



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”

ANSWERS - LITHUANIA

*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
2. What is the exact title/denomination of this body? THE JUDICIAL COUNCIL / TEISĖJŲ TARYBA	
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 type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board – The National Courts Administration – a special institution, independent from the executive authorities <input checked="" type="checkbox"/> Association of Judges
Defending judges/the judiciary against public attacks	<input checked="" type="checkbox"/> HJC <input type="checkbox"/> MoJ

	<input type="radio"/> 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 type="radio"/> MoJ <input checked="" type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <input checked="" type="radio"/> Presidents of higher courts
Selection of new judges	<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 checked="" type="radio"/> A special Judicial Appointment Body - Selection commission of candidates to judicial office <input checked="" type="radio"/> President of the Republic <input checked="" type="radio"/> Parliament -SEIMAS (Persons seeking to become a judge are selected by the Selection Commission of candidates to judicial office. The purpose of the Selection Commission is to assist The President of the Republic in selecting the most suitable candidates for the positions of specific court judges. The Judicial Council gives an informed advice to the President of the Republic in respect of the appointment of judges and their promotion. If the Judicial Council refuses to give advice, a judge may not be appointed. Judges of regional courts, regional administrative courts, judges of the Court of Appeals and judges of the Supreme administrative court shall be appointed by the President of the Republic. Judges of the Supreme Court shall be appointed by the Seimas on the nomination of the President of the Republic).
Selection of judges for promotion	<input checked="" type="radio"/> HJC

	<p>O MoJ x Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board X A special Judicial Appointment Body Selection commission of candidates to judicial office X President of the Republic ((Persons seeking a career as a judge are selected by the Selection Commission of candidates to judicial office. The purpose of the Selection Commission is to assist The President of the Republic in selecting the most suitable candidates for the positions of specific court judges. The Judicial Council gives an informed advice to the President of the Republic in respect of the appointment of judges and their promotion. If the Judicial Council refuses to give advice, a judge may not be appointed. Judges of regional courts, regional administrative courts, judges of the Court of Appeals and judges of the Supreme administrative court shall be appointed by the President of the Republic. Judges of the Supreme Court shall be appointed by the Seimas on the nomination of the President of the Republic).</p>
Evaluation of judges	<p>x HJC O MoJ O Parliament O Court Presidents O bodies within individual courts O Judicial Administration Board O Association of Judges X a special body - Permanent Commission for the Assessment of Activities of Judges</p>
Evaluation of court performance	<p>x HJC O MoJ O Parliament x Court Presidents O bodies within individual courts O Judicial Administration Board O Association of Judges O other, please specify- X Presidents of higher courts</p>
Conducting disciplinary procedures	- 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 checked="" type="radio"/> a special body - Judicial Ethics and Discipline Commission <input checked="" type="radio"/> a special body- The Judicial Court of Honour <input checked="" type="radio"/> The Supreme Court
Drafting and enforcing a code of ethics	<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 checked="" type="radio"/> Association of Judges <input type="radio"/> other, please specify <input checked="" type="radio"/> General meeting of judges
Public relations/media coverage for the judiciary, or individual courts	<input checked="" 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 checked="" type="radio"/> Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Providing input on legislative projects	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board- The National Courts Administration - a special institution, independent from the executive authorities <input checked="" type="radio"/> Association of Judges <input checked="" type="radio"/> President of the Republic
Training of judges	<input checked="" type="radio"/> HJC <input checked="" type="radio"/> MoJ <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input checked="" type="radio"/> Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities <input checked="" type="radio"/> Association of Judges <input type="radio"/> 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 checked="" type="checkbox"/> Court Presidents <input checked="" type="checkbox"/> bodies within individual courts <input checked="" type="checkbox"/> Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities <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 type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Judicial Administration Board - The National Courts Administration - a special institution, independent from the executive authorities <input type="checkbox"/> other, please specify <input checked="" type="checkbox"/> The Government of Lithuania
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="checkbox"/> Judicial Administration Board <input type="checkbox"/> 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?

*The Judicial Council gives an informed advice to the President of the Republic in respect of the appointment or removal of presidents of courts to or from the office. **An advice of the Judicial Council is binding for the President.***

- 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="checkbox"/> Constitution <input checked="" type="checkbox"/> Law <input type="checkbox"/> other, please specify
Composition	<input type="checkbox"/> Constitution

	<input checked="" type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input 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 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 checked="" type="radio"/> Official doctrine of the Constitutional Court

- 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? **There are 17 members at the Judicial Council**
- Are there ex-officio members? **Yes, The President of the Supreme court, The President of the Supreme administrative Court and the President of the Court of Appeals are ex-officio members of the Judicial Council**
- How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances? **All judges of the Judicial Council must be judges. A judge whose period of service in judicial office is less than three years or on whom disciplinary penalty has been imposed may not be elected a member of the Judicial Council.**
- Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions). **No, all judges of the Judicial Council must be judges.**

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify)
The candidates shall be nominated and elected during the General Meeting of Judges by the representatives of the relevant courts.
- Please describe the appointment system

Other than ex-officio members of The Judicial Council are judges elected by the General Meeting of Judges: three from the Supreme Court, two from the Court of Appeals and one Supreme Administrative Court, three from all regional courts, one from all regional administrative courts and four from all district courts. Only judges working in different courts may be elected to the Judicial Council from the district courts and district courts.

- 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 members of The Judicial Council are selected by secret ballot.**
 8. How is the President and/or Vice-President of the Council selected and appointed? **The Chairman of the Judicial Council, the Deputy Chairman and secretary shall be elected by secret ballot for two years by the Judicial Council from the Judicial Council members.**
 9. What is the term of office for a member of the Council? **Four years**
 10. May a member be removed from office against his/her will and, if so, under what circumstances? **Yes. It's stipulated in Law on Courts that the term of office of the judge shall expire, inter alia, when 1) the decision of the Judicial Court of Honour to impose on him/her a disciplinary penalty becomes effective (except for the Chairmen of the Supreme Court, the Court of Appeals, the Supreme Administrative Court; they are ex officio members of the Judicial Council); 2) he/she is withdrawn from his post as Judicial Council member by a reasoned decision of the General Meeting of Judges that the judge fails to perform the functions of the Judicial Council member assigned to him. (except for the Chairmen of the Supreme Court, the Court of Appeals, the Supreme Administrative Court; they are ex officio members of the Judicial Council).**

Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input type="radio"/> other, if so specify - The National Courts Administration - a special institution, independent from the executive authorities
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? **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 real conflicts, but of course, not all judges are always happy with decisions of the Judicial Council; all judges have the right to address the Judicial Council and to raise questions or problems to be solved; the Judicial Council examines the matter publicly and tries to make a decision, that is in the best interest of whole judiciary- but not the best for separate group of interests or individual judge.

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
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 Judicial Council tries to raise the issue publicly and to draw the attention of society and other branches of government.

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

There are no formal rules of interaction, but consultations, common working groups with competent state institutions ad hoc are available. The judiciary pursues an internal corruption prevention policy.

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

There are no formal rules of interaction. Ad hoc consultations, common working groups are available.

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

4. ***There are no formal rules of interaction. Associations of judges have the right to address the Judicial Council and to raise actual issues, ad hoc consultations and common working groups are available.***

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

Meetings of the Judicial Council are open to public; the Judicial Council communicates with media through a special website of judiciary, Facebook account; the Judicial Council makes public statements; the President and members of the Judicial Council personally communicate with the media.

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

NO,

But judges are vetted by other state institutions before the President of the Republic makes decision on appointment to the office or promotion.

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.

Insufficient funding of judiciary. Lack of objective and transparent criteria in budgetary procedure threatens the principle of separation of powers. Insufficient funding may have long-lasting adverse effects on the quality of the judiciary.

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?

Yes, number of members of the Judicial Council was reduced recently (in 2020) in order to make it's functioning more effective. Too early to draw conclusions about effects.

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?