



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.*

General¹

1. Is there a Council for the Judiciary in your judicial system?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
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2. What is the exact title/denomination of this body?

➤ **The Council of Judges and Prosecutors (CJP)**

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 checked="" 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 type="checkbox"/> other, please specify
Defending judges/the judiciary against public	<input checked="" type="checkbox"/> HJC

¹ The questionnaire is answered based on the reformed CJP under the Constitutional amendments of 2017.

attacks	<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
Administration of the judiciary	<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 <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Selection of new judges	<input checked="" type="radio"/> HJC ² <input checked="" 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"/> A special Judicial Appointment Body <input type="radio"/> other, please specify
Selection of judges for promotion	<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"/> 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 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 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

² Candidate judges and prosecutors appointed by the Ministry of Justice are admitted to the profession by the CJP.

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 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 checked="" type="checkbox"/> MoJ <input type="checkbox"/> Parliament <input 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
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 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 (Justice Academy of Turkey)
IT, including digitalisation of the judiciary and online hearings	<input type="checkbox"/> HJC <input checked="" 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"/> other, please specify
The allocation of financial resources to the judiciary including individual courts	<input checked="" type="checkbox"/> HJC <input checked="" 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 type="radio"/> other, please specify
Salaries of judges	<input checked="" type="checkbox"/> HJC <input checked="" type="checkbox"/> MoJ <input checked="" type="checkbox"/> Parliament <input type="radio"/> Court Presidents <input type="radio"/> Bodies within individual courts <input type="radio"/> Judicial Administration Board <input type="radio"/> 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 other duties of the CJP are basically as follows:

- Conducting the procedures concerning judges and prosecutors in relation to admission to the profession, appointment, promotion, inspecting the complaints about them and deciding on disciplinary punishments;
- Deciding on the proposals by the Ministry of Justice for the abolishment of a court or a change in the territorial jurisdiction of a court.
- Electing the members to the Court of Cassation and the Council of State.

➤ The CJP has the authority to appoint and transfer the presidents of the first instance courts and regional administrative courts/regional courts of justice.

➤ The CJP has an Inspection Board. The basic duties that the Inspection Board performs with the inspectors from the profession of judge include inspecting whether civil and administrative judges and prosecutors perform their duties in compliance with legislation; examining whether they commit offenses in connection with or during the exercise of their duties, or whether their behaviours and acts are in compliance with the requirements of their capacities and duties, and if necessary, launching examinations or investigations about them; conducting the necessary research and examination into the legislative deficiencies and malfunctions emerging in the implementation stage regarding the matters falling within its remit and submitting proposals to the Council on the necessary judicial and administrative measures.

- 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?

➤ As stated above, there is a Council for the Judiciary.

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	X Constitution X Law O other, please specify
Composition	X Constitution X Law O other, please specify
Selection of members including tenure and removal during tenure	X Constitution X Law O other, please specify
Tasks	X Constitution X Law O other, please specify
Are aResources, funding, administration	X Constitution X Law O other, please specify
Independence	X Constitution X Law O 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?
- Certain regulations are available to understand the role and functioning of the Council for the Judiciary.

Composition and Membership

5. The composition of the Council for the Judiciary:

- How many members are there?
- The Council is composed of 13 members.
- Are there ex-officio members?
- The President of the Council is the Minister of Justice. And the Deputy Minister of Justice is the ex-officio member of the Council.
- How many members must be judges? Do they need specific qualifications or experiences; must they come from different court systems or instances?
- Eight members must be from the judiciary. They must have specific qualifications and experiences; they must come from different court systems or instances.
- Within this scope, the members from the judiciary are selected as follows:
 - President of the Republic selects three members from among the civil and criminal judges and prosecutors of first class who still hold the qualifications to be designated as first class; one member from among the administrative judges and prosecutors of first class and still hold the qualifications to be designated as first class.

- Turkish Grand National Assembly (the TGNA) elects three members from among the members of the Court of Cassation; one member from among the members of the Council of State.



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

➤ Non-judges can be members of the Council. As stated above, these members include the Minister of Justice, Deputy Minister of Justice and three members who are elected by the TGNA from among the law faculty lecturers and lawyers for whom the qualification requirements are specified in the law.

➤ The three non-judicial members are elected by the Turkish Grand National Assembly from among the law faculty members and the lawyers actually completed 15 years of service at the profession, who are not in the conditions to impend the admission to the profession of judgeship.

6. Please describe the procedure of appointment.

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

➤ There is no such nomination process. However, seven members to be elected by the TGNA submit their applications in person to the Presidency of the TGNA.

- Please describe the appointment system

➤ The President of the Council is the Minister of Justice. Deputy Minister of Justice is the ex-officio member of the Council. President of the Republic selects three members from among the civil and criminal judges and prosecutors who are first class and still hold the qualifications to be designated as first class; one member from among the administrative judges and prosecutors who are first class and still hold the qualifications to be designated as first class; the TGNA elects three members from among the members of the Court of Cassation; one member from among the members of the Council of State; and three non-judicial members are elected by the Turkish Grand National Assembly from among the law faculty members and the lawyers for whom the qualification requirements are specified in the law. The members elected from among the law faculty professors or lawyers must include at least one lawyer and one law faculty member. Applications for the Council membership to be elected by the TGNA is submitted to the Presidency of the TGNA and the Presidency of the TGNA sends the applications to the Joint Committee comprising the members of the Committee on Constitution and the Committee on Justice. The Joint Committee nominates three candidates from among the applicants meeting the application requirements for each membership by a two-third majority of the total number of members. If candidates cannot attain this majority in the first ballot, then the second round of ballot is held. In the second ballot, a three-fifths majority of the total number of members is required. If again the candidates cannot attain the required majority, the nomination process is completed by drawing lots between two candidates receiving the most votes. General Assembly of the TGNA holds voting by a secret ballot for each member from among the candidates

nominated by the Joint Committee. In the first voting, a two-thirds majority of the total number of members is required. But if no result is obtained in the first ballot, then the second ballot is held by a three-fifths majority of the total number of members. If no member can be elected either, the election process is ended with a lot drawing between two candidates with the most votes.

- If members are elected by Parliament, are these members elected with a simple or qualified majority?
 - As replied in detail in the previous question, the qualified majority is required for the members to be elected by the TGNA.
7. How is integrity and independence of members ensured in the selection process and during their time on the Council?
- Under the Constitution and Law on the CJP it is provided that the CJP shall be instituted and perform its duties based on the principles of independence of courts and security of tenure of judges. Thus, it is independent in performing its duties and exercising its powers. No organ, authority, office or individual may give orders or instructions to the Council. The Council shall perform its duties respecting the principles of independence of courts and security of tenure of judges and prosecutors, and within the framework of the principles of fairness, impartiality, integrity, consistency, equality, competence and merits. Especially the qualified majority requirement in the TGNA election process contributes to the independence of the members elected by the TGNA.
8. How is the President and/or Vice-President of the Council selected and appointed?
- The President of the Council is the Minister of Justice. The Council has two chambers. The Plenary elects one of the heads of the chambers as the Deputy President.
9. What is the term of office for a member of the Council?
- Members are elected for a four-year term. The members may be re-elected once at the end of their terms of office.
10. May a member be removed from office against his/her will and, if so, under what circumstances?
- The Council membership, except for the President, shall end as follows:
 - automatically in the cases of being convicted for an offense requiring dismissal from the profession of judgeship or prosecution, withdrawal or attaining age 65 according to the Law on Judges and Prosecutors;
 - by the decision of a two-thirds majority of the total number of members of the Plenary in the case that they have been subsequently proved not to meet or have lost any one of the membership qualifications during their membership term;
 - The membership of the elected members of the Council ends by the decision of a two-thirds majority of the total number of members of the Plenary if it is ascertained from the report of a committee on health that they are unable to continue to function

or if they fail to attend their office for fifteen consecutive days or thirty days in total in one year without any excuse or permission.

Resources and management

11. Which body provides funding for the Council for the Judiciary?	<input type="radio"/> MoJ <input type="radio"/> Parliament <input checked="" type="radio"/> CJP has an autonomous budget
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?

There have been no such conflicts.

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 no such conflicts.

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 no such conflicts.

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?

➤ Constitutionally, such an infringement is impossible.

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

➤ In our judicial system, prosecutorial services and independent courts are responsible for combatting corruption. In this respect the judiciary works in coordination with other competent and responsible bodies.

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

- The CJP consults with both the NGOs in the field of law, in particular the associations of judges and prosecutors, and the other NGOs regarding the scope of its authorities and responsibilities; thus it benefits from these consultations in its works.
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?
- It consults with the associations of judges on matters related to the judiciary.
20. How does the Council for the Judiciary in your judicial system interact with media?
- First of all, our Council has a Press and Public Relations Bureau to conduct the interaction with media in general. Moreover, in cases of need, press statements or press conferences are held to inform the public.
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?
- It has no such role.

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, and the Covid-19 pandemic or technological challenges such as the digitalisation of the judiciary.
- Recently the challenges particularly posed by the Covid-19 pandemic have been tried to be overcome by taking necessary measures so as to ensure that the judicial activities are only minimally affected.
23. Has the role of the Council for the Judiciary in your judicial system changed in recent years? If so, how?
- With the Constitutional amendments submitted to a referendum in 2017 in our country, the number of the members and member election system of the CJP was changed while the duties and authorities of it remained unchanged.
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?
- With the Constitutional amendments adopted in 2017, certain changes were enacted in order to strengthen democratic legitimacy of the Council. These changes have positive results.
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?
- Our judicial system has a Council for the Judiciary.