



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”**

ESTONIA

*Please in your answers do not send extracts of your legislation
but describe the situation in brief and concise manner.*

General

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

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

Defending and fostering the independence of judges and the judiciary/the rule of law	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Defending judges/the judiciary against public attacks	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents

	<input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input checked="" type="radio"/> HJC <input 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 type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input checked="" type="radio"/> other, please specify: Judicial Examination Committee, Supreme Court and President of the Republic
Selection of judges for promotion	<input type="radio"/> HJC <input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input checked="" type="radio"/> other, please specify: Supreme Court
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 checked="" type="radio"/> other, please specify: Judicial Examination Committee
Evaluation of court performance	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Conducting disciplinary procedures	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ (over court president only) <input type="radio"/> Parliament

	<input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Disciplinary Chamber
Drafting and enforcing a code of ethics	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Estonian Court en banc
Public relations/media coverage for the judiciary, or individual courts	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Providing input on legislative projects	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
Training of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input checked="" type="checkbox"/> other, please specify: Training Council
IT, including digitalisation of the judiciary and online hearings	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify:
The allocation of financial resources to the judiciary including individual courts	<input type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts

	<input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify
Salaries of judges	<input type="radio"/> HJC <input type="radio"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> other, please specify

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

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

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

Legal basis

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

Existence of a Council for the Judiciary	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Law <input type="radio"/> other, please specify
Composition	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Law <input type="radio"/> other, please specify
Tasks	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Law <input type="radio"/> other, please specify
Resources, funding, administration	<input type="radio"/> Constitution <input checked="" type="checkbox"/> Law <input type="radio"/> other, please specify
Independence	<input type="radio"/> Constitution <input type="radio"/> Law <input checked="" type="checkbox"/> other, please specify: no specific regulation

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

Composition and Membership

- 5. The composition of the Council for the Judiciary:
 - How many members are there? 11
 - Are there ex-officio members? Yes: Chief Justice. Legal Chancellor and Chief Public Procecutor can send its representative; others are elected/appointed.
 - How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances? 6 (including Chief Justice), no qualifications.
 - Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
Yes: 2 members of the Parliament, 1 attorney, Legal Chancellor, Chief Public Procecutor
- 6. Please describe the procedure of appointment:
 - Who nominates the members? (judges or other institutions or authorities – please specify). Judges are elected by the court en banc (court en banc is a body of all Estonian judges – around 250), others are appointed by relevant authority, no specific appointment rules.
 - Please describe the appointment system – see previous answer.
 - If members are elected by Parliament, are these members elected with a simple or qualified majority? No qualified majority needed.
- 7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
Judges are elected by secret voting.
- 8. How is the President and/or Vice-President of the Council selected and appointed?
President of the Council is always Chief Justice.
- 9. What is the term of office for a member of the Council? – 3 years.
- 10. May a member be removed from office against his/her will and, if so, under what circumstances? – No such regulation.

Resources and management

11. Which body provides funding for the Council for the Judiciary?	x MoJ O Parliament O other, if so specify
12. Is the administration of the Council for the Judiciary independent from other branches of government?	x 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?
There has been no such conflict which affects its functioning. In case of equal votes, Chief Justice's vote is predominant.
14. Have there been conflicts between the Council for the Judiciary and the judiciary? Have judges felt that the Council for the Judiciary did not represent their interests? If yes, why and has the conflict been solved?
No serious conflicts. However, appointment of court presidents – in which Council has its veto rights – has been resulted in controversial reactions among judges.

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

15. Have there been conflicts between the Council for the Judiciary and the executive or legislative? If yes, what was the character of these conflicts and have they been solved?
No serious conflicts.
16. What legal and political means may the Council of Judiciary in your judicial system employ if it feels that its constitutional role has been infringed?
To express their view only.
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
No.
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
Not significantly.
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
Most years, president of the Association of Judges has been elected as a member of the Council.
20. How does the Council for the Judiciary in your judicial system interact with media?
By publishing its public views.
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?
Only role is to agree or disagree (veto) Minister of Justice's candidates for court president and give its opinion of candidates for the Supreme Court (not binding).

Challenges, developments

22. Does the Council for the Judiciary in your judiciary face particular challenges? If so, what is the character of these challenges? These challenges might have arisen – among other reasons - because of political and economic developments, societal changes, corruption, the Covid-19 pandemic or technological challenges such as the digitalisation of the judiciary.

Problem is a lack of objective criteria for promoting judges and appointing court presidents and members of the Supreme Court. There is a criticism that these positions

are filled by personal affiliation rather than objective criteria. There are also Covid-19 and technological challenges and (uneven) work load problems.

23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
No.
24. Have there been reforms concerning the Council for the Judiciary in your judicial system recently? If so, what were the objectives of these reforms and have they been successful?
No.
25. In case your judicial system does not have one, is there a discussion to introduce a Council for the Judiciary? If so, what are the arguments made in favour and against the introduction of a Council for the Judiciary. Do you think that there are challenges in your judicial system a Council for the Judiciary might help to solve? Is it likely that such a Council will be introduced?
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