



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 checked="" type="radio"/> yes <input type="radio"/> no
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2. What is the exact title/denomination of this body? The Judicial Council of Ireland

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 checked="" type="checkbox"/> Judicial Administration Board <input checked="" type="checkbox"/> Association of Judges

	<input type="radio"/> other, please specify
Administration of the judiciary	<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
Selection of new judges	<input type="radio"/> HJC <input 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 checked="" type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<input type="radio"/> HJC <input checked="" type="radio"/> MoJ <input checked="" type="radio"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="radio"/> Judicial Administration Board <input type="radio"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Evaluation of judges	<input checked="" type="radio"/> HJC <input 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
Evaluation of court performance	<input checked="" type="radio"/> HJC <input 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 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 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
Public relations/media coverage for the judiciary, or individual courts	<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 checked="" 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 checked="" type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input 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 checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify
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 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 type="checkbox"/> HJC <input type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board <input type="checkbox"/> other, please specify
Salaries of judges	<input type="checkbox"/> HJC <input type="checkbox"/> MoJ <input checked="" 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
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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?
- The Council is an independent body whose members are all of the Judges in Ireland and who constitute a separate and independent branch of Government.
- The function of the Council is to promote and maintain:
 - Excellence in the performance of judicial functions,
 - High standards of conduct among judges,
 - An independent Judiciary, and
 - Public confidence in the judiciary and in the administration of justice.
- 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?N/A

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="radio"/> Law <input type="radio"/> other, please specify
Composition	<input 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 type="radio"/> Constitution <input checked="" type="radio"/> Law <input checked="" type="radio"/> other, please specify The Council may regulate its own business, subject to the Act
Resources, funding, administration	<input type="radio"/> Constitution <input checked="" type="radio"/> Law <input checked="" type="radio"/> other, please specify The Act provides that the funding and staffing be provided. That is subject to discussion and Central Government approval
Independence	<input 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?

All of the rules of the Judicial Council in Ireland are provided for in the Act. The membership is comprised of all of the judges in Ireland. There are no external or lay members.

There are certain functions which are reserved to be decided upon by the entirety of the Council, but most of the functions are carried out by the Board of the Council. The Board consists of the Presidents of the 5 Courts (which includes the Chief Justice), 5 elected judges and 1 co-opted judge.

There are statutory Committees which carry out certain of the Council's functions. They include judicial training, judicial conduct, guidelines on sentencing in criminal cases and guidelines on personal injury awards. There are further committees to oversee judicial support and welfare.

Two of the Committees include lay members recruited by the Government. They are not members of the Council however.

Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there? **166**
- Are there ex-officio members? **All judges are members by reason of their judicial office**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?

All members must be judges

- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)

No

6. Please describe the procedure of appointment:

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

The Act provides that every judge is a member of the Council. A judge becomes a Council member upon appointment as a judge by the President of Ireland.

- Please describe the appointment system **See previous question**
- If members are elected by Parliament, are these members elected with a simple or qualified majority? **N/A**
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7. How is integrity and independence of members ensured in the selection process and during their time on the Council?

This only applies to independence while on the Council. The Council and certain Committees enjoy independence under the Act.

8. How is the President and/or Vice-President of the Council selected and appointed?

The holders of these posts (called the Chairperson and Vice Chairperson) are stipulated under the Judicial Council Act. The Chief Justice and President of the Court of Appeal, the two most senior judges in Ireland, hold the positions.

9. What is the term of office for a member of the Council?

**A judge is a member of the Judicial Council from appointment as a judge until such time as they cease to be a judge, usually at the age of 70.
A Board member is either an *ex officio* member, or serves for 4 years.**

10. May a member be removed from office against his/her will and, if so, under what circumstances?

No. If the Government removes a judge from office under the Constitution, this may be considered removal against his/her will but it is a consequence of no longer being a judge.

Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="checkbox"/> other, if so specify
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> 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

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

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 may be competing interests, such as in relation to the provision of funding and support for the Council, but not what would be termed conflict.

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?

There is no formal mechanism for this to take place.

17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?

This does not take place.

18. How does the Council for the Judiciary in your judicial system interact with NGOs?

Generally speaking this does not take place.

Early experience has been that if an NGO prepares a report recommending that the Judicial Council consider for example certain approaches to training and sentencing, it may decide to consider implementing the recommendation.

19. How does the Council for the Judiciary in your judicial system interact with associations of judges?

Members of the Council network widely and interact as members of various international judicial bodies. It is a mandatory requirement of the Judicial Council Act that the Judicial Council develop relations with international bodies representing judges. This is particularly the case with international judicial training bodies.

20. How does the Council for the Judiciary in your judicial system interact with media?

Through the administrative support only, not through judges, and only on scheduled occasions.

21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?

None at present. The legislation proposed by the Department of Justice to manage judicial appointments in the future will include up to 4 judges, including 2 judges elected by the Judicial Council.

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.

The Council in Ireland is in its early stages, having been established on 17th December 2019. The challenges faced arise from the slow development of adequate administrative and non-judicial support functions required to progress some of the committees' work.

23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how? N/A

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? There is currently a vote pending by the members in respect of the introduction of Personal Injuries Guidelines for Judges.

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