



CCJE-BU(2021)1

Prague, 26th Feb. 2021
Czech Republic

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

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| 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"/> <input type="radio"/> Association of Judges <input type="radio"/> |
| Administration of the judiciary | <input type="radio"/> <input type="radio"/> MoJ |

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|---|---|
| | <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 |

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| | <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

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| 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 |

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|---|--|
| | <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

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| 11. Which body provides funding for the Council for the Judiciary? | <input type="radio"/> MoJ <input type="radio"/> Parliament |
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| | O other, if so specify |
| 12. Is the administration of the Council for the Judiciary independent from other branches of government? | O yes O 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
26th Feb.2021