



CCJE-BU(2021)1

Strasbourg, 21 January 2021

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Questionnaire for the preparation of the CCJE Opinion No. 24 (2021):

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

ANSWERS -CROATIA

*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?	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

	<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 checked="" 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 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="checkbox"/> 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="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 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
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="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"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<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 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
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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?

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	<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 checked="" 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?

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 ballot.

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 always 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 unsatsified 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 discrecion 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