



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?	<input type="radio"/> yes
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2. What is the exact title/denomination of this body?

***National Council for the Judiciary***

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"/> HJC <input type="radio"/> Court Presidents <input type="radio"/> Association of Judges <input type="radio"/> other: President of the National Office for the Judiciary
Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input type="radio"/> Court Presidents <input type="radio"/> Association of Judges <input type="radio"/> other: President of the National Office for the Judiciary
Administration of the judiciary	<input type="radio"/> HJC

	<input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> other: President of the National Office for the Judiciary
Selection of new judges	<input type="checkbox"/> HJC <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> other: President of the National Office for the Judiciary
Selection of judges for promotion	<input type="checkbox"/> HJC <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> other: President of the National Office for the Judiciary
Evaluation of judges	<input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts
Evaluation of court performance	<input type="checkbox"/> HJC <input type="checkbox"/> Parliament <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> other: President of the National Office for the Judiciary
Conducting disciplinary procedures	<input type="checkbox"/> other: (Judges') Service Court
Drafting and enforcing a code of ethics	<input type="checkbox"/> HJC <input type="checkbox"/> other: (Judges') Service Court
Public relations/media coverage for the judiciary, or individual courts	<input type="checkbox"/> Court Presidents <input type="checkbox"/> other: President of the National Office for the Judiciary
Providing input on legislative projects	<input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> other: President of the National Office for the Judiciary
Training of judges	<input type="checkbox"/> HJC <input type="checkbox"/> Court Presidents <input type="checkbox"/> other: President of the National Office for the Judiciary
IT, including digitalisation of the judiciary and online hearings	<input type="checkbox"/> Court Presidents <input type="checkbox"/> other: President of the National Office for the Judiciary
The allocation of financial resources to the judiciary including individual courts	<input type="checkbox"/> HJC <input type="checkbox"/> other: President of the National Office for the Judiciary
Salaries of judges	<input type="checkbox"/> Parliament

- 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?

### 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 type="radio"/> Law
Composition	<input type="radio"/> Constitution <input type="radio"/> Law
Selection of members including tenure and removal during tenure	<input type="radio"/> Law
Tasks	<input type="radio"/> Constitution <input type="radio"/> Law
Resources, funding, administration	<input type="radio"/> Constitution <input type="radio"/> Law
Independence	<input type="radio"/> Constitution <input type="radio"/> Law

- 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?  
**15 members**
- Are there ex-officio members?  
**The President of the Kúria (Curia)**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?  
**All the 15 members of the National Council for the Judiciary are judges, with 14 elected members comprising 1 (regional) court of appeal judge, 6 general court judges, 7 district court judges. Judges having at least five years judicial experience may be elected as members of the National Council for the Judiciary.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

**All members of the National Council for the Judiciary are judges, but its meetings may be attended, in a consultative capacity, by the President of the National Office for the Judiciary, the minister responsible for justice, the Chief Public Prosecutor, the President of the Hungarian Bar Association, the President of the Hungarian Association of Notaries Public, the President of the National Council for the Judiciary, as well as experts invited by those attending the meeting, in a consultative capacity, and the representatives of civil and other interest-representation organisations invited by the President of the National Council for the Judiciary.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)

**Members of the National Council for the Judiciary are elected by the conference of delegates. Delegates for the conference of delegates are elected by the plenary meeting of the Kúria (Curia) and the plenary sessions of the (regional) courts of appeal and the general courts, by a majority vote of those present. The eligibility criteria for candidacy and election for delegates to the conference of delegates are identical with the eligibility criteria for members of the National Council for the Judiciary. Proposals for elected members of the National Council for the Judiciary are made by a four-member nomination committee made up of the most senior delegates of the Kúria (Curia), the (regional) courts of appeal, the general courts and the district courts. However, further proposals can be made by any delegate.**

- Please describe the appointment system  
**Judges having at least five years judicial experience may be elected as members of the National Council for the Judiciary. Candidates having received the highest number of valid votes shall be considered as elected members, provided that more than 50 per cent (majority) of the votes have been received.**
- 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?

**The following persons may not be elected as members of the National Council for the Judiciary :**

- **any person who is subject to disciplinary or criminal proceedings;**
- **any person being under disciplinary action;**
- **any person against whom proceedings are pending for establishing incompetence;**
- **any person who cannot, under the law, pursue adjudicative activities due to his position, and whose legal relationship as a judge is staying under the law;**
- **any person who is considered within the meaning of the Code of Civil Procedure to be related to the President of the National Office for the Judiciary or the President or Vice-President of the Kúria (Curia), or the president or vice-president of a court of appeal or general court;**
- **any person who in the year of election reaches the age stipulated as a reason for dismissal;**

- **any person who formerly was a member of the National Council for the Judiciary .**

**A member of the National Council for the Judiciary may not vote on an issue concerning his person. Disciplinary proceedings may only be instituted against a member with the consent of the National Office for the Judiciary.**

8. How is the President and/or Vice-President of the Council selected and appointed?
- **The office of President of the National Council for the Judiciary shall be occupied by the members taking turn at half-year intervals, beginning with the judge who has the longest service relationship as a judge, followed by the ones following in seniority.**
  - **In case of an obstacle, the place of the President of the National Council for the Judiciary is taken by the vice-president of the National Council for the Judiciary. The office of vice-president of the National Council for the Judiciary shall be occupied by the members taking turn at half-year intervals, beginning with the judge who has the second longest service relationship as a judge, followed by the ones following in seniority.**
9. What is the term of office for a member of the Council?  
**6 years**
10. May a member be removed from office against his/her will and, if so, under what circumstances?  
**An elected judge member of the National Council for the Judiciary may not be recalled.**  
**An elected judge member of the National Council for the Judiciary may be subjected to disciplinary proceeding solely with the consent of the National Council for the Judiciary.**

### Resources and management

11. Which body provides funding for the Council for the Judiciary?	<b>O Parliament</b>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<b>O yes</b>

### 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.**
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?  
**Earlier, the National Council for the Judiciary criticised the appointment practice of the former President of the National Office for the Judiciary, while the former President of the National Office for the Judiciary did not recognise the legitimacy of the National Council for the Judiciary because of the decrease of the number of**

**members in the National Council for the Judiciary. The conflict became resolved after the new President of the National Office for the Judiciary took office.**

#### **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 such conflict has ever occurred.**
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?  
**It annually publishes its opinion on the practice of the National Office for the Judiciary and the President of the Kúria (Curia) on the assessment of the applications for judicial heads positions.**  
**The National Council for the Judiciary may, by a resolution adopted by a two-thirds vote of its members, propose to the National Assembly the removal of the President of the National Office for the Judiciary from office.**
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?  
**The President of the National Council for the Judiciary may invite the representative of an organisation to attend the meeting of the National Council for the Judiciary in a consultative capacity.**
18. How does the Council for the Judiciary in your judicial system interact with NGOs?  
**The President of the National Council for the Judiciary may invite the representative of an organisation to attend the meeting of the National Council for the Judiciary in a consultative capacity.**
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?  
**The President of the National Council for the Judiciary may invite the representative of an organisation to attend the meeting of the National Council for the Judiciary in a consultative capacity.**
20. How does the Council for the Judiciary in your judicial system interact with media?  
**The annual scheduled meetings of the National Council for the Judiciary, the brief summaries of the meetings, and the minutes of the preliminary positions of the Presidents of the Kúria (Curia) and the National Office for the Judiciary on the person nominated for a given position shall be published on the central website. In respect of other issues the National Council for the Judiciary shall itself determine how and what information is to be provided for the media.**
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
**It has no such competence.**

#### **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.

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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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