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

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

**Thematic review focused on the career and training of judges**

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**Preliminary draft report**

**CONTEXT AND EXPECTED ACTION:**

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

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

*Therefore, at this stage, the CDCJ is invited to take note of this document reflecting the current state of play and provide any necessary guidance to the secretariat for completing this task.*

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## BACKGROUND

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

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

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

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

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

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

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

2. The Action Plan is a comprehensive tool containing specific recommendations and proposals to member states on the measures to be adopted to address certain issues and concerns. It also goes further and lists concrete proposals on how the different bodies of the Council of Europe (GRECO, Venice Commission, CDDH, CCPE, CCJE, CEPEJ and the HELP programme) can assist member states in addressing their specific needs.

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

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

5. The first periodic review focuses on the career and training of judges. The issues to be addressed include a review of the rules and regulations governing the selection, appointment and promotion of judges, terms of office, dismissal, relocation or reappointment, and related safeguards from improper external influence, threat or interference in these processes; an overview of institutions responsible for the training of judges, admissions to judicial training and training itself (initial and in-service), and its role in the career of judges.

6. The first step of the review focuses on the information and resources of other Council of Europe bodies, specifically of the Group of States against Corruption (GRECO), the European Commission for Democracy through Law (Venice Commission), the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges (CCJE) and the Commissioner for Human Rights, as well as the relevant case law of the European Court of Human Rights:

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

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

## THEMATIC REVIEW

### I. CAREER

#### 1) Selection and appointment of judges

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

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

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

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

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

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

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

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

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

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

13. According to the conclusions and recommendations of CCJE Opinion No. 24 (2021) on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems: members of the Council must be selected according to a transparent procedure which promotes the independent and efficient functioning of the Council and the judiciary and avoids any perception of political influence, self-interest or cronyism (paras. 27, 29, 31 and 34).

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

15. Many states have reformed their procedures for appointing judges to strengthen the role of the Judicial Council (Armenia,<sup>6</sup> Cyprus,<sup>7</sup> Hungary,<sup>8</sup> Latvia,<sup>9</sup> Lithuania,<sup>10</sup> Malta,<sup>11</sup> Republic of Moldova,<sup>12</sup> Serbia,<sup>13</sup> Ukraine<sup>14</sup>).

16. On the other hand, in other states, the Council for the Judiciary is not sufficiently involved in the appointment of all categories of judges (administrative and judicial) (Azerbaijan,<sup>15</sup> Slovenia,<sup>16</sup> Türkiye<sup>17</sup>) or the appointment body or procedure is problematic

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

<sup>5</sup> GRECO, *Second compliance report Latvia*, 3 June 2019, para. 28

<sup>6</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>7</sup> GRECO, recommendation x. implemented (*Second Compliance Report Cyprus*, 17 November 2020, para. 56)

<sup>8</sup> GRECO, recommendation viii. partially implemented (*Fourth compliance report Hungary - interim*, 9 June 2023, para. 43); European Commission report on the rule of law, 5 July 2023.

<sup>9</sup> GRECO, recommendation vii. implemented (*Second compliance report Latvia*, 3 June 2019, para. 28)

<sup>10</sup> GRECO, recommendation vii. implemented (*Second compliance report Lithuania - addendum*, 6 May 2021, para. 32)

<sup>11</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>12</sup> GRECO, recommendation ix. partially implemented (*Second compliance report Republic of Moldova - second interim*, 19 May 2023, para. 48)

<sup>13</sup> GRECO, recommendation v. implemented (*Second compliance report Serbia - interim*, 30 March 2022, para. 28)

<sup>14</sup> See Supervision of the execution of judgments of the Court, H46-38 *Oleksandr Volkov v. Ukraine* (Application no. 21722/11)

<sup>15</sup> GRECO, recommendation vi. partially implemented (*Second compliance report Azerbaijan - Addendum*, 19 May 2021, para. 24)

<sup>16</sup> European Commission report on the rule of law, 5 July 2023

<sup>17</sup> GRECO, recommendation ix. not implemented (*Fourth Türkiye Compliance Report - Interim*, 7 December 2023, para. 19); Country visit report of the Commissioner for Human Rights on Türkiye "The



(Bosnia-Herzegovina,<sup>18</sup> Bulgaria,<sup>19</sup> Cyprus,<sup>20</sup> Spain,<sup>21</sup> Estonia,<sup>22</sup> Ireland,<sup>23</sup> Poland,<sup>24</sup> Slovak Republic<sup>25</sup>).

- *Decisions based on objective criteria*

17. According to the conclusions and recommendations of CCJE Opinion No. 24 (2021): decisions with respect to the careers of judges must not be taken because of loyalty to politicians or other judges, but according to a transparent procedure using objective criteria so far as possible. Such decisions should be reasoned and based solely on merit. Judges who think that their rights have been disregarded must have a right to judicial review (paras. 20-21). The UN Special Rapporteur specifies that decisions must take into account the qualifications, skills and abilities of candidates, as well as their integrity, sense of independence and impartiality. In his view, competitions organised at least in part in writing and on the basis of anonymity can play a significant role in the selection process.<sup>26</sup> The Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (2010, OSCE/ODIHR) recommend that a separate commission should organise written and oral examinations (para. 3).

18. In this respect, new precise and objective criteria have been introduced for the selection, appointment, evaluation and promotion of judges in certain states (Cyprus,<sup>27</sup> Georgia,<sup>28</sup> Czech Republic<sup>29</sup>). Some states guarantee that decisions on appointment are reasoned (Hungary<sup>30</sup>) and subject to appeal (North Macedonia,<sup>31</sup> Georgia,<sup>32</sup> Czech Republic<sup>33</sup>).

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*Turkish authorities must restore the independence of the judiciary and stop targeting and silencing human rights defenders", 19 February 2020.*

<sup>18</sup> Venice Commission, *Bosnia and Herzegovina - Opinion n° 1015/2021*

<sup>19</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>20</sup> Ibid.

<sup>21</sup> European Commission report on the rule of law, 5 July 2023

<sup>22</sup> GRECO, recommendation viii. partially implemented (*Second compliance report Estonia*, 23 June 2017, para. 43)

<sup>23</sup> GRECO, recommendation vii. partially implemented (*Second compliance report Ireland - addendum*, 30 January 2024, para. 22)

<sup>24</sup> Country visit report on Poland by the Commissioner for Human Rights "Polish authorities should protect judges from pressure, actively protect women's rights and strengthen policies to promote gender equality", 28 June 2019; European Commission Rule of Law Report, 5 July 2023

<sup>25</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>26</sup> Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Diego Garcia-Sayan, *Councils for the Judiciary*, A/HRC/38/38, 2 May 2018, para. 98

<sup>27</sup> GRECO, recommendation x. implementation (*Second Compliance Report Cyprus*, 17 November 2020, para. 56)

<sup>28</sup> GRECO, recommendation iv. partially implemented (*Second Georgia Compliance Report - Addendum*, 13 July 2022, para. 24)

<sup>29</sup> GRECO, recommendation vi. implemented (*Second compliance report Czech Republic*, 16 June 2023, para. 38)

<sup>30</sup> GRECO, recommendation viii. partially implemented (*Fourth compliance report Hungary - interim*, 9 June 2023, para. 43)

<sup>31</sup> GRECO, recommendation viii. implemented (*Second compliance report North Macedonia*, 9 August 2018, para. 45)

<sup>32</sup> GRECO, recommendation iv. partially implemented (*Second Georgia Compliance Report - Addendum*, 13 July 2022, para. 24)

<sup>33</sup> GRECO, recommendation vi. implemented (*Second compliance report Czech Republic*, 16 June 2023, para. 38)

19. On the other hand, the Venice Commission expressed concern about the lack of criteria of seniority or professional competence on the basis of which judges can be appointed to sit exclusively on the Court of Appeal in Bosnia and Herzegovina,<sup>34</sup> the lack of transparent and merit-based criteria for selection, for the selection, appointment and promotion of judges in Slovenia and recommended that Bulgaria specifies in law or the Constitution objective criteria for refusal of appointment to a permanent post, with the same procedural safeguards as for the dismissal of permanent judges in Bulgaria.<sup>35</sup>

- *A formal appointment procedure for all judges*

20. GRECO welcomed the reforms guaranteeing formalised, uniform and transparent procedures in the Czech Republic<sup>36</sup> and Austria<sup>37</sup>.

21. Certain procedures, at the same time, remain problematic, such as the principle of sequential appointment in Albania,<sup>38</sup> the procedure for "reallocation" of candidates judges in Georgia<sup>39</sup> (when unsuccessful judicial candidates consented to other vacancies which remained available after a competition – the Venice Commission recommended specifying in the law that such a candidate judge, appointed in the second round, must fulfil all the requirements of the specific vacancy), or the procedures for electing, appointing and recruiting members of the Labour Court in Iceland<sup>40</sup> (GRECO considers that the selection process with respect to judges to the Labour Court to be nominated by the Supreme Court is still not adequately regulated). The procedure needs to be explained in Monaco<sup>41</sup> and Switzerland<sup>42</sup>.

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

22. According to the conclusions and recommendations of CCJE Opinion No. 19 (2016)<sup>43</sup>: the minimum qualification to become a court president is that the candidate should have all the necessary qualifications and experience for appointment to judicial office in that court. The skills and abilities for appointment as court presidents should reflect the functions and tasks they will have to carry out. The CCJE considers that the procedures for the appointment of court presidents should follow the same path as that for the selection and appointment of judges in line with standards established in Recommendation CM/Rec(2010)12 and previous CCJE Opinions. Judges of the court in question could be involved in the process of election, selection and appointment of court presidents. An advisory or even binding vote is a possible model.

23. A number of states has undertaken reforms aimed at guaranteeing transparency in the appointment of judges entrusted with judicial administration functions (Austria,<sup>44</sup> - although the

<sup>34</sup> Venice Commission, *Bosnia and Herzegovina* - CDL-AD(2023)002

<sup>35</sup> Venice Commission, *Bulgaria* - Opinion n° 1002 / 2020

<sup>36</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>37</sup> GRECO, recommendation x. partially implemented - while regretting the reforms did not apply to administrative court judges (*Second Compliance Report Austria*, 16 November 2023, para. 39)

<sup>38</sup> Venice Commission, *Albania* - Opinion n° 978/2020

<sup>39</sup> Venice Commission, *Georgia* - CDL-AD(2023)033, para. 42

<sup>40</sup> GRECO, recommendation v. partially implemented (*Second compliance report Iceland - second addendum*, 26 April 2021, para. 18)

<sup>41</sup> GRECO, recommendation ix. partially implemented (*Second compliance report Monaco*, 30 March 2023, para. 29)

<sup>42</sup> GRECO, recommendation vi. not implemented (*Second Swiss Compliance Report - Addendum*, 11 May 2023, para. 30)

<sup>43</sup> CCJE Opinion No. 19 (2016) on the role of court presidents

<sup>44</sup> European Commission report on the rule of law, 5 July 2023

reform does not concern the appointment of presidents of administrative courts -, Cyprus,<sup>45</sup> Croatia,<sup>46</sup> Netherlands,<sup>47</sup> Slovak Republic,<sup>48</sup> Republic of Moldova<sup>49</sup>) and equal treatment of candidates (Georgia<sup>50</sup>). GRECO continues to monitor the implementation of reforms in Albania<sup>51</sup> and Hungary<sup>52</sup>.

24. Reform is needed to introduce objective criteria and assessment rules for appointments to senior judicial posts (Spain,<sup>53</sup> Greece<sup>54</sup>), to depoliticise the appointment of the President of the Supreme Court (Malta<sup>55</sup>) or to minimise the possibility of political influence (Latvia,<sup>56</sup> Slovenia<sup>57</sup>). The reform of the status of magistrates in Portugal is to apply to the Supreme Court of Justice and the Supreme Administrative Court.<sup>58</sup> Poland was condemned by the European Court of Human Rights in 2021<sup>59</sup> for violating the right to a court established by law due to irregularities in the appointment of judges to the disciplinary chamber of the Supreme Court, while the Commissioner for Human Rights of the Council of Europe is concerned about the independence and credibility of its Constitutional Court.<sup>60</sup> As a result, the European Commission has brought an action against Poland before the CJEU for violations of EU law by the Constitutional Court.

- *Integrity requirements in appointment procedures*

25. Better communication between the Appointments Committee of the High Council of Justice and the Council's Committee of Inquiry has been noted in Belgium,<sup>61</sup> as has the establishment of a Judges' Proposals Council in Sweden,<sup>62</sup> to protect the independence of courts and judges.<sup>63</sup>

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<sup>45</sup> Ibid.

<sup>46</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Venice Commission, *Georgia - CDL-AD(2023)033*; GRECO, *Second Compliance Report Georgia - Addendum*, 13 July 2022, para. 30

<sup>51</sup> GRECO, recommendation vi. partially implemented (*Second Compliance Report Albania - Addendum*, 6 October 2020, para. 33)

<sup>52</sup> GRECO, Recommendation viii. partially implemented (*Fourth Compliance Report Hungary - Interim*, 9 June 2023, para. 43); Venice Commission, *Hungary - Opinion No. 1050/202, Judicial Appointments*; Statement by the Commissioner for Human Rights "Commissioner urges Hungarian Parliament to amend bill threatening independence of judiciary", 28 November 2019; European Commission Rule of Law Report, 5 July 2023.

<sup>53</sup> GRECO, recommendation vi. partially implemented (*Second compliance report Spain - addendum*, 5 December 2022, para. 21); European Commission report on the rule of law, 5 July 2023.

<sup>54</sup> European Commission report on the rule of law, 5 July 2023

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> GRECO, recommendation v. not implemented (*Second compliance report Slovenia*, 5 July 2018, para. 25)

<sup>58</sup> GRECO, recommendation vii. partially implemented (*Second compliance report Portugal - third interim report*, 15 January 2024, para. 45)

<sup>59</sup> ECtHR, *Reczkowicz v. Poland*, no. 43447/19, 22 July 2021

<sup>60</sup> Country visit report by the Commissioner for Human Rights on Poland "Polish authorities should protect judges from pressure, actively protect women's rights and strengthen policies to promote gender equality", 28 June 2019

<sup>61</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>62</sup> Ibid.

<sup>63</sup> European Commission report on the rule of law, 5 July 2023

26. In some states, it is necessary to establish sufficiently clear and precise criteria for checking the integrity of candidates for judicial office (Türkiye<sup>64</sup>). In the Slovak Republic,<sup>65</sup> the Constitutional Court ruled in 2019 that background checks on judges based on information provided by the national security authority were contrary to the principle of judicial independence.

## 2) Term of office of judges / Irremovability

- *Irremovability*

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

28. The Venice Commission has repeatedly criticised changes to the retirement age or term of office of judges, even as part of a general reform of the judicial system, which affect the independence of judges. This is why international standards of judicial independence explicitly guarantee security of tenure until the mandatory retirement age or expiry of the term of office, and at the same time limit the grounds for dismissal to incapacity or professional misconduct.<sup>66</sup> The Commission suggested abolishing any fixed start and end dates for judges' terms of office in Albania.<sup>67</sup>

29. According to the 2024 CEPEJ report, the principle of lifetime appointment of judges applies in almost all member states and entities. The CCJE notes that in European practice, full-time appointments until legal retirement age are the rule and that this is the least problematic approach from the point of view of independence.<sup>68</sup> The irremovability of judges is guaranteed in principle, although there are often exceptions to this rule. The situation in Switzerland, where judges may be elected by the people or parliament, depending on the canton, or appointed by the court of appeal, is quite specific.

- *Probation periods*

30. The CEPEJ and CCJE have noted that many civil law systems provide for probation periods for new judges.<sup>69</sup> Probation periods exist in 17 member states. The periods vary from three months in Denmark to a maximum of five years in Bulgaria<sup>70</sup> and Germany, and even 10 years for the position of President of the Supreme Court in Georgia.<sup>71</sup> The Venice Commission has always been critical of the very idea of probation periods for judges, insofar as such a status undermines their independence.<sup>72</sup> The five-year probation period for new

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<sup>64</sup> GRECO, recommendation x. partially implemented (*Fourth compliance report Türkiye - interim*, 7 December 2023, para. 22)

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

<sup>66</sup> Venice Commission, *Armenia - Opinion n° 988/2020*

<sup>67</sup> Venice Commission, *Albania - Opinion n° 978/2020*

<sup>68</sup> CCJE Opinion No. 1 (2001) on standards concerning the independence and security of tenure of judges, para. 48

<sup>69</sup> *Ibid.* para. 49

<sup>70</sup> GRECO, recommendation vi. partially implemented (*Second compliance report Bulgaria*, 17 January 2020, para. 20)

<sup>71</sup> Venice Commission, *Georgia - CDL-AD(2023)033*

<sup>72</sup> Venice Commission, *Bulgaria CDL-AD(2017)018, Bulgaria - CDL-AD(2002)015, Bulgaria - Opinion No. 1002 / 2020*

judges has been abolished in some states (Republic of Moldova, Ukraine), introducing a lifetime appointment.

31. The Venice Commission specified that, if they exist, probation periods for young judges must be surrounded by all the necessary safeguards, be based on established international standards and must not be unnecessarily long, and that final appointment after the trial period should be the rule. The irremovability of judges should be strengthened in some states (Republic of Moldova,<sup>73</sup> Türkiye<sup>74</sup>).

### 3) Dismissal, relocation and reappointment of judges

- *Dismissal and reappointment*

32. According to the Venice Commission, the criteria for removal from office must be clearly defined without being too vague and weak for both full judges and the President of the Supreme Court.<sup>75</sup> It stressed that judges should not be dismissed for a repeated minor offence and that unsatisfactory performance and disciplinary misconduct should not be treated in the same way.<sup>76</sup> In Lithuania, the Constitutional Court clarified the principles relating to the dismissal of superior court judges, reaffirming the role of the Judicial Council<sup>77</sup>. The Commissioner for Human Rights was appalled by the dismissal and replacement of many court presidents and vice-presidents.<sup>78</sup>

33. The European Court of Human Rights ruled that several dismissals of judges in Ukraine were unlawful and called on the respondent state to take a number of general measures to reform the disciplinary justice system.<sup>79</sup>

34. In Andorra, where the term of office of judges is not indefinite, their reappointment is automatic, except in case of disciplinary proceedings or sanctions.<sup>80</sup>

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

35. The principle of irremovability means that judges cannot be reassigned without their consent. This is the case in Portugal, Armenia and Georgia<sup>81</sup> (unless no judge agrees to be transferred - procedure of drawing lots by the Judicial Council).

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<sup>73</sup> Venice Commission, *Republic of Moldova* - CDL-AD(2023)032

<sup>74</sup> GRECO, recommendation xii. not implemented (*Fourth compliance report Türkiye - interim*, 7 December 2023, para. 35)

<sup>75</sup> Venice Commission, *Hungary* - Opinion n° 1050 / 2021

<sup>76</sup> Venice Commission, *Serbia* - Opinion No. 1015/2021; *Serbia* - CDL-AD(2022)030

<sup>77</sup> European Commission report on the rule of law, 5 July 2023

<sup>78</sup> Country visit report by the Commissioner for Human Rights on Poland "*Polish authorities should protect judges from pressure, actively protect women's rights and strengthen policies to promote gender equality*", 28 June 2019

<sup>79</sup> ECtHR, *Oleksandr Volkov v. Ukraine*, No. 21722/11, 9 January 2013; ECtHR, *Kulykov and Others v. Ukraine*, No. 5114/09, 19 January 2017; ECtHR [GC], *Denisov v. Ukraine*, No. 76639/11, 25 September 2018; ECtHR, *Gumenyuk and Others v. Ukraine*, No. 11423/19, 22 July 2021 - supervision of the execution of this group of ongoing cases.

<sup>80</sup> GRECO, recommendation viii. implemented (*Andorra Compliance Report - interim*, 9 December 2021, para. 49)

<sup>81</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

- *Exceptions to the principle subject to safeguards*

36. The CEPEJ indicates in its latest report that a transfer may however be carried out without the consent of the judge concerned, but in this case, attention must be paid to the modalities of this transfer. It may result from a **disciplinary** procedure before an independent body, which is the case for 37% of states and entities. In addition, more than 59% of states and entities allow judges to be transferred without their consent for **organisational** reasons (closure, merger, restructuring of courts, etc.). These transfers are governed by guarantees such as the right to appeal against the decision before a court (Hungary,<sup>82</sup> Poland<sup>83</sup>) or salary maintenance (Montenegro<sup>84</sup>).

37. According to the Warsaw Recommendations, in the context of closure of a court, all existing members of that court should, in principle, be transferred to another court.<sup>85</sup>

38. According to CEPEJ's 2024 report, the transfer of judges is sometimes possible for reasons **other** than disciplinary or organisational. In Austria, judges must be transferred if non-professional circumstances (through no fault of their own) damage their reputation and ability to perform their duties in such a way that they would no longer be able to act as a judge in that court. In Germany, in addition to disciplinary and organisational reasons, judges may be transferred without their consent in the context of *impeachment* proceedings for violation of the constitutional order or if facts external to their judicial activity imperatively require such a measure in order to avoid serious harm to the administration of justice.

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

- *Problematic cases of relocation without consent*

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

41. In the *Bilgen v. Türkiye*, judgment of 9 March 2021, No. 1571/07, the European Court of Human Rights found a lack of access to a court, resulting in the impossibility for a judge to obtain judicial review of an allegedly unjustified decision to transfer without consent to a lower judicial district. Following this judgment, an action plan/report on the measures planned/adopted was expected, with a particular focus on legislative measures, introducing procedural safeguards to protect the judicial autonomy of judges from undue external or internal influences and, thus, to strengthen public confidence in the functioning of the judiciary.

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<sup>82</sup> GRECO, recommendation x. partially implemented (*Fourth compliance report Hungary - interim*, 9 June 2023, para. 48)

<sup>83</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>84</sup> Venice Commission, *Montenegro - CDL-PI(2024)007*

<sup>85</sup> Warsaw Recommendations on Judicial Independence and Accountability (2023, OSCE/ODIHR), para. 33

#### 4) Judges' remuneration

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

43. According to Recommendation CM/Rec(2010)12 of the Committee of Ministers on judges: independence, efficiency and responsibilities (para. 53 and 54), the level of judges' salaries contributes to their independence. Judges should be offered a level of remuneration commensurate with their status and responsibilities. The Venice Commission reiterated the importance of appropriate salaries from the point of view of both the attractiveness of a judicial career and the prevention of corruption.<sup>86</sup>

44. The CJEU has mentioned, *inter alia*, that protection against the dismissal of judges and the payment of remuneration commensurate with the importance of their duties are essential guarantees of the independence of the judiciary.<sup>87</sup>

45. The United Nations Special Rapporteur on the independence of judges and lawyers has noted that the reality on the ground is far from complying with the principle of legally guaranteed and appropriate remuneration for judges. In several of his country mission reports, he noted the low level of judges' salaries. He also highlighted the fact that, even where there are legal provisions in this area, the salaries actually paid to judges are inadequate. He recommends that states pay judges properly and without delay, taking into account the responsibilities and nature of their duties.<sup>88</sup>

46. Judges' remuneration is increasingly interpreted and regulated as a guarantee in itself of the status and independence of the judiciary.<sup>89</sup> In a number of member states, the remuneration of judges has been increased and guaranteed in accordance with the principle that their salary should be commensurate with their status and ensure their material independence.

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

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

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<sup>86</sup> Venice Commission, *Serbia - Opinion n° 1088 / 2022*

<sup>87</sup> CJEU, *Associação Sindical dos Juizes Portugueses*, No. C-64/16, 27 February 2018, § 45

<sup>88</sup> Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, *Guarantees of judicial independence*, A/HRC/11/41, 24 March 2009, para. 73-74 and 99

<sup>89</sup> CCJE Opinion No. 18 (2015) on the position of the judiciary and its relation with the other powers of state in a modern democracy, para. 36

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

50. In some states, the remuneration of judges is problematic, either because of the risk of undue influence implied by a system of applying supplementary remuneration without clear guidance (Bulgaria<sup>90</sup>), chronic underfunding of the judicial system (Greece<sup>91</sup>), substantial differences between the salaries of judges and other civil servants (Slovenia<sup>92</sup>) or a lack of financial independence of the judiciary (Slovak Republic<sup>93</sup>).

#### 5) Promotion of judges

51. The United Nations Special Rapporteur on the independence of judges and lawyers and the Human Rights Committee recommend that states adopt clear procedures and objective criteria for the promotion of judges. The Special Rapporteur stresses that it is preferable that an independent body responsible for the selection of judges, made up of at least a majority of judges, should be able to take the final decisions on promotion.<sup>94</sup>

52. According to the CEPEJ's 2024 report, in 28 member states and entities, the same authority competent for the initial recruitment is also competent for the promotion of judges. In five of these states, it is an authority composed solely of judges, in one state, an authority composed solely of non-judges, and in 24 states, an authority composed of judges and non-judges. In Germany, all models exist, depending on the Länder. In many states, the competent body is the Supreme Judicial Council or a similar body, or at least it is involved in the decision.

53. In most states, promotion decisions are based on appraisals. Interviews are also conducted in some cases, and seniority is sometimes required. Only a few states provide for a competition or examination for promotion (internal competition in Andorra and open competition in Northern Ireland (UK)). In some states, the normal application procedure applies (Denmark, Estonia, Ireland, Iceland, Norway, Switzerland).

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

55. The procedure for promoting magistrates must meet the necessary guarantees of objectivity and transparency, as in Luxembourg.<sup>95</sup> In some countries, GRECO has regretted

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<sup>90</sup> GRECO, recommendation ix. partially implemented (*Second compliance report Bulgaria*, 17 January 2020, para. 26)

<sup>91</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>92</sup> Opinion of the Bureau of the CCJE following a Declaration of Protest by the Slovenian Association of Judges concerning the non-execution of a decision of the Constitutional Court of Slovenia aimed at remedying established unconstitutionality concerning substantial differences between the salaries of judges and other civil servants, February 2024

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

<sup>94</sup> Report of the United Nations Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, *Guarantees of judicial independence*, A/HRC/11/41, 24 March 2009, para. 69-71

<sup>95</sup> GRECO, recommendation vi. implemented (*Second compliance report Luxembourg - addendum*, 6 December 2023, para. 32)



the absence of clear and objective criteria (Estonia,<sup>96</sup> Georgia<sup>97</sup>). In Hungary, the Commissioner for Human Rights stressed the need to streamline procedures for the promotion of judges, with a greater role to be played by self-regulatory judicial bodies.<sup>98</sup>

#### 6) Judges' assessment

56. According to CCJE Opinion No. 17 (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence (para. 49.6): "Evaluation must be based on objective criteria. Such criteria should principally consist of qualitative indicators but, in addition, may consist of quantitative indicators. In every case, the indicators used must enable those evaluating to consider all aspects that constitute good judicial performance. Evaluation should not be based on quantitative criteria alone".<sup>99</sup> Assessments should be carried out locally, by other judges.<sup>100</sup> Judges should be informed of the outcome of their assessment, and of the possibilities for appeal.<sup>101</sup>

57. Some states where judges have to undergo a probatory period have adopted reforms to improve the assessment of judges before they are appointed for life (Bulgaria<sup>102</sup>) or to extend the assessment system to all magistrates (Monaco<sup>103</sup>). Some states have also changed the way judges are assessed, placing less emphasis on the quantitative aspects of their work and more on the qualitative aspects, and have abolished demotions or dismissals in the event of an unsatisfactory assessment (Northern Macedonia,<sup>104</sup> Serbia<sup>105</sup>).

58. The Venice Commission considered that the rate of reversal of decisions on appeal was not a satisfactory criterion for judges' assessment.<sup>106</sup> It should be noted that Luxembourg does not have a system for periodically assessing magistrates.<sup>107</sup>

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<sup>96</sup> GRECO, recommendation viii. partially implemented (*Second compliance report Estonia*, 23 June 2017, para. 43)

<sup>97</sup> GRECO, recommendation iv. partially implemented (*Second Georgia Compliance Report - Addendum*, 13 July 2022, para. 24 and 29)

<sup>98</sup> Statement by the Commissioner for Human Rights "Commissioner urges Hungarian Parliament to amend bill threatening independence of judiciary", 28 November 2019

<sup>99</sup> See also Warsaw Recommendations on Judicial Independence and Accountability (2023, OSCE/ODIHR), para. 26 and 38

<sup>100</sup> CCJE Opinion No. 17 (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence, para. 36-38

<sup>101</sup> See in particular ECtHR (GC), *Guðmundur Andri Ástráðsson v. Iceland*, No. 26374/18, 1 December 2020, § 218 and following.; ECtHR (GC), *Grzęda v. Poland*, No. 43572/18, 15 March 2022, §343; ECtHR, *Gloveli v. Georgia*, No. 18952/18, 7 April 2022, §§ 56-59; CM/Rec(2010)12 on judges: independence, efficiency and responsibilities, §58.

<sup>102</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>103</sup> GRECO, Recommendation x. implemented (*Monaco Compliance Report - Interim*, 8 October 2021, para. 60)

<sup>104</sup> GRECO, recommendation ix. implemented (*North Macedonia Compliance Report*, 9 August 2018, para. 51)

<sup>105</sup> GRECO, recommendation vi. implemented (*Second compliance report Serbia - interim*, 30 March 2022, para. 35)

<sup>106</sup> Venice Commission, *Montenegro* - CDL-PI(2024)007

<sup>107</sup> GRECO, *Second compliance report Luxembourg* - addendum, 6 December 2023, para. 32

59. In other states, GRECO continues to follow the developments on the implementation of reforms in the evaluation of judges (Azerbaijan,<sup>108</sup> Bosnia-Herzegovina<sup>109</sup>), the formalisation of the procedure (Portugal<sup>110</sup>) or the evaluation criteria, that must be precise and objective (Türkiye,<sup>111</sup> Ukraine<sup>112</sup>). GRECO has specified that the professional evaluation process and the integrity evaluation process should be two separate processes.<sup>113</sup>

## II. TRAINING

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

### 1) Institutions responsible for the training of judges

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

### 2) Admissions to judicial training

62. According to the CEPEJ report, the vast majority of states and entities provide for compulsory initial training for judges. Only in Cyprus, Finland, Malta, Serbia and Sweden initial training is optional. As regards access to training, the Venice Commission encourages the authorities to facilitate it for young professionals from all regions of the country,<sup>114</sup> bearing in mind that access to the judiciary should be guaranteed to all qualified persons from all sectors of society, since diversity within the judiciary strengthens public confidence in it.<sup>115</sup>

63. In-service training is mostly optional. This could be explained by the fact that compulsory in-service training is sometimes regarded as problematic in terms of judges' independence. The CCJE also recommends that in-service training should normally be voluntary for judges and that mandatory in-service training should only take place in exceptional cases.<sup>116</sup>

<sup>108</sup> GRECO, recommendation vi. partially implemented (*Second compliance report Azerbaijan - Addendum, 19 May 2021, para. 26*)

<sup>109</sup> GRECO, recommendation ix. partially implemented (*Second compliance report Bosnia-Herzegovina - second interim, 8 June 2023, para. 47*)

<sup>110</sup> GRECO, recommendation viii. partially implemented (*Third compliance report Portugal - interim, 15 January 2024, para. 50*)

<sup>111</sup> GRECO, recommendation xi. not implemented (*Fourth compliance report Türkiye - interim, 7 December 2023, para. 28*)

<sup>112</sup> GRECO, recommendation xvii. not implemented (*Second Ukraine Compliance Report - Interim, 24 March 2023, para. 92*)

<sup>113</sup> GRECO, recommendation vi. partially implemented (*Second Compliance Report Albania - Addendum, 6 October 2020, para. 34*) ;

<sup>114</sup> Venice Commission, *Montenegro - CDL-PI(2024)007*

<sup>115</sup> Venice Commission, *CDL-AD(2010)004, Report on the independence of the judiciary Part I: The independence of judges*, para. 26

<sup>116</sup> Opinion No. 4 (2003) of the CCJE on appropriate initial and in-service training for judges at national and European levels, para. 37

### 3) Initial and in-service training programmes

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

65. As the European Commission points out,<sup>117</sup> judicial training makes an important contribution to the quality of judicial decisions and justice services provided to citizens. In its 2024 EU Justice Scoreboard, it notes that to improve communication with vulnerable groups, all EU member states offer training on communicating with asylum seekers and/or people from different cultural, religious, ethnic or linguistic backgrounds. In addition, 20 member states offer training on the use of social media and communication with the media (a slight increase compared to 2023), and 13 provide awareness-raising and training on combating disinformation (a slight increase compared to 2023). The Commission had also identified the usefulness of training courses on communicating with victims of violence against women and domestic violence, the elderly, LGBTIQ people and children.

- *Strengthen effective training in judicial skills and ethics*

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

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

68. Ethical issues are largely integrated into the in-service training of judges. In-service training in ethics should cover the norms and standards that prescribe how judges should behave in order to preserve their independence and impartiality and avoid any irregularities. Such training is available in almost all states and entities (including Cyprus,<sup>118</sup> Finland,<sup>119</sup> Ireland,<sup>120</sup> Luxembourg,<sup>121</sup> Northern Macedonia,<sup>122</sup> Monaco,<sup>123</sup> Poland<sup>124</sup>), mainly on a voluntary basis, less often as a compulsory subject.

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<sup>117</sup> Scoreboard on Justice in the EU, 12<sup>th</sup> edition, European Commission, 11 June 2024

<sup>118</sup> GRECO, recommendation xii. implemented (*Second Compliance Report Cyprus, 17 November 2020, para. 70*)

<sup>119</sup> GRECO, recommendation vi. implemented (*Second compliance report Finland, 23 June 2017, para. 30*)

<sup>120</sup> GRECO, recommendation x. implemented (*Second compliance report Ireland - addendum, 30 January 2024, para. 40*)

<sup>121</sup> GRECO, recommendation xii. implemented (*Second compliance report Luxembourg, 20 October 2017, para. 67*)

<sup>122</sup> GRECO, recommendation vii. implemented (*Second compliance report Northern Macedonia - interim, 2 October 2020, para. 38*)

<sup>123</sup> GRECO, recommendation xv. implemented (*Monaco Compliance Report - interim, 8 October 2021, para. 75*)

<sup>124</sup> GRECO, recommendation xi. implemented (*Second compliance report Poland, 28 March 2017, para. 39*)

69. Some member states (Bulgaria,<sup>125</sup> Denmark,<sup>126</sup> Ukraine<sup>127</sup>) have set up online training courses on judicial ethics and integrity. These are complemented by the Council of Europe's HELP programme. The inclusion of these aspects in training programmes and the provision of increased support for judges still need to be strengthened in Greece<sup>128</sup>, Malta<sup>129</sup>, the Slovak Republic<sup>130</sup> and Türkiye<sup>131</sup>.

70. GRECO has also called for the provision of more concrete assistance to newly appointed judges in resolving ethical dilemmas, targeted guidance and advice on corruption prevention issues, conflicts of interest, rules on gifts and other benefits, relations with third parties and all other measures to prevent corruption and preserve integrity in general. In Albania, for example, a post of ethics advisor has been created within the High Council of Judges<sup>132</sup> and in Serbia, the Ethics Committee of the Council of Justice has been set up to provide confidential advice to all categories of judges through an advisor.<sup>133</sup> This point is to be developed in certain states (Andorra,<sup>134</sup> Georgia<sup>135</sup>), bearing in mind that GRECO considered that a combined system of confidential advice for judges and prosecutors was not appropriate, as the professions of judge and prosecutor are fundamentally different, should be independent of each other and must be treated as such.<sup>136</sup>

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

71. Gender equality training is available to judicial staff in Sweden, where workshops on gender mainstreaming are also organised. Training sessions are organised in Austria, Spain and Georgia, where judges take part in training on violence against women and domestic violence. Training sessions on issues such as negative stereotypes, non-discrimination and equality are organised in Croatia, Germany, the Republic of Moldova and Montenegro. In England and Wales (UK), diversity is integrated into all training offered by the Judicial College.

#### 4) The role of training in judges' careers

72. In some states, training is mandatory for judges to progress in their careers. For example, the reform of the statute of administrative and tax courts in Portugal introduced a

<sup>125</sup> GRECO, recommendation xi. implemented (*Second compliance report Bulgaria*, 17 January 2020, para. 34)

<sup>126</sup> GRECO, recommendation v. implemented (*Second compliance report Denmark - interim*, 5 February 2020, para. 30)

<sup>127</sup> *Review of the implementation of the Council of Europe Action Plan to strengthen the independence and impartiality of the judiciary*, CDCJ, November 2022

<sup>128</sup> GRECO, recommendation xvii. partially implemented (*Second Compliance Report Greece - addendum*, 1 June 2022, para. 45)

<sup>129</sup> GRECO, recommendation vi. partially implemented (*Second compliance report Malta - second addendum*, 6 June 2023, para. 30)

<sup>130</sup> GRECO, recommendation viii. partially implemented (*Second Slovak Republic Compliance Report - Second Addendum*, 3 February 2021, para. 33)

<sup>131</sup> GRECO, recommendation xviii. partially implemented (*Fourth compliance report Türkiye - interim*, 1 June 2022, para. 60)

<sup>132</sup> GRECO, recommendation vii. implementation (*Second compliance report Albania - addendum*, 7 December 2023, para. 39)

<sup>133</sup> GRECO, recommendation vii. implementation (*Second compliance report Serbia - interim*, 30 March 2022, para. 41)

<sup>134</sup> GRECO, recommendation x. not implemented (*Second compliance report Andorra*, 14 June 2023, para. 37-41)

<sup>135</sup> GRECO, recommendation vii. partially implemented. (*Second Georgia Compliance Report - Addendum*, 13 July 2022, para. 35)

<sup>136</sup> GRECO, recommendation xi. partially implemented (*Second compliance report Bosnia-Herzegovina - interim*, 8 June 2023, para. 59)

requirement for training prior to holding the position of president of a court. In Spain, gender-based training has become a prerequisite for appointment and promotion.

## CONCLUSIONS

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

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

75. However, the conclusions of this report show that the measures in the Sofia Action Plan are still relevant. Difficulties have been noted in particular regarding the application of appointment procedures to all judges, without certain categories being excluded. Furthermore, the challenge of establishing objective and transparent criteria remains, whether for the selection, appointment, assessment and promotion of judges, or for their eventual dismissal. Irremovability, the founding principle of judicial independence, remains under threat in some states. Finally, the training of judges, which is essential to the quality and effectiveness of justice, is poorly documented, both in terms of training programmes and the role it plays in judges' careers. This is why the CDCJ has drawn up a questionnaire to answer these questions.