in a separate law. The most important achievements include financial independence of the JC; granting the JC the leading role in conducting disciplinary proceedings against judges; and granting the JC the right to submit requests for an assessment of the constitutionality of regulations that interfere with the constitutional position of the judiciary before the Constitutional Court.

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?

See the answer to the previous question.

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?

NA

## Spain/Espagne

### General

1. Is there a Council for the Judiciary in your judicial system?	✓ <b>yes</b> O no
2. What is the exact title/denomination of this body? <b>CONSEJO GENERAL DEL PODER JUDICIAL</b>	
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="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify: <b>The Public Prosecutor can promote actions in defence of judicial independency</b>
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Administration of the judiciary	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> <b>Court Presidents</b> <input checked="" type="checkbox"/> <b>bodies within individual courts</b> <input checked="" type="checkbox"/> <b>Judicial Administration Board</b> <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Selection of new judges	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify
Selection of judges for promotion	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> A special Judicial Appointment Body <input type="checkbox"/> other, please specify

Evaluation of judges	<input checked="" type="checkbox"/> <b>HJC</b> <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
Evaluation of court performance	<input checked="" type="checkbox"/> <b>HJC</b> <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
Conducting disciplinary procedures	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> <b>Judicial Administration Board</b> <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Drafting and enforcing a code of ethics	<input checked="" type="checkbox"/> <b>HJC</b> <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"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" type="checkbox"/> <b>Court Presidents</b> <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
Training of judges	<input checked="" type="checkbox"/> <b>HJC</b> <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board

	<input checked="" type="checkbox"/> <b>Association of Judges</b> <input type="checkbox"/> other, please specify
IT, including digitalisation of the judiciary and online hearings	<input checked="" type="checkbox"/> <b>HJC (instructions and recommendations)</b> <input checked="" type="checkbox"/> <b>MoJ (material means)</b> <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"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> <b>MoJ</b> <input checked="" type="checkbox"/> <b>Parliament</b> <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Salaries of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> <b>Parliament</b> <input type="checkbox"/> Court Presidents <input type="checkbox"/> Bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> 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 competence to appoint or remove presidents of courts is only assigned to the “Consejo General del Poder Judicial (HJC)”. The President of the Supreme Court is appointed by the HJC. It`s only possible to remove presidents because of disciplinary reasons.**
- If there is no Council for the Judiciary in your country, are there other important institutions, and formal or informal rules which are necessary to understand how the judiciary functions in your country?

### Legal basis

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

Existence of a Council for the Judiciary	<input checked="" type="checkbox"/> <b>Constitution</b> <input checked="" type="checkbox"/> <b>Law</b> <input type="checkbox"/> other, please specify
Composition	<input checked="" type="checkbox"/> <b>Constitution</b> <input checked="" type="checkbox"/> <b>Law</b> <input type="checkbox"/> other, please specify
Selection of members including tenure and removal during tenure	<input checked="" type="checkbox"/> <b>Constitution</b> <input checked="" type="checkbox"/> <b>Law</b> <input type="checkbox"/> other, please specify
Tasks	<input checked="" type="checkbox"/> <b>Constitution</b> <input checked="" type="checkbox"/> <b>Law</b> <input type="checkbox"/> other, please specify



Resources, funding, administration	<input type="radio"/> Constitution <input checked="" type="radio"/> <b>Law</b> <input type="radio"/> other, please specify
Independence	<input checked="" type="radio"/> <b>Constitution</b> <input checked="" type="radio"/> <b>Law</b> <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? **The “Consejo General del Poder Judicial” makes rules and instructions about various matters in order to develop the law.**

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? **Twenty members plus the President of the Supreme Court.**
- Are there ex-officio members? **No**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances? **Twelve members must be judges in active service in the judicial career (three of them are judges of the Supreme Court, three of them are judges with more than twenty-five years in the judicial career, and the remaining six are judges not subject to any antiquity).**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions) **Non-judges can be members of the Council. Eight members can be non-judges, but other jurists (lawyers, professors...) of recognized prestige. These members have the same competencies than Judicial members.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify) **Members must be appointed by Parliament. The President of the Supreme Court and the HJC are appointed by members of the HJC.**
- Please describe the appointment system

**Judges are appointed by Parliament: First of all, there is a kind of an electoral process among the judges. Later, the Parliament proceeds to the appointment between the elected judges. Six members by Congress and six members by Senate.**

**Jurists of recognized prestige are also appointed by Parliament: four members by Congress and four members by Senate.**

- If members are elected by Parliament, are these members elected with a simple or qualified majority? **A qualified majority of 3/5 of each chamber is required.**
7. How is integrity and independence of members ensured in the selection process and during their time on the Council? **They have a statute that guarantees their immunity.**

**The civil and criminal liability of the members of the HCJ is the same as the Judges of the Supreme Court's.**

8. How is the President and/or Vice-President of the Council selected and appointed?  
**The President of the HCJ and of the Supreme Court (it must be the same person) is appointed by the members of HJC (majority of 3/5). The president may be a judge of the supreme Court or also can be a jurist of recognized prestige.**

**The vice-president is elected by the HJC, on the proposal of the President of the CGPJ by simple majority. The vice-president must be a judge of the Supreme Court.**

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

**They are members until their renewal, every five years.**

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

**They can be removed for serious breach of their duties or disability appreciated by the HJC, being required majority of 3/5. The decision may be appealed to the Supreme Court.**

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input checked="" type="radio"/> <b>Parliament</b> <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"/> <b>yes</b> <input type="radio"/> no

### **Relations within the Council for the Judiciary and within the judiciary**

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, only normal exchanges of different opinions along the HJC sessions.**

13. 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?

**There haven't been serious conflicts between the judges and the HJC. In Spain, the most controversial issue is the appointment of HJC judicial members. Most judicial associations and some judges believe that HJC judicial members should be directly elected by judges, not by parliament.**

**Some part of the judicial career shows its concern because the appointment of council members by parliament can make that the subsequent appointments for relevant judicial staff can respond to more political than professional reasons.**

14. 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?

**Conflicts between the HJC and the government or parliament are usually resolved through dialogue. However, at the moment, there is a conflict between the HJC and the parliament, considering that a pending law may affect the independence of the Council.**

15. 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? **Usually, institutional**

**declarations are made, but The HJC can submit a conflict of powers at the Constitutional Court.**

16. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies? **There is not an official or factual interaction. They are independent bodies with clear division of their competences. Members of HJC must make a declaration of their previous assets.**

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

**There is not relevant interaction.**

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

**There is an important interaction with associations of judges. In fact, these associations can promote the election of HJC judicial members at the first phase.**

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

**There is a communication office with media in HCJ and a public access website.**

20. What, if any, is the role of the Council for the Judiciary in the vetting of judges? **The HJC must respect and promote judicial independence. However, the HJC has competencies for the promotion of Supreme Court Members and Court Presidents; inspecting functions and sanctioning disfunctions. For that reason, it is important to ensure the independence of its members. The HJC decisions may be appealed to the Supreme Court.**

### **Challenges, developments**

21. 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. **HJC has the commitment of developing permanent training and IT adaptation. However, the lack of material resources is an important problem.**

22. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how? **The role HJC is, from its origins, the defense of the judicial independence.**

23. 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? **At this moment, there is a law in project at the parliament, in order to introduce some changes in the current system. It affects, basically, two points:**

**a.- The majority to appoint the HJC's judicial members will be 3/5, the same at the moment. But the controverted change is that, if the 3/5 majority can't be achieved, then, an absolute majority (50%+1) will be enough in a second vote.**

**b.- At the end of the five-year term, with no renewal agreement, the HJC will not be able to make any appointment for the High Courts. Neither will not be able to submit a conflict of powers at the Constitutional Court.**

24. 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?

## Sweden/Suède

### General

1. Is there a Council for the Judiciary in your judicial system?	No
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2. What is the exact title/denomination of this body?

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="checkbox"/> Association of Judges
Defending judges/the judiciary against public attacks	<input type="checkbox"/> Association of Judges
Administration of the judiciary	<input type="checkbox"/> Court Presidents <input type="checkbox"/> Judicial Administration Board = The Swedish National Courts Administration, which is an authority on central level
Selection of new judges	<input type="checkbox"/> A special Judicial Appointment Body : The Judges Proposals Board is a state authority composed of members from the judiciary, the attorney general's office, the bar association and parliament. The board administers the applications and recruitment process of all ordinary judges at all levels and proposes qualified candidates - in order of qualification - to the government (cabinet of ministers), which decide the appointments.
Selection of judges for promotion	Same as appointments. Judges cannot be promoted to higher judicial positions without applying for a new position.
Evaluation of judges	No formal evaluation of judges takes places other than by court presidents in setting salaries. Sweden has a system of individual salaries for judges and tariffs are not used other than, in practice, for the justices of the two supreme jurisdictions
Evaluation of court performance	See previous answer.
Conducting disciplinary procedures	Disciplinary procedures may be instituted against judges either by the Parliamentary Ombudsman or the Chancellor of Justice (a government authority) before The Government Disciplinary Board for Higher Officials, which may issue sanctions in form of warning or salary reduction. If it's a

	question of a crime in the form of breach of duty or misuse of office, the Ombudsman or Chancellor may prosecute. If a crime has been committed outside office a general prosecutor will deal with the case. In order to dismiss a judge from office it is as a minimum necessary that the criminal sanction is graver than a fine.
Drafting and enforcing a code of ethics	The Association of Judges are engaged in the elaboration of ethics standards but there is no enforcement mechanism. In order to take up service every judge has to swear a comparably lengthy oath containing in part ethical standards and which has been part of the procedural rules since 1734.
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges
Providing input on legislative projects	<input type="radio"/> Court Presidents <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify: Any citizen, body or organisation is free to submit opinions on the legislative projects administered by the government before the government presents their bill to parliament. The consultation usually takes form in the government addressing specific bodies who have an interest in the matter and by giving the general public the chance to react to the initial proposals made in a report that is published. The courts are among those most often addressed.
Training of judges	Individual courts and, centrally, the National Courts Judicial Administration
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board
The allocation of financial resources to the judiciary including individual courts	Government and <input type="radio"/> Judicial Administration Board
Salaries of judges	<input type="radio"/> Court Presidents

- 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?

- 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?

- No.

### Legal basis

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

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

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

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?
- Are there ex-officio members?
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

6. Please describe the procedure of appointment:

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

7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
8. How is the President and/or Vice-President of the Council selected and appointed?
9. What is the term of office for a member of the Council?
10. May a member be removed from office against his/her will and, if so, under what circumstances?

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input 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 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?
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?

### 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?
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?
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
20. How does the Council for the Judiciary in your judicial system interact with media?
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?

### 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.

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

Yes. A government committee, chaired by the president of the Supreme Court, is currently investigating issues related to the independence of the judiciary. The committee shall consider if the role of the National Courts Administration should be modified, against i.a. the background of a debate about the functioning of Councils for the Judiciary in other countries.

# Switzerland/Suisse

## General

1. Is there a Council for the Judiciary in your judicial system?	O yes <b>X</b> no  The organization of the Judiciary in Switzerland is a matter of the cantons (i.e., <i>counties, départements, Bundesländer</i> ) for the tribunals in first and second instance (District Courts and Courts of Appeal). Federal legislation applies only for the three Federal Courts of first instance (Federal Criminal Court, Federal Administrative Court and Federal Patent Court) as well as for the Federal Supreme Court. The idea of a Council for the Judiciary at the federal level was rejected in 2002, whereas it has found its way into the legislation of some cantons: 5 cantons (out of 26) have introduced a Council for the Judiciary with varying competences; in some cantons the question is being debated at the political level. The other cantons have delegated the duties usually performed by the Council of the Judiciary (preparation of the selection of new judges, the appointment of new judges, the evaluation of judges, disciplinary procedures a.s.o./etc; for some details see
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	below, with reference to the single aspects) to different bodies. Attached to this Questionnaire are (as PDF) the Report concerning the optimization of the organization of the upper cantonal courts of the canton of the Grisons (quoted as: Report GR), the answer of the regional Government of Basle-Landschaft (quoted as: Report BL) and an article of Georg Grünstäudl comparing the different systems of appointment of judges in Austria, Germany and Switzerland.
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2. What is the exact title/denomination of this body? Not applicable
3. This question should be answered by members from both legal systems with and without a Council for the Judiciary: Which department or body - for example the Council for the Judiciary (often denominated as High Judicial Council (HJC)) or Ministry of Justice (MoJ) - is responsible for or is in position to perform the following tasks? More than one institution might be involved, so more than one box can be ticked.

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify  Associations of Judges may take position publicly, but since they do not have any institutional function, they merely express their own opinions. The courts, speaking through their presidents or their administrative commissions (in case of particularly relevant questions, a plenary meeting of the concerned court is held), as well as Associations of Judges may be invited by the Government to express their opinion of draft laws that are likely to affect in some way the independence of judges or the rule of law.
Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify  None of the mentioned bodies is responsible for this task. Associations of Judges may speak out publicly, but since they don't have any institutional function,

	<p>they merely express their own opinions. It is a well-respected practice for the courts, their presidents and their administrative commissions, to refrain from expressing contempt against public attacks or defending individual judges.</p>
Administration of the judiciary	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input checked="" type="radio"/> Court Presidents  <input checked="" 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         </p> <p>The courts of all levels provide for their own administration. The cantonal Courts of Appeal have the supervision of the administration of the lower courts, but in principle the supreme supervision is a matter of the legislative power (cantonal parliaments). The Federal Supreme Court exercises the supervision over the lower Federal Courts, but here as well the Federal Parliament has the supreme supervision.</p>
Selection of new judges	<p> <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"/> A special Judicial Appointment Body  <input checked="" type="radio"/> other, please specify         </p> <p>In Switzerland, the judges of all levels are elected. Here as well, cantonal rules apply with regard to the election of judges of first and second instance; even if the systems differ, it can be said that first instance judges are elected by popular vote or by the cantonal parliament (rarely are they appointed by the Court of Appeal, see Report BL [mentioned at Question 1], point 3). Judges of the Courts of Appeal are elected mainly by the parliaments, sometimes by popular vote (see Report GR, mentioned in Question 1, page 802 ff). Judges of the lower Federal Courts and Justices of the Supreme Federal Court are elected by the Federal Parliament, on the proposal of the Judicial Commission. The preparation of the elections of judges may be put into the hands of special or parliamentary commissions or of Councils of the Judiciary, where in place. In the past decades, the political parties represented in</p>

	<p>the Parliament were also entitled to directly propose judges for their (re-)election: this system remains in place apparently only in one Canton (see Report BL [mentioned at Question 1], point 3.3.2).</p>
Selection of judges for promotion	<p> <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"/> A special Judicial Appointment Body  <input checked="" type="radio"/> other, please specify         </p> <p>Judges in Switzerland are never promoted, but elected to a new (higher) function. It is thus possible for a first instance Judge to be elected Justice of the Supreme Court, which is also possible for jurists coming from outside of the Judiciary (lawyers, civil servants, university teachers etc.). Remarkably enough, neither the Constitution nor the law require for a Supreme Court Justice to have a legal education (even if this is obviously the rule today).</p>
Evaluation of judges	<p> <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"/> Association of Judges  <input checked="" type="radio"/> other, please specify         </p> <p>Evaluation of judges is usually only a question when examining their re-election, since only few cantons know the impeachment of judges, and never for their insufficient performance; the impeachment of justices is not foreseen by the Swiss Federal Constitution. At the cantonal level, different systems are in place to evaluate the judges. And these systems are mostly the same as those which apply to the (first time) election of new judges, see on this ad Question 3/4 here above.</p>
Evaluation of court performance	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input type="radio"/> Court Presidents  <input type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input type="radio"/> Association of Judges  <input checked="" type="radio"/> other, please specify         </p>

	See the preceding question.
Conducting disciplinary procedures	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input type="radio"/> Court Presidents  <input checked="" 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 </p> <p>Disciplinary procedures against lower judges are conducted either by the upper cantonal courts or by Councils of the Judiciary, where in place. Such procedures against judges of upper cantonal courts are mainly conducted by judges who are members of another upper court (for instance: procedures against a judge who is member of a Court of Appeal in civil matters might be conducted by a judge of an Administrative Court and vice-versa). In the cantons where only one upper court is in place, special bodies are appointed to carry on such a procedure.</p>
Drafting and enforcing a code of ethics	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input type="radio"/> Court Presidents  <input checked="" type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input type="radio"/> Association of Judges  <input type="radio"/> other, please specify </p> <p>Ethic codes are adopted by the concerned court itself in a plenary session after internal bodies of the same court had prepared them. It is unknown to me that bodies outside of the Judiciary could have imposed such codes on a tribunal. Their enforcement depends on the solution adopted for the exercise of the disciplinary power.</p>
Public relations/media coverage for the judiciary, or individual courts	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ  <input type="radio"/> Parliament  <input checked="" type="radio"/> Court Presidents  <input checked="" type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board  <input type="radio"/> Association of Judges  <input type="radio"/> other, please specify </p> <p>Public relations and media coverage are mostly organized by the courts themselves.</p>
Providing input on legislative projects	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ </p>

	<p><input checked="" 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</p> <p>Input on legislative projects is delivered mostly through the annual report of the different courts. The executive, which has the responsibility for presenting draft statutes to Parliament, happen to invite the Supreme Court specially to take position on new proposed laws.</p>
Training of judges	<p><input type="checkbox"/> HJC  <input type="checkbox"/> MoJ  <input checked="" 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</p> <p>Training of judges is an internal matter of the courts. The Associations of Judges also offer training programmes, as do Universities.</p>
IT, including digitalisation of the judiciary and online hearings	<p><input type="checkbox"/> HJC  <input 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 type="checkbox"/> other, please specify</p> <p>Since the responsibility for the organization of the judiciary is partly federal and partly cantonal, as already said, the competence for the development of IT programmes and the digitalization of the files is split. Under the lead of the Swiss Federal Supreme Court, a common programme is being developed together with all cantons, so as to enable the transmission of legal files from lower to higher courts as well as to courts located in other cantons. The final choice will be, however, a political one.</p>
The allocation of financial resources to the judiciary including individual courts	<p><input type="checkbox"/> HJC  <input type="checkbox"/> MoJ  <input checked="" type="checkbox"/> Parliament  <input type="checkbox"/> Court Presidents  <input type="checkbox"/> bodies within individual courts  <input type="checkbox"/> Judicial Administration Board  <input type="checkbox"/> other, please specify</p> <p>The Federal Courts, lower and Supreme, are free in developing their annual budget.</p>



	Its approval is, however, a matter for the Federal Parliament. Different systems apply in the cantons, but it can be said that as a matter of principle, it is up to the legislative power to annually avail the financial resources needed by the judiciary as a whole (i.e. including the prosecuting offices).
Salaries of judges	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify  The salaries of the judges are fixed by law, including—where this applies—the rules applicable to their annual increases. The executive power adapts the salaries annually according to the inflation rate.

- 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?

A detailed review of all the competences and duties of the cantonal Councils for the Judiciary wouldn't fit into the reduced frame of this Questionnaire.

- 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?

There is no issue in Switzerland about safeguarding the judiciary from undue influence of the executive power, since the judges of all levels are elected (see Grünstäudl, mentioned ad Question 1, point 6.4 and 6.5; Report GR, mentioned ad Question 1, point IV page 804 f.). More delicate is the relationship of the judiciary to the bodies called to elect the judges, mostly the cantonal or the federal parliaments (rare is the election by popular vote, see Report GR, mentioned ad Question 1, point IV.A.1.1 page 803 f.). This is even more true since the judges are usually elected for a limited term of office (usually 4 to 6 years; only one canton knows the election for a lifetime, see Grünstäudl, mentioned ad Question 1, point 2 margin. 7 page 4) and thus need to go through a re-election process.

The way a judge has exercised his or her function in the past, the position he or she has taken in a legal cause possibly raising issues of political character, may then unduly affect his or her re-election. This has happened in the autumn of 2014 and again in the autumn of 2020, as all the Justices of the Swiss Federal Supreme Court had to be re-elected: one Justice in particular was openly accused by some politicians, belonging to the political party that had proposed him as a Justice for his initial election, that through his vote in some highly controversial cases, he had knowingly betrayed the political ideas of that party; his non re-election was officially proposed, through the media and finally in Parliament. This extreme position, taken by only one political party, broke with the unwritten rule—acknowledged and regularly



applied at both federal and cantonal level—that the re-election of judges should never become a political issue, which is why re-elections are usually non problematic. Accordingly, this position was vividly opposed by all other parties in Parliament, and widely in the media as well, finally leading to a comfortable re-election of the said Justice, supported by all other political parties represented in Parliament, including those fostering political opinions diverging from those (supposed) of the said Justice.

The fact that judges are subject to election in Switzerland leads to a different approach when disciplinary measures are to be taken against them. Basically, the idea is that a judge who has proven unsuitable for the function he or she was elected to, shall not be re-elected. Unsuitable means here: lacking the personal or professional aptitude required for his or her task, and has nothing to do with political opinions, as outlined above. Accordingly, it is difficult to take disciplinary measures against judges; at cantonal level, and for the judges of the lower Federal Courts, rules are set by law and follow the pattern of the disciplinary law governing civil servants. No disciplinary measures can be taken against a Supreme Court justice. In very rare, extreme cases, the justices concerned were invited to step down voluntarily—which also finally happened; another justice gave up a possible re-election.

It is also worth mentioning that the idea of bodies other than the Parliament or Commissions of Members of the Parliament being involved in the choice of judges, who in the end should anyhow be elected by the Parliament itself, does not enjoy broad political support. A Council for the Judiciary is involved in the selection process of the judges in only a few cantons and not at the federal level (see Report GR, mentioned ad Question 1, point IV.A.1.4 page 806). On the contrary, the preparation of the election of new judges (to their re-election, see above) by mixed parliamentary committees (i.e. composed by members of different political parties represented in Parliament), introduced at the federal level in 2003, appears to be increasingly appreciated at cantonal level (see Grünstäudl, mentioned ad Question 1, point 6.4 margin. 40 page 16), where other models can also be found.

#### Legal basis

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

Question 4 to Question 24 cannot be treated, since a Council for the Judiciary is not in place at federal level, and an appraisal of the solutions in place in different cantons cannot be offered within the frame of this opinion.

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

	<input type="checkbox"/> other, please specify
Independence	<input type="checkbox"/> Constitution <input type="checkbox"/> Law <input type="checkbox"/> other, please specify

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

### Composition and Membership

- The composition of the Council for the Judiciary:
  - How many members are there?
  - Are there ex-officio members?
  - How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
  - Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
- Please describe the procedure of appointment:
  - Who nominates the members? (judges or other institutions or authorities – please specify)
  - Please describe the appointment system
  - If members are elected by Parliament, are these members elected with a simple or qualified majority?
- How is integrity and independence of members ensured in the selection process and during their time on the Council?
- How is the President and/or Vice-President of the Council selected and appointed?
- What is the term of office for a member of the Council?
- May a member be removed from office against his/her will and, if so, under what circumstances?

### Resources and management

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

**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?
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?
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
20. How does the Council for the Judiciary in your judicial system interact with media?
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?

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

As already stated (see ad Question 1 and ad Question 3 page 4 second point), the discussions that have taken place at federal level about the opportunity of introducing a Council for the Judiciary were unsuccessful. The main argument against its introduction is to be found in the nature of the choice of judges at all levels: they are not appointed

by any executive power, but elected by the legislative power. The members of the parliaments are reluctant to accept the idea that advisory boards of any kind should interfere with their freedom of choice, and even more so are the political parties. As a matter of fact, in the cantons where such advisory committees are in place, it has repeatedly happened that their opinion regarding the meritocratic assessment of the candidates was finally overruled in Parliament, ending in the election of a candidate who had been considered less qualified by the advisory committee.

On the contrary, preliminary hearings and assessments by mixed committees of members of the parliaments are widely and increasingly accepted: a kind of a pre-selection made by peers does not make the members of the parliaments feel as if they were deprived from their responsibilities. Such mixed committees of members of the parliaments cannot be said to be non-political, neither to be fully independent with regard to the other State powers (in particular, obviously, the Parliament itself). But being *mixed* committees, composed by members of different political parties, this ensures that the party-political aspect of the election becomes less important—thus less affecting the meritocratic criteria that should always prevail.

Another important task of the Councils for the Judiciary seems to be the exercise of the disciplinary power over judges. Once again due to the fact that judges are elected in Switzerland, this issue raises some questions: for lower judges, a disciplinary power exercised by higher judges (or at least submitted to a control by higher judges) is widely accepted. But for higher judges (i.e. cantonal Judges of Appeal and even more so for Supreme Court justices), the supreme disciplinary authority remains by definition the authority that did elect them, the parliaments. At the federal level, no precise rules are provided by law, so that there is no way to dismiss a justice—which is, by the way, an excellent guarantee for his or her independence. In practice, the supreme control over the justices is exercised by the Parliamentary Control Committees, that are entitled to take lesser disciplinary measures and to propose to the Parliament the ultimate measure against the justice unable to comply with the personal, ethical or professional requirements: his or her non-re-election.

At the federal level, a new motion has just been made (March 2021). In my personal view, the likelihood of such a Council for the Judiciary being introduced at a federal level remains however rather low. Of decisive importance will be, whether and how often dysfunctions will arise in the form of justices proving that they are not at their right place, and what reactions such events will cause in public opinion and among the members of the parliament.



## Turkey/Turquie

### General<sup>1</sup>

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
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2. What is the exact title/denomination of this body?

➤ The Council of Judges and Prosecutors (CJP)

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="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 type="checkbox"/> other, please specify
Defending judges/the judiciary against public	<input checked="" type="checkbox"/> HJC

<sup>1</sup> The questionnaire is answered based on the reformed CJP under the Constitutional amendments of 2017.

attacks	<input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Selection of new judges	<input checked="" type="radio"/> HJC <sup>2</sup> <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input 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

<sup>2</sup> Candidate judges and prosecutors appointed by the Ministry of Justice are admitted to the profession by the CJP.

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 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 type="checkbox"/> other, please specify
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 (Justice Academy of Turkey)
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 type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input checked="" 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 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 other duties of the CJP are basically as follows:
    - Conducting the procedures concerning judges and prosecutors in relation to admission to the profession, appointment, promotion, inspecting the complaints about them and deciding on disciplinary punishments;
    - Deciding on the proposals by the Ministry of Justice for the abolishment of a court or a change in the territorial jurisdiction of a court.
    - Electing the members to the Court of Cassation and the Council of State.
  - The CJP has the authority to appoint and transfer the presidents of the first instance courts and regional administrative courts/regional courts of justice.
  - The CJP has an Inspection Board. The basic duties that the Inspection Board performs with the inspectors from the profession of judge include inspecting whether civil and administrative judges and prosecutors perform their duties in compliance with legislation; examining whether they commit offenses in connection with or during the exercise of their duties, or whether their behaviours and acts are in compliance with the requirements of their capacities and duties, and if necessary, launching examinations or investigations about them; conducting the necessary research and examination into the legislative deficiencies and malfunctions emerging in the implementation stage regarding the matters falling within its remit and submitting proposals to the Council on the necessary judicial and administrative measures.
- 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?
  - As stated above, there is a Council for the Judiciary.

#### 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	X Constitution X Law O other, please specify
Composition	X Constitution X Law O other, please specify
Selection of members including tenure and removal during tenure	X Constitution X Law O other, please specify
Tasks	X Constitution X Law O other, please specify
Are aResources, funding, administration	X Constitution X Law O other, please specify
Independence	X Constitution X Law O 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?
- Certain regulations are available to understand the role and functioning of the Council for the Judiciary.

### Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?
- The Council is composed of 13 members.
- Are there ex-officio members?
- The President of the Council is the Minister of Justice. And the Deputy Minister of Justice is the ex-officio member 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?
- Eight members must be from the judiciary. They must have specific qualifications and experiences; they must come from different court systems or instances.
- Within this scope, the members from the judiciary are selected as follows:
  - President of the Republic selects three members from among the civil and criminal judges and prosecutors of first class who still hold the qualifications to be designated as first class; one member from among the administrative judges and prosecutors of first class and still hold the qualifications to be designated as first class.

- Turkish Grand National Assembly (the TGNA) elects three members from among the members of the Court of Cassation; one member from among the members of the Council of State.



- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

➤ Non-judges can be members of the Council. As stated above, these members include the Minister of Justice, Deputy Minister of Justice and three members who are elected by the TGNA from among the law faculty lecturers and lawyers for whom the qualification requirements are specified in the law.

➤ The three non-judicial members are elected by the Turkish Grand National Assembly from among the law faculty members and the lawyers actually completed 15 years of service at the profession, who are not in the conditions to impend the admission to the profession of judgeship.

6. Please describe the procedure of appointment.

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

➤ There is no such nomination process. However, seven members to be elected by the TGNA submit their applications in person to the Presidency of the TGNA.

- Please describe the appointment system

➤ The President of the Council is the Minister of Justice. Deputy Minister of Justice is the ex-officio member of the Council. President of the Republic selects three members from among the civil and criminal judges and prosecutors who are first class and still hold the qualifications to be designated as first class; one member from among the administrative judges and prosecutors who are first class and still hold the qualifications to be designated as first class; the TGNA elects three members from among the members of the Court of Cassation; one member from among the members of the Council of State; and three non-judicial members are elected by the Turkish Grand National Assembly from among the law faculty members and the lawyers for whom the qualification requirements are specified in the law. The members elected from among the law faculty professors or lawyers must include at least one lawyer and one law faculty member. Applications for the Council membership to be elected by the TGNA is submitted to the Presidency of the TGNA and the Presidency of the TGNA sends the applications to the Joint Committee comprising the members of the Committee on Constitution and the Committee on Justice. The Joint Committee nominates three candidates from among the applicants meeting the application requirements for each membership by a two-third majority of the total number of members. If candidates cannot attain this majority in the first ballot, then the second round of ballot is held. In the second ballot, a three-fifths majority of the total number of members is required. If again the candidates cannot attain the required majority, the nomination process is completed by drawing lots between two candidates receiving the most votes. General Assembly of the TGNA holds voting by a secret ballot for each member from among the candidates

nominated by the Joint Committee. In the first voting, a two-thirds majority of the total number of members is required. But if no result is obtained in the first ballot, then the second ballot is held by a three-fifths majority of the total number of members. If no member can be elected either, the election process is ended with a lot drawing between two candidates with the most votes.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?
  - As replied in detail in the previous question, the qualified majority is required for the members to be elected by the TGNA.
7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
- Under the Constitution and Law on the CJP it is provided that the CJP shall be instituted and perform its duties based on the principles of independence of courts and security of tenure of judges. Thus, it is independent in performing its duties and exercising its powers. No organ, authority, office or individual may give orders or instructions to the Council. The Council shall perform its duties respecting the principles of independence of courts and security of tenure of judges and prosecutors, and within the framework of the principles of fairness, impartiality, integrity, consistency, equality, competence and merits. Especially the qualified majority requirement in the TGNA election process contributes to the independence of the members elected by the TGNA.
8. How is the President and/or Vice-President of the Council selected and appointed?
- The President of the Council is the Minister of Justice. The Council has two chambers. The Plenary elects one of the heads of the chambers as the Deputy President.
9. What is the term of office for a member of the Council?
- Members are elected for a four-year term. The members may be re-elected once at the end of their terms of office.
10. May a member be removed from office against his/her will and, if so, under what circumstances?
- The Council membership, except for the President, shall end as follows:
    - automatically in the cases of being convicted for an offense requiring dismissal from the profession of judgeship or prosecution, withdrawal or attaining age 65 according to the Law on Judges and Prosecutors;
    - by the decision of a two-thirds majority of the total number of members of the Plenary in the case that they have been subsequently proved not to meet or have lost any one of the membership qualifications during their membership term;
  - The membership of the elected members of the Council ends by the decision of a two-thirds majority of the total number of members of the Plenary if it is ascertained from the report of a committee on health that they are unable to continue to function

or if they fail to attend their office for fifteen consecutive days or thirty days in total in one year without any excuse or permission.

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> CJP has an autonomous budget
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?

There have been no such conflicts.

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?

There have been no such conflicts.

### 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?

There have been no such conflicts.

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?

➤ Constitutionally, such an infringement is impossible.

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

➤ In our judicial system, prosecutorial services and independent courts are responsible for combatting corruption. In this respect the judiciary works in coordination with other competent and responsible bodies.

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



- The CJP consults with both the NGOs in the field of law, in particular the associations of judges and prosecutors, and the other NGOs regarding the scope of its authorities and responsibilities; thus it benefits from these consultations in its works.
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
- It consults with the associations of judges on matters related to the judiciary.
20. How does the Council for the Judiciary in your judicial system interact with media?
- First of all, our Council has a Press and Public Relations Bureau to conduct the interaction with media in general. Moreover, in cases of need, press statements or press conferences are held to inform the public.
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?
- It has no such role.

### 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, and the Covid-19 pandemic or technological challenges such as the digitalisation of the judiciary.
- Recently the challenges particularly posed by the Covid-19 pandemic have been tried to be overcome by taking necessary measures so as to ensure that the judicial activities are only minimally affected.
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
- With the Constitutional amendments submitted to a referendum in 2017 in our country, the number of the members and member election system of the CJP was changed while the duties and authorities of it remained unchanged.
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?
- With the Constitutional amendments adopted in 2017, certain changes were enacted in order to strengthen democratic legitimacy of the Council. These changes have positive results.
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?
- Our judicial system has a Council for the Judiciary.

# Ukraine

## General

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
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2. What is the exact title/denomination of this body?

The High Council of Justice

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="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 checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <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
Administration of the judiciary	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Selection of new judges	<input 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"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> other: High Qualification Commission of Judges of Ukraine
Selection of judges for promotion	<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="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input checked="" type="checkbox"/> other: High Qualification Commission of Judges of Ukraine
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input checked="" type="checkbox"/> other: High Qualification Commission of Judges of Ukraine
Evaluation of court performance	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> 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="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
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="radio"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> 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="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Training of judges	<input 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: National School of Judges of Ukraine
IT, including digitalisation of the judiciary and onlinehearings	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Salaries of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> Bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> 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?

In addition to the mentioned above responsibilities, the High Council of Justice has the following ones provided by the Constitution of Ukraine:

- decides on the violation by a judge or a prosecutor of the incompatibility requirements;
- reviews complaints on decisions of the relevant body imposing disciplinary liability on a judge or a prosecutor;
- decides on dismissal of a judge from office;
- grants consent for detention of a judge or keeping him or her under custody;
- decides on temporal withdrawal of the authority of a judge to administer justice;
- takes measures to ensure independence of judges;
- decides on transfer of a judge.

The High Council of Justice does not have the power to appoint or dismiss court presidents.

- 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?

There is the High Council of Justice in Ukrainian judicial system.



## 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 checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Composition	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Tasks	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Resources, funding, administration	<input type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Independence	<input checked="" type="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> 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, they do not exist.

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?

The High Council of Justice consists of twenty-one members: ten of them are elected by the Congress of Judges of Ukraine among judges or retired judges; two of them are appointed by the President of Ukraine; two of them are elected by the Parliament (Verkhovna Rada) of Ukraine; two of them are elected by the Congress of Advocates of Ukraine; two of them are elected by the All-Ukrainian Conference of Public Prosecutors; two of them are elected by the Congress of Representatives of Law Schools and Law Academic Institutions.

- Are there ex-officio members?

Yes. The President of the Supreme Court is a member of the High Council of Justice ex-officio.

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

Ten from twenty-one members of the High Council of Justice are elected by the Congress of Judges of Ukraine among judges or retired judges. In addition the President of the Supreme Court is a member of the High Council of Justice ex-officio. So, there are eleven members of the High Council of Justice who are acting or retired judges.

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

Yes. According to the Ukrainian legislation, a citizen of Ukraine, not younger than 35 years old, who speaks the state language, has higher legal education and professional experience in the field of law not less than fifteen years, belongs to the legal profession and meets the criteria of political neutrality could be elected (appointed) on a position of a member of the High Council of Justice.

The High Council of Justice consists of judges, prosecutors, lawyers and scientists. Ukrainian legislation provides that the majority of members of the High Council of Justice must consist of judges or retired judges. The number of members of the High Council of Justice, separately from prosecutors, lawyers and scientists, has not been determined.

6. Please describe the procedure of appointment:

The body that has the right to elect (appoint) members to the High Council of Justice notifies the Secretariat of the HCJ of the date and place of the meeting at which the members of the HCJ will be elected no later than 45 calendar days.

A candidate for the position of a member of the HCJ has to submit to the Secretariat of the HCJ the list of documents specified by law.

Upon receipt of the documents, the Secretariat of the HCJ compiles lists of candidates, which has to be published on the official website of the HCJ and sent to the body that elects (appoints) members immediately. A special examination of candidates is conducted by the Secretariat of the HCJ.

At a meeting of the body that has the right to elect (appoint) members to the HCJ, a secret ballot is held to determine the winner.

The President of Ukraine and the Parliament of Ukraine elect candidates to the High Council of Justice by a different procedure.

The official website of the President of Ukraine announces the beginning of an open competition for the position of a member of the HCJ. After submitting the documents, information about the persons applying for participation in the competition is published on the official website of the President of Ukraine (certain documents to be published are defined). After the completion of the competition and determination of the winner, the President of Ukraine appoints him to the position of a member of the High Council of Justice.

The official website of the Parliament of Ukraine contains information on the beginning of the acceptance of proposals of deputy factions (deputy groups) on candidates for positions of members of the HCJ. Upon receipt of proposals, information on persons applying to be elected to the position of a member of the HCJ, together with copies of certain documents, shall be published on the official website of the Parliament of Ukraine. On a certain day, the Parliament of Ukraine at its session votes on each candidate, and in case the candidate receives the required number of votes, the Parliament of Ukraine appoints him to the position of a member of the High Council of Justice.

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

Each citizen of Ukraine, who does not younger than 35 years old, who speaks the state language, has higher legal education and professional experience in the field of law not less than fifteen years, belongs to the legal profession and meets the criteria of political neutrality has a right to submit his candidature for the competition on a position of a member of the High Council of Justice.

The President of Ukraine, the Parliament of Ukraine, the Congress of Judges of Ukraine, the Congress of Advocates of Ukraine, the All-Ukrainian Conference of Prosecutors, and the Congress of Representatives of Law Schools and Law Academic Institutions have the right to elect candidates for the position of a member of the High Council of Justice.

- Please describe the appointment system

The High Council of Justice consists of twenty-one members: ten of them are elected by the Congress of Judges of Ukraine among judges or retired judges; two of them are appointed by the President of Ukraine; two of them are elected by the Parliament of Ukraine; two of them are elected by the Congress of Advocates of Ukraine; two of them are elected by the All-Ukrainian Conference of Public Prosecutors; two of them are elected by the Congress of Representatives of Law Schools and Law Academic Institutions.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

Parliament elects a candidate for the position of a member of the High Council of Justice at its plenary session by voting for him by a majority of deputies from the constitutional composition (226 votes out of 450 deputies).

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

The High Council of Justice has a Commission on Integrity and Ethics, which aims to ensure transparency and accountability of members of the High Council of Justice and members of the High Qualification Commission of Judges of Ukraine (permanent body in the judicial system of Ukraine, responsible for the formation of the judiciary, ensuring their proper level of qualification etc.).

One of the tasks of the Commission on Integrity and Ethics is to assess the compliance of a member or candidate (during a special inspection) to the High Council of Justice and the High Qualification Commission of Judges of Ukraine with the principles of good faith and ethical norms of a judge, which are an integral part of the professional ethics of the member of the High Council of Justice and the High Qualification Commission of Judges of Ukraine, and control over the transparency of the activities of the High Council of Justice and the High Qualification Commission of Judges of Ukraine

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

The Chairman of the High Council of Justice is elected from among the members of the High Council of Justice for a term of two years.

The Chairman of the High Council of Justice is elected at a meeting of the High Council of Justice by secret ballot by submitting ballots with any number of candidates proposed by members of the High Council of Justice.

The Deputy Chairman of the High Council of Justice is elected on the proposal of the Chairman of the High Council of Justice from among the members of the High Council of Justice for a term of two years.

The legislation of Ukraine provides that if a judge or a retired judge is elected on a position of the Chairman of the High Council of Justice, the deputy shall be elected from among the members of the High Council of Justice who are not judges or retired judges. And vice versa. The procedure for electing a deputy is identical to the procedure for electing the chairman of the High Council of Justice.

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

Term of the office for elected (appointed) members of the High Council of Justice is four years.

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

Yes. A member of the High Council of Justice may be dismissed against his/her will, in such cases:

- gross or systematic neglect of his/her responsibilities or inconsistency with the position, other conduct that undermines the authority and public confidence in the judiciary and judicial system, including non-compliance with the ethical standards of a judge as part of the professional ethics of a member of the High Council of Justice;
- identification of the validity of the existing circumstances regarding the non-compliance of a member of the High Council of Justice with the requirements specified in the legislation of Ukraine;
- significant violation of the requirements established by the legislation in the field of prevention of corruption;
- systematic non-participation in the work of the High Council of Justice or the body of the High Council of Justice of which he/she is a part.

### Resources and management

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

There were no internal conflicts in the High Council of Justice that would affect its functioning.

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?

There were no conflicts between the High Council of Justice and the judiciary.

### 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?

There were no conflicts between the High Council of Justice and the executive or legislative.

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 High Council of Justice has the right to approve and publish public statements and appeals, as well as to address the subjects of the right of legislative initiative, bodies authorized to adopt legal acts, with proposals to ensure the independence of judges and the authority of justice.

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

The interaction of the High Council of Justice with anti-corruption bodies is expressed through annually approving by the High Council of Justice of the Anti-Corruption Program, which assesses corruption risks in the body, their causes and conditions, and agreeing on it with the National Agency on Corruption Prevention.

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

*Answers to questions 18 and 19 are combined.*

In order to ensure the independence of judges and the authority of justice, the High Council of Justice prepares in cooperation with judicial self-government bodies, other bodies and institutions of the judicial system, NGO's and publishes an Annual report on ensuring judicial independence in Ukraine. In addition, the High Council of Justice cooperates with the Council of Judges of Ukraine, the Public Integrity Council, public associations, and relevant bodies of other states, international organizations and their bodies in developing and implementing measures to ensure the independence of judges and the authority of justice.

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

All meetings of the High Council of Justice and its Disciplinary Chambers are held openly, unless there are grounds provided by the legislation of Ukraine. Within the structure of the High Council of Justice there is a department of communication activities, which systematically and comprehensively covers the activities of the High Council of Justice, its bodies and members, interacts between the High Council of Justice and the media etc.

21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
The High Council of Justice does not evaluate judges for professional suitability (qualification assessment). This issue under the competence of the High Qualification Commission of Judges of Ukraine.

### **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.

Thus, the High Council of Justice, the Plenum of the Supreme Court and the Council of Judges of Ukraine constantly draw the state's attention to a number of problems faced by the judicial system of Ukraine.

The main problems of the judicial system are:

- extremely insufficient funding;
- low staffing;
- interference in the activities of judicial bodies.

According to the information published on the official website of the High Council of Justice, for a certain period of time in Ukraine there has been an obvious disparity in the funding of one of the three state powers. In 2020, the judicial system of Ukraine was funded by only 64 % of the declared need, in connection with which the courts constantly inform the High Council of Justice about the lack of funds for salaries of court staff, as well as the fact that due to underfunding, courts stop sending mail to participants in cases.

By late 2020, every third judicial position in Ukraine is vacant, and about 30% of judges already have the right to retire. Prior to that, due to the absence of the acting High Qualification Commission of Judges of Ukraine, courts are not filled with vacancies of judges. In this regard the lack of judges in Ukraine leads to the violation of citizens' right to access to justice.

Significant restrictions on the financing of salaries in the courts at the end of 2020 and the beginning of 2021 also led to mass layoffs of experienced, qualified employees of the court staff.

The facts of pressure on judges and interference in the activities of courts have become systemic. At the same time, interference in the judiciary is accompanied by loud statements by high-ranking officials about continuous corruption in the courts, incompetence of judges, their low moral qualities, irresponsibility and lack of control. Such statements discredit the entire judicial system of Ukraine. The practice of evaluating court decisions by incompetent subjects has become systemic and has become commonplace, as well as ignoring of court decisions that have entered into force. This, in turn, leads to the spread of legal nihilism in society, disrespect for the court and its decisions, their loss of public recognition and the obligation to have them. Even the President of Ukraine, who has a responsibility to take special care of the authority of the judiciary, publicly assessing one of the Decisions of the Constitutional Court of Ukraine, declares that it is unconstitutional.

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

Yes.

With the introduction of judicial reform in Ukraine in 2016, the High Council of Justice acquired exclusive powers in the field of judicial governance and became a leading body in matters of judicial career, disciplinary responsibility of judges, ensuring the authority of justice and independence of judges.

The powers of the High Council of Justice included crucial issues in the organizational, legal and financial support of courts, namely: presents submission for the appointment of a judge to office; decides on the violation by a judge or a prosecutor of the incompatibility requirements; ensure the implementation of disciplinary body disciplinary proceedings against judges; reviews complaints on decisions of the relevant body imposing disciplinary liability on a judge or a prosecutor; grants consent for detention of a judge or keeping him or her under arrest; decides on temporal withdrawal of the authority of a judge to administer justice; decision-making on transfer of a judge from one court to another, decision on termination of a judge's resignation; approval of the number of judges in court etc.

Today, the most notable and important role of the High Council of Justice is played during disciplinary proceedings against judges.

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?

As a result of judicial reform in Ukraine in 2016, amendments were made to the Constitution of Ukraine, which provides establishment of a new collegial, independent constitutional body of judicial governance, which acts in Ukraine on a permanent basis - the High Council of Justice. The purpose of the High Council of Justice with its constitutional powers was to streamline the judicial system, eliminate duplication of powers, and create an effective and transparent decision-making mechanism, including for judicial careers.

Currently, the President of Ukraine has submitted a draft law to the Parliament of Ukraine, which provides for the reform of the High Council of Justice. This draft law amends the procedure for electing (appointing) members of the High Council of Justice, establishing an Ethics Council that will examine candidates for members of the High Council of Justice in accordance with the rules of professional ethics and integrity, and establishing a service of disciplinary inspectors of the High Council of Justice. independent structure for professional assessment of disciplinary responsibility of members of the High Council of Justice, i.e for control over the activities of members of the High Council of Justice, which is a constitutional body.

However, the Constitutional Court of Ukraine has already ruled in its decisions that the law cannot empower an institution, which is formed under a constitutional body, to control this constitutional body.

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?

The High Council of Justice acts in the judicial system of Ukraine.

## United Kingdom/Royaume-Uni

### General

1. Is there a Council for the Judiciary in your judicial system?	<input type="radio"/> yes <input type="radio"/> no <i>NO</i>
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*The UK has 3 separate jurisdictions: (1) England and Wales (2) Scotland (3) Northern Ireland. In England and Wales there is a Judicial Executive Board which administers the judiciary. Other functions are performed by different bodies. There is no single body which corresponds with a Council of the Judiciary in the sense used in the questionnaire.*

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input type="radio"/> HJC <input type="radio"/> MoJ <i>YES</i> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <i>YES</i> <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>All government ministers have a statutory duty to uphold the independence of the judiciary</i>
Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input type="radio"/> MoJ <i>Yes</i> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <i>Yes</i> <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input type="radio"/> HJC <input type="radio"/> MoJ <i>To some extent</i> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <i>Yes</i> <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Selection of new judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <i>Yes</i> <input type="radio"/> other, please specify



Selection of judges for promotion	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body Yes <input type="radio"/> other, please specify
Evaluation of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify  <i>There is no formal evaluation of judges. The performance of judges is, to some extent, scrutinised by court presidents or their equivalent and to some extent by appellate courts.</i>
Evaluation of court performance	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>There is no formal evaluation of court performance. See last answer. Complaints about court performance may be made in some circumstances to the Judicial Conduct Office. If there is a case to answer it will be investigated.</i>
Conducting disciplinary procedures	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>The investigation of disciplinary complaints is investigated by the Judicial Conduct Office. In practice a senior judge is appointed as investigator and to make recommendations. Disciplinary sanctions may be imposed by the Lord Chief Justice and the Lord Chancellor (Minister of Justice) acting together.</i>
Drafting and enforcing a code of ethics	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament

	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board Yes <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>Enforcement of the code of ethics is partly done by the Judicial Conduct Office and partly by the Judicial Executive Board.</i>
Public relations/media coverage for the judiciary, or individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board Yes <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>The Judicial Office has its own press office; and the Lord Chief Justice has an annual press conference.</i>
Providing input on legislative projects	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>The judiciary does not have input into legislative projects generally. But there is an independent body (the Law Commission) chaired by a senior judge whose remit is to make recommendations about non-political changes to the law. During its consultation process preliminary to a final report anyone can comment. Both associations of judges and individual judges often do.</i>
Training of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>Training is undertaken by the Judicial Collee, administered by the Judicial Executive Board.</i>
IT, including digitalisation of the judiciary and online hearings	<input type="radio"/> HJC <input type="radio"/> MoJ Yes <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board Yes <input type="radio"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input type="radio"/> HJC <input type="radio"/> MoJ Yes <input type="radio"/> Parliament

	<input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ Yes <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify <i>The MoJ receives advice from an independent body (the Senior Salaries Review Board) but does not always accept the advice.</i>

- 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?
- 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?

*The situation in the UK is more fragmented, partly because of the three separate jurisdictions. Some functions are carried out by the MoJ (mainly the provision of financial resources and the setting of salaries and pensions); some by the Judicial Executive Board (which deals with the administration of the judiciary); some by the Judicial Appointments Commission (which deals with the appointment and promotion of judges) and some by the Judicial Conduct Office (which investigates complaints about judges)*

### Legal basis

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

Existence of a Council for the Judiciary	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Resources, funding, administration	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Independence	<input type="radio"/> Constitution <input type="radio"/> Law Yes <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?  
*As explained, there is no Council for the Judiciary in the UK. The independence of the judiciary is protected by law. The MoJ has a statutory duty to provide resources for the judiciary. The composition of the Judicial Executive Board is in the discretion of the Lord Chief Justice.*

## Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?
- Are there ex-officio members?
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

*Not applicable but the Judicial Executive Board consists of nine judges. They are the Lord Chief Justice, Heads of Divisions (i.e. court presidents) and other leadership judges. There are no non-judges who are members. By contrast, the Judicial Appointments Commission is a mix of judges, lawyers and non-lawyers.*

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify) *The Lord Chief Justice, but in practice the members of the Judicial Executive board are ex officio members.*
- Please describe the appointment system

*Appointment to the posts who make up the ex officio members is by the Judicial Appointments Commission.*

- If members are elected by Parliament, are these members elected with a simple or qualified majority?

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

*The integrity of members is ensured by the Judicial Appointments Commission on appointment and their independence is ensured by the statutory guarantee of the independence of the judiciary.*

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

*The President of the Judicial Executive Board is the Lord Chief Justice. He is selected and appointed by the Judicial Appointments Commission.*

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

*They continue as members of the Judicial Executive Board for so long as they hold their offices which entitle them to be ex officio members of the JB. There is no other set term of office.*

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

No.

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> other, if so specify <i>The overall budget for the judiciary is provided by the MoJ. Within the budget the Lord Chief Justice is responsible for the Judicial Executive Board.</i>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input type="radio"/> yes <input type="radio"/> no Yes

### Relations within the Council for the Judiciary and within the judiciary

13. Have there been any severe internal conflicts within the Council for the Judiciary that have seriously affected its functioning? If yes, what was the character of these conflicts and have they been solved?

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?

*Rarely. On occasions ministers have criticised individual judicial decisions; and the Lord Chief Justice has condemned such criticism.*

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 Lord Chief Justice (and his equivalents in Scotland and Northern Ireland) may make representations to Parliament. That power has never been exercised.*

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

*Any allegation of corruption (if plausible) would be investigated by the Judicial Conduct Office and/or the police. There has not (as far as I am aware) been any such allegation.*

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

*As far as I am aware it does not.*

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

*The Judicial Executive Board may consult associations of judge on matters of particular interest to them; and will keep them informed about developments.*

20. How does the Council for the Judiciary in your judicial system interact with media?  
*The Judicial Office maintains its own press office; and the Lord Chief Justice has an annual press conference.*
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
*None*

### **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.

*The judiciary has made many changes due to the Covid-19 pandemic, notably in facilitating remote hearings on electronic platforms; the digitisation of documents etc. One current challenge is that of data processing and the control of information sought by outside sources. In particular the rise of AI processes which may attempt to analyse the performance of individual judges and courts. The Judiciary have made great changes as a result of the Covid-19 pandemic in facilitating remote hearings on electronic platforms and the digitisation of documents (including case papers and legal research materials)*

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?  
*No*
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?  
*Although the system in the UK is to some extent fragmented, I am not aware of any proposals for change. The system functions well (although like all public sector areas it would like to have more resources).*