

Judicial Independence (2015)

Objective

The objective of this updated questionnaire is to collect factual information on structural guarantees for judicial independence, which cover certain guarantees for the independence of judges and for the independence of the judiciary.

The updated judicial independence questionnaire maintains almost all questions from the 2014 questionnaire and is already prefilled with the replies you have provided. If a reply was later adapted following clarifications you have provided, these replies are highlighted. Please review these modifications and feel free to adapt other 2014 replies, if the legislation or practice in your country has changed or if you believe the replies should be clarified. Please highlight any such additional changes red.

New or modified questions are highlighted. These mostly concern questions regarding the composition and powers of Councils (prefilled with your replies in 2014), and the appointment of judges. The questionnaire containing replies could later be published.

Respondent's Information

Member State	Council for the Judiciary
Poland	Krajowa Rada Sądownictwa / The National Council of the Judiciary

Additional Information

For additional information regarding the questionnaire, please contact the Directorate-General for Justice and Consumers of the European Commission.

1. AUTHORITIES WITH POWER TO DELIVER THE MAIN DECISIONS ON HUMAN AND FINANCIAL RESOURCES IN THE JUDICIARY¹

Which authorities or bodies have the power to deliver the following decisions in the judiciary?

1.1. Selection, appointment and dismissal of judges and court presidents

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the proposal to appoint or dismiss a judge.]

- x) decision establishing there is a vacant judicial position
- a) proposal of candidates for the appointment as first or second instance judges
- b) decision on the appointment of a first or second instance judge
- c) proposal for the dismissal of a first or second instance judge
- d) decision on the dismissal of a first or second instance judge
- e) proposal of candidates* for the appointment as court presidents
- f) decision on the appointment of a court president
- g) proposal for the dismissal of a court president
- h) decision on the dismissal of a court president

	x)	a)	b)	c)	d)	e)	f)	g)	h)
President of a court:				X					
Special chamber of a court:									
Higher court:						X	D	X	D
Supreme Court:									
Council for the Judiciary²:		FS		X					CA
Judicial inspection body:									
Other independent body (specify): ...									
Ministry/Minister of justice:	X			X		X	D	X	D
Other ministry than min. of justice (specify):									
Parliament:									
Head of state: if applicable- on advice of ...			D,OF						
Other (specify): Disciplinary court					X				X

Ad. e): - President of appellate court proposes the candidate for president of district court (court of 1st instance); – Ministry of Justice proposes the candidate for presidents of circuit and appellate courts;

Ad. f): President of Republic of Poland appoints the First President and Presidents of Chambers of the Supreme Court

¹ Cf. European Network of Councils for the Judiciary, [Resolution of Budapest on Self-Governance for the Judiciary: Balancing Independence and Accountability](#), May 2008, at 2).

² Council for the Judiciary is a national institution that is independent of the executive and legislature, or which is autonomous, and that ensures the final responsibility for the support of the judiciary in the independent delivery of justice.

1.1.1. If any other authority, body or agency is involved in the procedure for appointment of judges, please describe its involvement:

1.1.2. What is the procedure for selecting candidates for becoming judges? [several answers possible]

- Recruitment through a specific exam or a competition, which includes a specific exam for becoming a judge
- Recruitment through a vacancy notice without a specific exam
- Other (specify): Recruitment through a competition, which can include an interview with candidates (an interview is not a specific exam); candidates should pass a specific exam before a competition

1.1.3. If a candidate judge is not appointed, is the appointing authority/body required to provide him/her the reasons (e.g. a reasoned explanation)?

- Yes
- No

1.1.4. If a candidate judge is not appointed, can he/she appeal or request a review?

- Yes
- No

1.1.4.1. If yes, which authority or body decides on such an appeal/review?

- Council for the Judiciary
- Other independent body (specify): ...
- Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil service court...)
- Another court / President of another court
- Higher court / President of a higher court
- Administrative court / President of the Administrative Court
- Supreme Court / President of the Supreme Court
- Constitutional Court / President of the Constitutional Court
- Other (specify): ...

1.1.4.2. What was the total number of appeals or requests for a review by unsuccessful candidate judges in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

All requests for appeal/review: :.....69..... / N/A

If possible, specify this number for candidate judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

1.2. Selection, appointment and dismissal of Supreme Court judges and the President of the Supreme Court

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the proposal to appoint or dismiss a judge.]

- a) proposal of candidates for the appointment as Supreme Court judges
- b) decision on the appointment of a Supreme Court judge
- c) proposal for the dismissal of a Supreme Court judge
- d) decision on the dismissal of a Supreme Court judge
- e) proposal of the candidate(s) for the appointment of the President of the Supreme Court
- f) decision on the appointment of the President of the Supreme Court
- g) proposal for the dismissal of the President of the Supreme Court
- h) decision on the dismissal of the President of the Supreme Court

	a)	b)	c)	d)	e)	f)	g)	h)
President of a court:			X					
Special chamber of a court:								
Supreme Court:	X				X			
Council for the Judiciary:	FS		X				X	
Judicial inspection body:								
Other independent body (specify): ...								
Ministry/Minister of justice:			X					
Other ministry than min. of justice (specify): ...								
Parliament:								
Head of state: if applicable- on advice of		D				X		
Other (specify): Disciplinary court				X				X

1.2.1. If the procedures mentioned above are different for the judges and/or the President of the Supreme administrative court or the Council of State, please describe these differences:

no differences

1.3. What was the total number of all judges that were dismissed in 2014 (e.g. as a consequence of disciplinary proceedings or criminal conviction; excluding other grounds such as

incompatibility, illness, resignation, retirement)?

[if only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :.....4..... / N/A

If possible, specify this number for judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

1.4. Can a judge appeal if he/she is dismissed?

Yes

No

1.4.1. If yes, which authority or body decides on such an appeal?

Council for the Judiciary

Other independent body (specify): ...

Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil service court...)

Another court / President of another court

Higher court / President of a higher court

Administrative court / President of the Administrative Court

Supreme Court / President of the Supreme Court

Constitutional Court / President of the Constitutional Court

Other (specify): ...

Explanation: 1) A judge can be dismissed as a consequence of disciplinary proceedings (court of appeals decides on such a dismissal as a disciplinary court of lower instance, the Supreme Court decides as a disciplinary court of higher instance (decides on an appeal). 2) A judge can be dismissed on the ground of his/her illness (than the Council for the Judiciary decides and a judge can appeal to the supreme Court).

1.4.2. What was the total number of appeals against dismissals of judges in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :.....4..... / N/A

If possible, specify this number for judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

1.5. Evaluation, promotion, disciplinary measures and training of judges

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the

deciding authority has an obligation, either by law or practice, to follow the opinion given.]

- a) decision on the evaluation of a judge
- b) evaluation of the performance management of courts
- c) decision on the promotion of a judge
- d) adoption of ethical standards
- e) application of ethical standards
- f) proposal for the appointment of a member of the disciplinary body for judges
- g) decision on the appointment of a member of the disciplinary body for judges
- h) proposal for a disciplinary decision regarding a judge
- i) disciplinary decision regarding a judge (all bodies issuing disciplinary decisions)
- j) decision on the follow-up to a complaint against the judiciary/a judge
- k) decision on the program/content of training for judges

	a)	b)	c)	d)	e)	f)	g)	h)	i)	j)	k)
President of a court:	X				X			X		X	X
Special chamber of a court:											
Higher court:	X				X				X	X	
Supreme Court:	X				X				X	X	
Council for the Judiciary:			FS	X	X			X		X	CA
Judicial inspection body:											
Other independent body (specify): ...											
Ministry/Minister of justice:	X	X			X			X		X	X
Other ministry than min. of justice											
Parliament:											
Head of state: if applicable- on advice of ...			D								
Other (specify): Court director		X									

Explanations:

Ad. a): so called administrative supervision of the courts is exercised by a president of a court (particularly by a president of a court of appeal) and the Minister of Justice; so called judicative supervision is exercised by the higher court as well as the Supreme Court

Ad. f, g, i): In Poland, the function of a disciplinary court of the first (lower) instance is exercised by each court of appeal, and the Supreme Court is the disciplinary court of second (higher) instance. There is no "an appointment" of members of the disciplinary body, because composition of the disciplinary courts is established by law.

Ad. j) :- administrative complaints pertaining to case management etc. – dealt with by a president of a court, Minister of Justice, - lawsuits (complaints) against courts (the judiciary) – dealt with by the courts in regular procedure (civil or criminal), - complaints pertaining to judges professional performance – dealt with by the Council for the Judiciary

Ad. k): decision on the program of training for judges is exercised by the National School for the Judiciary and Public Prosecution (the Programme Board of the School). The school is supervised by the Minister of Justice. The Council for the Judiciary can suggest the main subjects of the training. Its opinion is not binding.

1.6. Financial resources

1.6.1. Authorities and bodies responsible for financial resources

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country; if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given]

- involvement in the preparation of the "budget allocated to courts"³
- formal proposal on the budget allocated to courts
- adoption of the budget allocated to courts
- management of the budget allocated to courts
- evaluation/audit of the budget allocated to courts
- definition of criteria for determining financial resources (see 1.6.2.)

	a)	b)	c)	d)	e)	f)
President of a court:	CA					
Special chamber of a court:						
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:	MA	FS		X		
Council for the Judiciary:	CA					
Judicial inspection body:						
Other independent body (specify): ...						
Ministry/Minister of justice:	MA	FS		X		
Other ministry than min. of justice : Ministry of Finance	FS					X
Parliament:	D		D			
Head of state: if applicable- on advice of ...						
Other (specify): 1) Court director				X		
Other (specify): 2) Supreme Audit Office					X	

1.6.2. What are the prescribed methods or criteria for determining financial resources for the judiciary? [several answers possible] [Please electronically tick the checkbox ("☑") next to the corresponding reply (by clicking on it in Microsoft Word for Windows), or (in case of difficulties with the checkboxes) by marking relevant reply in bold or highlighting it.]

- amount based on historic and/or realised costs
- number of incoming cases: specify for which instance: 1st / 2nd / all / N/A
- number of resolved cases: specify for which instance: 1st / 2nd / all / N/A
- number of resolved cases - based on an evaluation of the cost for courts

³ General government total expenditure on COFOG (classification of the functions of government) group 03.30 'Law courts', which includes "financial resources allocated to the "administration, operation or support of civil and criminal law courts and the judicial system, including enforcement of fines and legal settlements imposed by the courts and operation of parole and probation systems; legal representation and advice on behalf of government or on behalf of others provided by government in cash or in services. Includes: administrative tribunals, ombudsmen and the like. Excludes: prison administration." This is National Accounts data currently provided under the ESA95 framework.

other (specify): ...

1.6.3. Where have these criteria been defined? [several answers possible]

In well-established practice

In law

Other (specify): ...

1.7. Governance of the Judiciary

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

- a) general management of a court
- b) adopting press guidelines for relations between courts and the media
- c) communicating with the media (e.g. on questions regarding judgments, court functioning)
- d) decisions regarding the implementation and use of Information and Communication Technology in courts
- e) decisions regarding court buildings
- f) decisions regarding court security

	a)	b)	c)	d)	e)	f)
President of a court:	X					
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:	X			X	X	X
Court service governed by the Judiciary:						
Council for the Judiciary:		X				
Judicial inspection body:						
Other independent body (specify): ...						
Court service governed by the Ministry of justice:						
Ministry/Minister of justice:				X		
Other ministry than min. of justice (specify): ...						
Other (specify): Court director [appointed by the minister of justice]	X			X	X	X
Judge responsible for media relations			X			
Press officer at a court						

Explanation:

Ad. a) Supreme Court is separate and independent, managed by its First President only.

In common courts these matters are dealt with mainly by the court directors.

Ad. b) Council for the Judiciary is preparing now such guidelines.

1.7.1. Authorities and bodies responsible for court staff (other than judges)

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country; if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

- a) decision regarding the total number of court staff (other than judges) at all courts
- b) decision regarding the number of court staff at particular courts
- c) appointment and dismissal of court staff
- d) decisions regarding the transfer of court staff from one court to another
- e) decisions regarding the promotion/disciplinary matters concerning court staff
- f) other human resource management decisions on court staff (e.g. holidays)

	a)	b)	c)	d)	e)	f)
President of a court:		X	X		X	X
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:		X	X		X	X
Court service governed by the Judiciary:						
Council for the Judiciary:						
Judicial inspection body:						
Other independent body (specify): ...						
Court service governed by the Ministry of justice:						
Ministry/Minister of justice:	X			X		
Other ministry than min. of justice (specify): ...						
Other (specify): court director (court manager)			X	X	X	X

Explanation:

Ad. a) Minister of Justice decides on the total number of court staff at all common courts (1st and 2nd instance) only.

Ad. a, b, c, d, e, f) Supreme Court is separate and independent, managed by its First President, who decides on total number, appointment and dismissal of court staff and take other human resource management decisions on court staff.

Ad c, d, e, f) In common courts these matters are dealt with Minister of Justice, a president of a court or a court director. Some kinds of court staff (e.g. assistants of judges) are appointed, dismissed, transferred, promoted etc. by a president of a court, some kinds (e.g. administrative clerks) by a court director.

1.8.1 Composition of the Councils for the Judiciary according to the nomination process

	Total	Court presidents (ex officio)	Judges (appointed or proposed by their peers)	Judges (elected by their peers)	Prosecutors (elected by their peers)	Prosecutor General (ex officio)	Appointed by associations of lawyers / legal practitioners	Elected/appoint ed by the Parliament	Appointed by the Head of State / Prime Minister / Government / Minister of justice	Minister of justice (ex officio)	Appointed/nomi nated by other bodies/authoriti es
BE	44			22				22			
BG	25	2		6	5	1		11			
DK	11		6				1				4
IE	18	5		5			2		3		3
ES	21	1	12					8			
FR	22	1		6	6	1	1	4	2		1
HR	11			7				2			2
IT CSM	27	1		12	4	1		8	1		
IT CPGA	15	1		10				4			
LV	15	2		7		1	3	1		1	
LT	23	3		20							
HU	15	1		14							
MT	10	1		4		1	1		2		1
NL	4		2						2		
PL	25	2		15				6	1	1	
PT	17	1		7				7	2		
RO	19	1		9	5	1		2		1	
SI	11			6				5			
SK	18			9				3	6		
UK (EN + WL)	29	9	19								1
UK (NI)	11		11								
UK (SC)	16	4	12								

1.8.2. Powers of the Councils for the Judiciary

	Providing opinion on draft laws relating to the judiciary	Training of judges (providing guidelines/supervising or deciding on the program/content)	Proposing candidates for appointment as judges (courts of first instance)	Appointing judges (1st instance courts)	Proposing dismissal of judges (courts of first instance)	Dismissing judges (courts of first instance)	Transferring judges (without their consent)	Taking disciplinary decisions on judges	Adopting ethical standards	Promoting a judge	Advisory body / court management	Deciding on evaluation of a judge	Decision regarding number of court staff at particular courts	Allocating budget to particular courts	Decisions on implementation & use of ICT in courts
BE	1	1	1						1						
BG	1	1		1	1	1	1	1	1	1		1	1	1	1
DK	1	1									1		1	1	1
IE	1										1		1		1
ES	1	1	1		1		1	1	1	1		1			1
FR	1		1	1	1	1	1	1	1	1					
HR	1	1		1		1	1	1		1		1			
IT	1	1	1	1	1	1	1	1		1	1	1			1
LV	1	1			1										
LT	1	1		1		1	1			1	1	1	1	1	1
HU	1	1	1						1	1					
MT	1				1				1			1			
NL	1	1							1	1				1	1
PL	1	1	1		1				1						
PT	1	1	1	1	1	1	1	1	1	1		1			
RO	1	1	1	1	1		1	1	1	1		1	1		
SI	1	1	1	1	1	1	1		1	1		1			
SK	1	1	1		1				1	1					
UK (EN+WL)										1	1				
UK (NI)											1				1
UK (SC)											1				

2. PROCEDURES AND SANCTIONS FOR PROTECTING JUDICIAL INDEPENDENCE⁴

2.1. When a judge or an authority considers that independence of an individual judge or of the judiciary is threatened, are there any specific procedures, other remedies or sanctions⁵ for protecting it?

Yes

No

2.1.1. If yes, who can launch such a request or a procedure?

A judge who believes his/her independence is threatened

President of a court

Judicial inspection body

Council for the Judiciary

Other independent body (specify): Judges associations

Public Prosecution Service

Minister of justice

Other (specify): ...

2.1.2. What was the total number of such complaints in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...";

Please specify for each authority or body (please add more than two, if necessary)]

Complaints from judges: :..... / N/A

Complaints from the Council for the Judiciary: :.....6..... / N/A

Complaints from ...: :..... / N/A

2.1.3. If yes, which authority or body has the power to react to such complaints from judges or authorities for protecting judicial independence? [several answers possible]

Council for the Judiciary

Other independent body (specify): ...

Judicial inspection body

Court

President of a court

Higher court / President of a higher court

Supreme Court / President of the Supreme Court

Public Prosecution Service

Other (specify): ...

⁴ [Recommendation CM/Rec\(2010\)12](#) of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, paras. 8, 13 and 14. See also European Network of Councils for the Judiciary, Distillation of ENCJ Guidelines, Recommendations and Principles, Report 2012-2-13, para. 7.

⁵ "Sanctions against persons seeking to influence judges in an improper manner", Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 14.

2.1.4. If yes, what are the measures that these authorities can take on the basis of a request in order to protect judicial independence?

What was the total number of such measures in 2014?

[several answers possible; if only an estimate is available, add "approx. ..." or "fewer than ...".]

- Notification to other authorities:, from (specify): ...
- Sanctions (criminal, administrative, at first instance)⁶:, from (specify): ...
- Press releases / formal declarations on judicial independence:⁶....., from (specify): The Council and its Spokesmen...
- Other (specify):, from (specify): ...
- N/A

Comments: 1. The Council for the Judiciary may issue written statements (positions) which have declaratory character. The statements may be sent to different authorities and are published on the website of the Council.

3. Chairman, Vice-Chairmen and Press officer of the Council have given some interviews to newspapers. Press officer of the Council has given many statements (almost every week) to the press.

3. IMPARTIALITY – WITHDRAWAL AND RECUSAL⁷

3.1. Is a judge obliged to withdraw from adjudicating a case if the judge believes that impartiality is in question or compromised or that there is a reasonable perception of bias?

- Yes
- No

3.1.1. If yes, what is the source of the obligation to withdraw from adjudicating a case?

- A well-established practice of judges
- Set in an act adopted by a court
- Set in an act adopted by the Council for the Judiciary
- Set in an act adopted by the Minister of justice
- Set in law
- Other (specify): ...

3.1.2. If a judge disrespects the obligation to withdraw from adjudicating a case, could the judge be subject to a sanction?

- Yes (specify; e.g. type of disciplinary measure): ...
- No

3.2. Which authority or body takes the first decision on a request for recusal by a party who considers that a judge is partial / biased? [several answers possible]

- The single-judge who is adjudicating in the same case

⁶ "Sanctions against persons seeking to influence judges in an improper manner", Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 14.

⁷ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, paras. 59-61. See also European Network of Councils for the Judiciary, [London declaration on judicial ethics](#), June 2010; and European Network of Councils for the Judiciary, [Judicial Ethics Report](#) 2009-2010

(when a recusal request is directed against this judge)

- The panel of judges adjudicating in the same case
- (when a recusal request is directed against a member of this panel or against the whole panel)
- Another **panel of 3 judges** at the same court (e.g. selected on seniority or appointed)
- A special chamber of the same court
- President of the same court
- Another court / President of another court
- Higher court / President of a higher court
- Supreme Court / President of the Supreme Court
- Council for the Judiciary
- Other independent body (specify): ...
- Ministry of justice / Minister of justice
- Other (specify): ...

3.2.1. In case a different authority or body decides in different types of proceedings (civil, administrative...), please describe the differences and specify for which proceedings the replies under 3.2. refer to:

There are no differences

3.3. If available what was the total number of successful recusal challenges by parties in 2014 in which a lack of impartiality or a reasonable perception of bias was established?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :..... / N/A

If possible, specify this number for different types of proceedings (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

3.4. Is an appeal against a decision on a request for recusal possible?

Yes

No

3.4.1. If yes, which authority or body decides on such an appeal?

- Another judge at the same court (e.g. selected on seniority or appointed)
- A special chamber of the same court
- President of the same court
- Another court / President of another court
- Higher court / President of a higher court
- Supreme Court / President of the Supreme Court
- Council for the Judiciary

Other independent body (specify): ...

Minister of justice

Other (specify): in Courts of Appeal another adjudicating panel of judges from this Court of Appeal, if the appeal refers to the decision of this Court of Appeal;

3.4.2. What was the total number of appeals against decisions on recusal requests in 2014?

[for example, when a party to the case requested a judge to be recused but this request was rejected, and then this party appealed against the rejection; if only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :..... / N/A

If possible, specify this number for different types of proceedings (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

4. IRREMOVABILITY - TRANSFER OF JUDGES WITHOUT THEIR CONSENT⁸

4.1. Can a judge be transferred (temporarily or permanently) to another judicial office (to other judicial duties, court or location) without his/her consent?

Yes

No

Comments: The law on common courts, Art. 75. § 1.: The transfer of a judge to another post may occur only upon his/her consent.

§ 2. Consent to the transfer to another post is not required in the event:

1) *of cancellation of the post caused by the change in courts organisation, cancellation of a given court or branch division or a transfer of the seat of a court,*

2) *of inadmissibility of holding the post of judge in a given court as a result of entering into the state of matrimony between judges or creation of family connection, referred to in Art. 6,*

3) *it is required, as regards the authority of the post, under the decision of a disciplinary court, issued at the request of the board of a competent court or of the National Council of the Judiciary,*

4) *of transfer as a result of a disciplinary penalty.*

§ 3. The decision about the transfer of a judge in events specified in § 1 and 2 is issued by the Minister of Justice, whereas the transfer of a judge for reasons referred to in § 2 item 1 may occur if the consideration of the application of a judge for a new post is not possible.

§ 4. In the event referred to in § 2 item 1 and 2, the decision of the Minister of Justice may be appealed against with the Supreme Court.

4.1.1. If yes, which authority or body decides on a (temporary or permanent) transfer of a judge without his/her consent? [if several authorities are responsible and have different powers depending on the ground for transfer, please write "for disciplinary reasons", "for organisational reasons" or "for other reasons" next to the relevant authority]

Council for the Judiciary

Other independent body (specify): ...

Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil

⁸ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 52. See also European Network of Councils for the Judiciary, Development of Minimal Judicial Standards III, Minimum Standards regarding evaluation of professional performance and irremovability of members of the judiciary, Report 2012-2013, pp. 18-20, 23 (point 4.21.)

service court...)

- President of the same court
- Another court / President of another court
- Higher court / President of a higher court
- Supreme Court / President of the Supreme Court
- Constitutional Court / President of the Constitutional Court
- Ministry of justice / Minister of justice (for organisational reasons)
- Head of state
- Other (specify): Disciplinary court (for disciplinary reasons)

4.2. For what reasons can a judge be transferred without his/her consent? [several answers possible]

- For disciplinary reasons
- For organisational reasons (specify): closure of a court, changes in the system of common courts
- For other reasons (specify): ...

4.2.1. At what level are these reasons prescribed?

- In law (*Constitution and the Act on the organization of common courts*)
- Other (specify): ...

4.3. In case a judge is transferred without his/her consent is he/she guaranteed an equivalent post (in terms of a position, salary...)?

XYes

No

Yes, when it is caused by the closure of the court or changes in the system of common courts. If the transfer is caused by disciplinary reasons, this issue depends on the ruling of the disciplinary court (may be yes, may be no).

4.4. What was the total number of judges transferred without their consent in 2014?

[if only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: : 2..... / N/A

If possible, specify this number depending on the reason for transfer without consent:

For disciplinary reasons:2...

For organisational reasons:

For other reasons:

If possible, specify this number for judges in different areas (civil, administrative...):

administrative: :..... / N/A

... : :..... / N/A

4.5. Can a judge appeal if he/she is transferred without his/her consent?

Yes

No

4.5.1. If yes, which authority or body decides on such an appeal?

Council for the Judiciary

Other independent body (specify): ...

Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil service court...)

President of the same court

Another court / President of another court

Higher court / President of a higher court

Supreme Court/President of the Supreme Court

Constitutional Court / President of the Constitutional Court

Minister of justice

Head of state

Other (specify):

4.5.2. What was the total number of appeals against transfers of judges without their consent in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :...2..... / N/A

If possible, specify the number of appeals depending on the reason for transfer without consent:

For disciplinary reasons:2.....

For organisational reasons:

For other reasons:

If possible, specify the number of appeals by judges in different areas (civil, administrative...):

administrative: :..... / N/A

... : :..... / N/A

5. ALLOCATION OF CASES⁹

5.1. Are the criteria for allocating cases within a court defined?

- Yes
 No

5.1.1. If yes, where have these criteria been defined? [several answers possible]

- In well-established practice of the court
 In an act adopted by the court
 In implementing regulations
 In law
 Other (specify): Internal decisions of a president of a court made in accordance with the law

5.2. How are cases assigned to judges at the first instance courts?

- President of the court assigns cases
 A member of the court staff assigns cases (e.g. listing officer)
 A special chamber of the court assigns cases
 The cases are assigned randomly (e.g. through a computerized system) (*randomly, according to the case receipt date*)
 The cases are assigned according to a pre-defined order (e.g. alphabetic, subject matter)
 Other (specify): ...

5.3. Is the allocation of cases subject to supervision (e.g. regular checks of the practice of allocation)?

- Yes
 No

5.3.1. If yes, by whom? [several answers possible]

- By court staff
 By the President of the court , President of the higher court
 By the Council for the Judiciary
 By another independent body (specify): ...
 By the Judicial inspection body
 Other (specify): Ministry of Justice

5.3.2. In the last five years, has the system for the allocation of cases been subject to a general review or assessment to check for any potential deficiencies?

- Yes
 No

5.3.2.1. If yes, what was the follow-up to the findings of such a general review/assessment? [several answers possible]

- Changes to the system of allocation of cases

⁹ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 24.

- Changes to the practices concerning the allocation of cases
- Other (specify): ...

6. INTERNAL INDEPENDENCE¹⁰

6.1. In your system, are there hierarchically superior courts/judges with the power to ensure on their own initiative the uniformity or consistency of judicial decisions delivered by the courts/judges under their supervision (outside of an appeal system, the precedent doctrine or a preliminary ruling system)?

- Yes
- No

6.1.1. If yes, which courts/judges have such a power?

- Division heads at particular courts
- Presidents of the courts
- Appeal courts / Presidents of appeal courts
- Supreme Court / President of the Supreme Court
- Supreme Administrative Court / President of the Supreme Court

Explanation: The First President of the Supreme Court or Supreme Administrative Court may present on his/her own initiative so called "abstract legal issue" to the panel of seven judges of the Supreme Court/ Supreme Administrative Court in case of non-uniformity of judicial decisions/judgments delivered by the courts. The abstract resolution of seven judges, presenting interpretation of the law, is not binding for the common courts and affects only as a result of respect/prestige of the Supreme Court/ Supreme Administrative Court.

6.1.2. If yes, what kind of decisions can hierarchically superior courts/judges deliver on their own initiative to ensure the uniformity or consistency of judicial decisions outside of an appeal system or the precedent doctrine?

- An advisory opinion of general application (for all courts/judges)
- An obligatory decision of general application (for all courts/judges)
- An advisory opinion of concrete application (to a specific judicial decision)
- An obligatory decision of concrete application (to a specific judicial decision)
- A practice statement or direction applicable to particular kinds of cases
- Other (specify): ...

6.1.3. If yes, what was the total number of such decisions in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ..."]

In all courts: :26 / N/A

If possible, specify this number for different types of proceedings (civil, administrative...):

Supreme Court: : 6 / N/A

Out of 6 abstract resolutions of the Supreme Court presenting interpretation of the law, 3 were passed by the Civil Chamber, 2 – by the Criminal Chamber and 1 – by the Labour Law, Social

¹⁰ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 22.

Security and Public Affairs Chamber

Supreme Administrative Court: : 19 / N/A

SAC passed 19 resolutions explaining the law, including 10 in the abstract mode (not related to the concrete case).