



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 <input type="radio"/> no <i>NO</i>
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*The UK has 3 separate jurisdictions: (1) England and Wales (2) Scotland (3) Northern Ireland. In England and Wales there is a Judicial Executive Board which administers the judiciary. Other functions are performed by different bodies. There is no single body which corresponds with a Council of the Judiciary in the sense used in the questionnaire.*

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="radio"/> HJC <input type="radio"/> MoJ <i>YES</i> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board <i>YES</i> <input type="radio"/> Association of Judges <input type="radio"/> other, please specify <i>All government ministers have a statutory duty to uphold the independence of the judiciary</i>
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Defending judges/the judiciary against public attacks	<input type="radio"/> HJC <input type="radio"/> MoJ Yes <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board Yes <input type="radio"/> Association of Judges <input type="radio"/> other, please specify
Administration of the judiciary	<input type="radio"/> HJC <input type="radio"/> MoJ <i>To some extent</i> <input type="radio"/> Court Presidents <input type="radio"/> bodies within individual courts <input type="radio"/> Judicial Administration Board Yes <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 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 Yes <input type="radio"/> other, please specify
Selection of judges for promotion	<input 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 Yes <input type="radio"/> other, please specify
Evaluation of judges	<input 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  <i>There is no formal evaluation of judges. The performance of judges is, to some extent, scrutinised by court presidents or their equivalent and to some extent by appellate courts.</i>
Evaluation of court performance	<input 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

	<p><input type="radio"/> other, please specify</p> <p><i>There is no formal evaluation of court performance. See last answer. Complaints about court performance may be made in some circumstances to the Judicial Conduct Office. If there is a case to answer it will be investigated.</i></p>
Conducting disciplinary procedures	<p><input type="radio"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input type="radio"/> Parliament</p> <p><input type="radio"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p> <p><i>The investigation of disciplinary complaints is investigated by the Judicial Conduct Office. In practice a senior judge is appointed as investigator and to make recommendations. Disciplinary sanctions may be imposed by the Lord Chief Justice and the Lord Chancellor (Minister of Justice) acting together.</i></p>
Drafting and enforcing a code of ethics	<p><input type="radio"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input type="radio"/> Parliament</p> <p><input type="radio"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board Yes</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p> <p><i>Enforcement of the code of ethics is partly done by the Judicial Conduct Office and partly by the Judicial Executive Board.</i></p>
Public relations/media coverage for the judiciary, or individual courts	<p><input type="radio"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input type="radio"/> Parliament</p> <p><input type="radio"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board Yes</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p> <p><i>The Judicial Office has its own press office; and the Lord Chief Justice has an annual press conference.</i></p>
Providing input on legislative projects	<p><input type="radio"/> HJC</p> <p><input type="radio"/> MoJ</p> <p><input type="radio"/> Court Presidents</p> <p><input type="radio"/> bodies within individual courts</p> <p><input type="radio"/> Judicial Administration Board</p> <p><input type="radio"/> Association of Judges</p> <p><input type="radio"/> other, please specify</p>

	<p><i>The judiciary does not have input into legislative projects generally. But there is an independent body (the Law Commission) chaired by a senior judge whose remit is to make recommendations about non-political changes to the law. During its consultation process preliminary to a final report anyone can comment. Both associations of judges and individual judges often do.</i></p>
Training of judges	<p> <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  <i>Training is undertaken by the Judicial College, administered by the Judicial Executive Board.</i> </p>
IT, including digitalisation of the judiciary and online hearings	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ Yes  <input type="radio"/> Parliament  <input type="radio"/> Court Presidents  <input type="radio"/> bodies within individual courts  <input type="radio"/> Judicial Administration Board Yes  <input type="radio"/> other, please specify </p>
The allocation of financial resources to the judiciary including individual courts	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ Yes  <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"/> other, please specify </p>
Salaries of judges	<p> <input type="radio"/> HJC  <input type="radio"/> MoJ Yes  <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"/> other, please specify  <i>The MoJ receives advice from an independent body (the Senior Salaries Review Board) but does not always accept the advice.</i> </p>

- 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?

*The situation in the UK is more fragmented, partly because of the three separate jurisdictions. Some functions are carried out by the MoJ (mainly the provision of financial resources and the setting of salaries and pensions); some by the Judicial Executive Board (which deals with the administration of the judiciary); some by the Judicial Appointments Commission (which deals with the appointment and promotion of judges) and some by the Judicial Conduct Office (which investigates complaints about judges)*

## 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 <input type="radio"/> other, please specify
Composition	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Selection of members including tenure and removal during tenure	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Tasks	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Resources, funding, administration	<input type="radio"/> Constitution <input type="radio"/> Law <input type="radio"/> other, please specify
Independence	<input type="radio"/> Constitution <input type="radio"/> Law <i>Yes</i> <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?  
*As explained, there is no Council for the Judiciary in the UK. The independence of the judiciary is protected by law. The MoJ has a statutory duty to provide resources for the judiciary. The composition of the Judicial Executive Board is in the discretion of the Lord Chief Justice.*

## 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)

*Not applicable but the Judicial Executive Board consists of nine judges. They are the Lord Chief Justice, Heads of Divisions (i.e. court presidents) and other leadership judges. There are no non-judges who are members. By contrast, the Judicial Appointments Commission is a mix of judges, lawyers and non-lawyers.*

6. Please describe the procedure of appointment:

- Who nominates the members? (judges or other institutions or authorities – please specify) *The Lord Chief Justice, but in practice the members of the Judicial Executive board are ex officio members.*
- Please describe the appointment system

*Appointment to the posts who make up the ex officio members is by the Judicial Appointments Commission.*

- 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 integrity of members is ensured by the Judicial Appointments Commission on appointment and their independence is ensured by the statutory guarantee of the independence of the judiciary.*

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

*The President of the Judicial Executive Board is the Lord Chief Justice. He is selected and appointed by the Judicial Appointments Commission.*

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

*They continue as members of the Judicial Executive Board for so long as they hold their offices which entitle them to be ex officio members of the JB. There is no other set term of office.*

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

*No.*

### 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 <i>The overall budget for the judiciary is provided by the MoJ. Within the budget the Lord Chief Justice is responsible for the Judicial Executive Board.</i>
12. Is the administration of the Council for the Judiciary independent from other branches of government?	<input type="radio"/> yes <input type="radio"/> no Yes

## **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?  
*Rarely. On occasions ministers have criticised individual judicial decisions; and the Lord Chief Justice has condemned such criticism.*
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 Lord Chief Justice (and his equivalents in Scotland and Northern Ireland) may make representations to Parliament. That power has never been exercised.*
17. How does the Council for the Judiciary in your judicial system interact with anti-corruption bodies?  
*Any allegation of corruption (if plausible) would be investigated by the Judicial Conduct Office and/or the police. There has not (as far as I am aware) been any such allegation.*
18. How does the Council for the Judiciary in your judicial system interact with NGOs?  
*As far as I am aware it does not.*
19. How does the Council for the Judiciary in your judicial system interact with associations of judges?  
*The Judicial Executive Board may consult associations of judge on matters of particular interest to them; and will keep them informed about developments.*
20. How does the Council for the Judiciary in your judicial system interact with media?  
*The Judicial Office maintains its own press office; and the Lord Chief Justice has an annual press conference.*
21. What, if any, is the role of the Council for the Judiciary in the vetting of judges?  
*None*

## **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 judiciary has made many changes due to the Covid-19 pandemic, notably in facilitating remote hearings on electronic platforms; the digitisation of documents etc.

*One current challenge is that of data processing and the control of information sought by outside sources. In particular the rise of AI processes which may attempt to analyse the performance of individual judges and courts. The Judiciary have made great changes as a result of the Covid-19 pandemic in facilitating remote hearings on electronic platforms and the digitisation of documents (including case papers and legal research materials)*

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?  
*Although the system in the UK is to some extent fragmented, I am not aware of any proposals for change. The system functions well (although like all public sector areas it would like to have more resources).*