



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?	No
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2. What is the exact title/denomination of this body?

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="checkbox"/> Association of Judges
Defending judges/the judiciary against public attacks	<input type="checkbox"/> Association of Judges
Administration of the judiciary	<input type="checkbox"/> Court Presidents <input type="checkbox"/> Judicial Administration Board = The Swedish National Courts Administration, which is an authority on central level
Selection of new judges	<input type="checkbox"/> A special Judicial Appointment Body : The Judges Proposals Board is a state authority composed of members from the judiciary, the attorney general's office, the bar

	association and parliament. The board administers the applications and recruitment process of all ordinary judges at all levels and proposes qualified candidates - in order of qualification - to the government (cabinet of ministers), which decide the appointments.
Selection of judges for promotion	Same as appointments. Judges cannot be promoted to higher judicial positions without applying for a new position.
Evaluation of judges	No formal evaluation of judges takes place other than by court presidents in setting salaries. Sweden has a system of individual salaries for judges and tariffs are not used other than, in practice, for the justices of the two supreme jurisdictions
Evaluation of court performance	See previous answer.
Conducting disciplinary procedures	Disciplinary procedures may be instituted against judges either by the Parliamentary Ombudsman or the Chancellor of Justice (a government authority) before The Government Disciplinary Board for Higher Officials, which may issue sanctions in form of warning or salary reduction. If it's a question of a crime in the form of breach of duty or misuse of office, the Ombudsman or Chancellor may prosecute. If a crime has been committed outside office a general prosecutor will deal with the case. In order to dismiss a judge from office it is as a minimum necessary that the criminal sanction is graver than a fine.
Drafting and enforcing a code of ethics	The Association of Judges are engaged in the elaboration of ethics standards but there is no enforcement mechanism. In order to take up service every judge has to swear a comparably lengthy oath containing in part ethical standards and which has been part of the procedural rules since 1734.
Public relations/media coverage for the judiciary, or individual courts	<input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges
Providing input on legislative projects	<input type="checkbox"/> Court Presidents <input type="checkbox"/> Judicial Administration Board <input type="checkbox"/> Association of Judges <input type="checkbox"/> other, please specify: Any citizen, body or organisation is free to submit opinions on the

	legislative projects administered by the government before the government presents their bill to parliament. The consultation usually takes form in the government addressing specific bodies who have an interest in the matter and by giving the general public the chance to react to the initial proposals made in a report that is published. The courts are among those most often addressed.
Training of judges	Individual courts and, centrally, the National Courts Judicial Administration
IT, including digitalisation of the judiciary and online hearings	<input type="checkbox"/> Court Presidents <input type="checkbox"/> bodies within individual courts <input type="checkbox"/> Judicial Administration Board
The allocation of financial resources to the judiciary including individual courts	Government and <input type="checkbox"/> Judicial Administration Board
Salaries of judges	<input type="checkbox"/> Court Presidents

- 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?

- No.

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

	<input type="radio"/> Law <input type="radio"/> other, please specify
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- 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?
  - Are there ex-officio members?
  - How many members must be judges? Do they need specific qualifications or experiences, must they come from different court systems or instances?
  - Can/must non-judges be members of the Council? Please specify (number, qualification/specific functions)
6. Please describe the procedure of appointment:
  - Who nominates the members? (judges or other institutions or authorities – please specify)
  - Please describe the appointment system
  - 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?
8. How is the President and/or Vice-President of the Council selected and appointed?
9. What is the term of office for a member of the Council?
10. May a member be removed from office against his/her will and, if so, under what circumstances?

### 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
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input 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?

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?

#### **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?
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?
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?
18. How does the Council for the Judiciary in your judicial system interact with NGOs?
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
20. How does the Council for the Judiciary in your judicial system interact with media?
21. What, if any, is the role of the Council for the Judiciary in the vetting of 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.
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
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?
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?

Yes. A government committee, chaired by the president of the Supreme Court, is currently investigating issues related to the independence of the judiciary. The committee shall consider if the role of the National Courts Administration should be modified, against i.a. the background of a debate about the functioning of Councils for the Judiciary in other countries.