



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”

*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
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2. What is the exact title/denomination of this body? *High Council of Justice of Georgia*

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

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

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

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

	<input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input checked="" type="radio"/> other, please specify – Plenum of the Supreme Court
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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?

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

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

Legal basis

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

Existence of a Council for the Judiciary	<input checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Composition	<input checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input checked="" type="radio"/> Constitution <input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<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?
 - *Regulation ("Reglament", Rules of Procedure) of the High Council of Justice*

Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? 15
- Are there ex-officio members? 1 – *the Chairman of the Supreme Court of Georgia*

- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
 - *Out of 15 members more than ½ (8) must be judges plus the Chairman of the Supreme Court (8+1=9 in total). Among 8 judge members, one is elected as a secretary of the High Council of Justice.*
 - *They must have at least 4 or 5 years experience as a judge.*
 - *At least 1 judge must be from each instance (first, appellate, supreme)*
 - *Only ½ of the judge-members can be the presidents, the vice-presidents of the courts or the presidents of the chambers*
 - *Members of the Qualification Chamber and the Disciplinary Chamber of the Supreme Court cannot be elected as members of the High Council of Justice.*

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
 - *There must be 6 non-judge members out of 15.*
 - *1 member is appointed by the President of Georgia, 5 members are elected by the Parliament (at least 3/5 majority of the total number of the Parliament Members is needed).*
 - *They must have high legal education (at least LL.M), 5 years working experience, high moral reputation and be recognized legal specialists.*
 - *They can be professors or researchers of universities, members of the Georgian Bar Association, or lawyers nominated by non-governmental organizations. Judges, Prosecutors and Parliament Members cannot be nominated as non-judge members of the Council.*

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)
 - *Judge members can be nominated by any judge at the Conference of Judges.*
 - *Non-judge members can be nominated by the universities, the Georgian Bar Association, by non-for-profit organizations which at least for 2 years are involved in law practice before courts. Each university or organization can nominate maximum 3 persons.*

- Please describe the appointment system
 - *The Chairman of the Supreme Court is an ex-officio member.*
 - *8 judge-members are elected by simple (1/2) majority vote of judges who attend the Conference of Judges (highest self-governing body within the judiciary).*
 - *1 non-judge member is appointed by the President of Georgia.*
 - *5 non-judge members are elected by the Parliament.*

- If members are elected by Parliament, are these members elected with a simple or qualified majority?
 - *At least 3/5 majority of the total number of the Parliament Members is needed to elect non-judge members.*

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

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

Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input type="radio"/> other, if so specify
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input checked="" type="radio"/> yes <input type="radio"/> no

Relations within the Council for the Judiciary and within the judiciary

13. Have there been any severe internal conflicts within the Council for the Judiciary that have seriously affected its functioning? If yes, what was the character of these conflicts and have they been solved?
- *Yes. There have been permanent conflicts and tensions between judge and non-judge members and the former President of the Council (former Chief Justice), also between judge and non-judge members (or some of the non-judge members) of the Council since 2014.*

- One of the recent conflicts between judge and non-judge members, from one side and 2 of the non-judge members, on another side of the Council has been related to the issue of lifetime appointment of the Supreme Court judges. This is the extract from the Urgent Opinion of the Venice Commission for Georgia 2019 on the selection and appointment of the Supreme Court Judges, which reflects some aspects of the conflict:
 - i. “The procedure for the appointment of Supreme Court judges has proved to be difficult, following the presentation of a list of ten candidates to Parliament by the High Council of Justice in December 2018. This list was eventually withdrawn, due to the controversies and criticism it raised in the population, civil society and a number of members of the High Council of Justice, following the speed at which it was drawn up and presented to Parliament. The criticisms claimed that the selection procedure lacked clear and objective criteria as well as transparency. In this respect, NGOs have alleged that the appointment process is controlled by a political network of influential judges, who do not enjoy the best reputation due to past decisions and partial appointments. This resulted in the call for the drafting of legislative amendments to provide for clear and objective criteria and a transparent procedure for the selection and appointment of judges to the Supreme Court of Georgia” (see [https://www.venice.coe.int/webforms/documents/default.aspx?pdfid=CDL-PI\(2019\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdfid=CDL-PI(2019)002-e)).
 - Since the full details of the permanent conflict is impossible to describe in this document, for additional information please explore the following links:
 - i. <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>
 - ii. <https://www.transparency.ge/en/post/monitoring-report-high-council-justice-n7>
14. Have there been conflicts between the Council for the Judiciary and the judiciary? Have judges felt that the Council for the Judiciary did not represent their interests? If yes, why and has the conflict been solved?
- There have been conflicts between the Council and the Unity of Judges of Georgia since 2013
 - i. Unity of Judges of Georgia is one of the 3 associations of judges existing at present in Georgia (Two other associations are: 1. The Association of Judges of Georgia, and 2. The Association of Women Judges of Georgia). At the time of its establishment in 2013 the Unity of Judges of Georgia had 1/3 of acting judges as its members, however currently it has no acting judge-members (only former judges).
 - For detailed information about conflict please see the following brochures:
 - i. http://ewmi-prolog.org/images/files/1822Newsletters_N_1_eng.pdf
http://ewmi-prolog.org/images/files/6215Newsletters_N_2_Eng.pdf
 - ii. also in 2016 <http://liberali.ge/articles/view/23819/mosamartleta-ertoba-sabchos-mier-mosamartleta-sherchevis-protsess-uaryofitad-afasebs>
 - There have been no other conflicts between the Council and the judiciary. During recent years the Conference of Judges has made several official statements in support to the activities of the Council (see one of the statements in Georgian <http://www.supremecourt.ge/news/id/1892>).
 - There have been no official statements by individual judges in relation to activities of the Council.

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

15. Have there been conflicts between the Council for the Judiciary and the executive or legislative? If yes, what was the character of these conflicts and have they been solved?
- *There have been conflicts between the former President of Georgia and the Council <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>.*
 - *There have been no conflicts between the Council and the executive or legislative branch since 2016.*
16. What legal and political means may the Council of Judiciary in your judicial system employ if it feels that its constitutional role has been infringed?
- *The Council is established by the Constitution of Georgia. Until present there have been no attempts to infringe its constitutional role.*
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
- *The Council cooperates with anti-corruption bodies.*
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
- *There have been permanent conflicts and tensions between the Council and NGOs (see also answer to Question 13).*
 - *Since the full details of the permanent conflict is impossible to describe in this document, for additional information please explore the following links:*
 - i. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2019\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2019)002-e)
 - ii. <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>
 - iii. <https://www.transparency.ge/en/post/monitoring-report-high-council-justice-n7>
 - iv. https://idfi.ge/en/the_draft_decree_regulating_the_process_of_selection_of_supreme_court_judicial_candidates_by_the_high_council_of_justice_is_problematic
 - v. https://idfi.ge/en/coalition_assesses_selection_of_supreme_court_judicial_candidates
 - vi. 17 July, 2019 Statement of the Coalition for an Independent and Transparent Judiciary - http://coalition.ge/index.php?article_id=213&clang=1
 - vii. 14 May, 2019 Statement of the Coalition for an Independent and Transparent Judiciary - http://www.coalition.ge/index.php?article_id=208&clang=1
 - viii. 28 June, 2018 Statement of the Public Defender's Office (PDO) - <https://bit.ly/2kHIPZE>
 - ix. 24 July, 2019 Statement of the Coalition for an Independent and Transparent Judiciary - http://coalition.ge/index.php?article_id=214&clang=1
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?

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

Challenges, developments

22. Does the Council for the Judiciary in your judiciary face particular challenges? If so, what is the character of these challenges? These challenges might have arisen – among other reasons - because of political and economic developments, societal changes, corruption, the Covid-19 pandemic or technological challenges such as the digitalisation of the judiciary.
- *Please see answers to Questions 13-19 above.*
 - *For detailed information see:*
 - i. <http://ewmi-prolog.org/en/publications/613-high-council-of-justice-monitoring-reports>
 - ii. <https://www.transparency.ge/en/post/monitoring-report-high-council-justice-n7>
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
- *Until recently the Council does not have power to nominate the Supreme Court judges. Since 2019 it has a power to nominate the Supreme Court judges, who are elected by the Parliament.*
24. Have there been reforms concerning the Council for the Judiciary in your judicial system recently? If so, what were the objectives of these reforms and have they been successful?

- *The latest reform concerning the activities of the Council has been launched since September 2020 and it relates to the procedure of selection of the Supreme Court judges.*
- *According to the amendments in the law the new selection procedure now comprises the following steps:*
 - i. - an interview of each candidate at a public hearing;*
 - ii. - an evaluation of each candidate by each HCoJ member according to the criteria set out for candidates with no judicial experience and for those with judicial experience, accompanied by the written justification for each score and for each justification of integrity;*
 - iii. - the publication on the website of the HCoJ of the scores and evaluations of each candidate together with the relevant reasoning (without disclosing the identity of the relevant HCoJ member);*
 - iv. - the vote on the interviews and evaluated candidates on the basis of the scores, evaluation and reasoning; additional numerical thresholds for competence and integrity are established for candidates to be admissible; written reasoning needs to be provided for each vote; the counting of the votes at a closed meeting of the HCoJ; the publication on the website of the HCoJ of the list of candidates admitted to the next stage together with the reasoning for the votes, without disclosing the identity of the relevant HCoJ member;*
 - v. - the final vote on the list of candidates (the vote of at least two-thirds of all the members of the HCoJ is necessary to be elected); provision of written reasoning for each vote by each member of the HCoJ; publication of the list and the reasoning on the website of the HCoJ;*
 - vi. - the possibility for each HCoJ member to express a dissenting opinion in writing which is transmitted to Parliament and published on the website of the HCoJ;*
 - vii. - transmission to Parliament of all the information and documents published on the website of the HCoJ;*
 - viii. - in case of failure by Parliament to elect the new judges, a new selection from the list of registered candidates is made (only once); publication on the website of the HCoJ is foreseen under the same rules;*
 - ix. - gathering of “credible” information on the registered candidates by the HCoJ.*
- *The Venice Commission provided its opinion on the draft of amendments in October, 2020*
[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)021-e)
- *The aforementioned amendments are designed to make the work of the Council more transparent and provide grounds for its decisions.*

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

- N/A