

**DG I – DCJ (2022)1**

14 March 2022

Comparative Overview on Judicial Councils in Europe

This comparative overview on Judicial Councils in Europe was prepared by Prof. Dr. Anne Sanders¹. It is based on the responses received in 2021 from 42 States to a questionnaire² issued to support the elaboration by the Consultative Council of European Judges (CCJE) of its [Opinion No. 24 \(2021\) “Evolution of the Council for the Judiciary and their role in an independent and impartial judicial system”](#).³ This paper also took into consideration available information on Malta, presented by the ENCJ.

Among the 42 responding states that responded to the CCJE questionnaire, 35 replied that they had a judicial council;⁴ only seven replied no.⁵ With Malta, there are at least 36 States with judicial councils in Europe. The responses show great diversity among the organisation of judicial councils and the judiciary in general. The focus of this overview shall be on judicial councils as autonomous public bodies, which are not subordinated to the executive, judicial or legislative branches, composed of judges and some lay members (in different proportions), and exercising powers related to the career and discipline of judges, and also performing some administrative and standard-setting functions. The main focus is on “strong” judicial councils which have most (if not all) of the essential functions (career/discipline/administration).

¹ Prof. Dr. Anne Sanders (M.Jur. Germany/Norway) supported the elaboration of the Opinion No.24(2021) by the Consultative Council of European Judges (CCJE) as an independent Council of Europe consultant. This paper was prepared at the request of the Division for Legal Co-operation of the Council of Europe for the International Roundtable “Shaping judicial councils to meet contemporary challenges” organised by the Council of Europe in cooperation with the Italian authorities in the framework of the Italian Presidency of the Committee of Ministers. The opinions expressed in this paper are the responsibility of the author and do not necessarily reflect the official policy of the Council of Europe.

² For further information on detailed country-specific responses, see <https://rm.coe.int/compilation-opinion-24-2021-all-responses/1680a1cb63>. While all responding states did their best to provide adequate information, some points may be evaluated differently.

³ The [Opinion n°24 \(2021\)](#) on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems is also available in [Albanian](#), [Bulgarian](#), [Croatian](#), [French](#), [Georgian](#), [German](#), [Macedonian](#), [Montenegrin](#), [Polish](#), [Spanish](#), [Ukrainian](#).

⁴ Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Monaco, Montenegro, The Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Turkey, Ukraine.

⁵ Austria, Czech Republic, Germany, Luxembourg, Sweden, Switzerland (no one at the federal level, 5 out of 26 cantons have one), United Kingdom.

1. How widespread is the model of a strong and centralized judicial council? Please name countries having such strong councils.

In its survey, the CCJE covered 16 questions about the competences of different bodies such as judicial councils, ministries, parliament and court presidents in relation to topics such as judicial career, discipline, administration of the judiciary, ethics, judges' salaries, IT, PR and budgeting.

Table 1. Number of competences of a judicial council in responding states

Competences	State	
14	3	Albania, Andorra, Georgia
13	3	Bosnia and Herzegovina, Spain, Turkey
12	5	Armenia, Bulgaria, Lithuania, San Marino, Slovakia
11	4	Azerbaijan, Belgium, Finland, Portugal
10	3	Ireland, Montenegro, Slovenia
9	5	Hungary, Italy, Latvia, Poland, Romania,
8	4	Denmark, the Netherlands, North Macedonia, Norway
6	2	Croatia, France
5	1	Monaco
4	4	Cyprus, Estonia, Greece, Ukraine
0	1	Russia

The majority of countries reported their councils having a high number of competences. Even the councils with a smaller number of competences (apart from Russia) have enough important competences to take them into further consideration. Therefore, it can well be argued that 35 councils (including Malta) may be said to have important competences within their judiciaries. However, listing competences alone does not illustrate how independently judicial councils perform their functions in practice and whether there are other institutions sharing competences (e.g. in Hungary).

Most councils have influence on the organization of judges' careers. This includes the selection of new judges (27)⁶, their promotion (28)⁷ and evaluation (19).⁸ It can also include questions concerning the incompatibility of the judicial posts with other functions,⁹ leaves of absence, transfer,¹⁰ criteria for evaluation and determining the workload.¹¹ Some also collect financial information from judges,¹² draft and enforce codes of ethics (25)¹³ and respond to questions of ethics of judges.¹⁴

⁶ Albania, Andorra, Armenia, Azerbaijan (Judges selection committee formed by council), Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Finland (technical role), France (gives a binding opinion on proposal of MoJ, judges at supreme court, presidents of courts are selected by the council), Georgia, Hungary, Italy, Latvia, Lithuania, Malta: advice, Monaco, Montenegro, North Macedonia, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Turkey.

⁷ Albania, Andorra, Armenia, Azerbaijan, Belgium (not for deputy and specific mandates), Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Finland, France (promotion of judges except supreme court judges, court presidents suggested by MoJ to council), Georgia, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Monaco, Montenegro, North Macedonia, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Turkey, Ukraine.

⁸ Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Ireland, Italy, Lithuania, Montenegro, North Macedonia, Portugal, Romania, San Marino (Not yet, but is about to be introduced on the recommendation of GRECO), Slovakia, Spain, Turkey.

⁹ Ukraine.

¹⁰ Ukraine, Turkey.

¹¹ Latvia, Montenegro, Slovenia.

¹² Bosnia and Herzegovina, Slovakia.

An impressive number of councils (roughly 24) also plays a role in disciplinary procedures.¹⁵ Some councils receive and follow up on complaints from the public.¹⁶ In Ukraine, the council must give permission for the detention of a judge. The majority of responding states report that councils have a duty to protect judicial independence (33).¹⁷ In Latvia and Slovenia, the council may submit an application to the Constitutional Court if legal standards related to the judiciary have been violated. An interesting point is also what legal and political means a council may use if its position has been violated. Some countries have formal procedures, such as a complaint to the Constitutional Court,¹⁸ Supreme Court¹⁹ or administrative court²⁰ are available. In most cases, however, the only way is interinstitutional dialogue,²¹ for example through appeals to Parliament or President,²² and the submission of public reports,²³ opinions²⁴ or complaints to the other branches of government. Appeals through the media²⁵ and thus public opinion²⁶ were also mentioned.

Many judicial councils have competences in the administration of the judiciary, often together with court presidents (21).²⁷ Most councils also have a role in the selection of court presidents (21),²⁸ only a minority has not (5).²⁹ Judicial councils may also play a role in the evaluation of court performance (23)³⁰ and the allocation of financial resources to the judiciary including individual courts (16).³¹ Moreover, councils in certain responding states investigate

¹³ Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, France, Georgia, Hungary, Ireland, Lithuania, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino (developed on consultation with judges and approved by Council), Slovakia, Slovenia, Spain, Turkey.

¹⁴ France, Slovenia.

¹⁵ Albania, Andorra, Armenia, Azerbaijan, Belgium (no, but Council may provide information to the disciplinary courts if a judge refuses to assist in the exercise of powers of the Council), Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, France, Georgia, Ireland, Italy, Malta, Monaco, Montenegro, North Macedonia, Poland (elects judges' disciplinary representative), Portugal, Romania, San Marino, Slovakia, Slovenia (independent body within), Spain, Switzerland (in cantons, where they are in place), Turkey, Ukraine.

¹⁶ Belgium, Montenegro.

¹⁷ Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Turkey, Ukraine.

¹⁸ Albania, Andorra, Armenia, Bulgaria: via Court of Cassation or Supreme Administrative Court, Italy, Latvia, North Macedonia: and a proposal for new legal solutions, Poland, Portugal (no formal procedure), Romania (also Ombudsman), Slovakia, Slovenia, Spain.

¹⁹ Cyprus.

²⁰ Bosnia and Herzegovina, Finland ("theoretically").

²¹ Denmark: Negotiation, Monaco (mentions it to the Prince), the Netherlands (discussions with MoJ), Norway: (discussions with parliament and MoJ), Romania, San Marino.

²² Azerbaijan.

²³ Andorra, Poland, Romania, Ukraine.

²⁴ Belgium, Hungary (may also by 2/3 majority propose to remove President of the National Office for the Judiciary), Latvia.

²⁵ Azerbaijan, Bulgaria (plus right to appeal to court), Croatia (mentioned strong constitutional position), San Marino.

²⁶ Estonia, France, Ireland, Latvia, Lithuania, Montenegro.

²⁷ Albania, Andorra, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Finland, Georgia, Greece, Hungary, Italy, Latvia, Lithuania, the Netherlands, Norway, Portugal, San Marino, Slovakia, Slovenia, Spain, Turkey.

²⁸ Andorra, Armenia, Azerbaijan (suggestion), Belgium (proposal), Bulgaria (except of SC and Supreme Administrative Court), Croatia (except president of SC), Cyprus, Estonia (suggestion, can block appointment), France, Georgia, Greece, Latvia, Lithuania, North Macedonia, the Netherlands (proposal), Portugal, Romania, San Marino (no removal), Slovakia, Slovenia, Spain (removal only for disciplinary reasons).

²⁹ Denmark, Finland, Norway, Poland (expresses opinion in certain cases), Ukraine.

³⁰ Albania, Andorra, Azerbaijan, Belgium, Bosnia and Herzegovina, Estonia, Finland, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, North Macedonia, Portugal, Romania, San Marino, Slovakia, Slovenia (limited), Spain, Turkey.

³¹ Albania, Andorra, (parliament decides the budget, but council distributes funds to courts and public prosecutors), Armenia, Bosnia and Herzegovina, Bulgaria, Denmark, Finland, Georgia, Hungary, Lithuania, Montenegro, the Netherlands, North Macedonia, Poland, Norway, Turkey.

and improve the organisation and functioning of courts,³² and registries³³ and prepare proposals as to the number of judges³⁴ and the budget of the judiciary and courts,³⁵ including the abolishment, establishment and reorganisation of courts.³⁶ Councils may collect financial statements of the courts.³⁷ Some prepare opinions on the development of the judiciary³⁸ and on draft laws.³⁹

2. Which other models of judicial governance can be identified? If the career/discipline/administrative powers are diffused amongst separate bodies, how those bodies are composed and which role the judicial community plays in forming these bodies?

As noted already, in most European countries, judicial councils have considerable competences in judicial governance. In countries without a judicial council, a Ministry of Justice may have the final say on court administration,⁴⁰ usually in co-operation with court presidents. However, even in these countries, judges may participate in the evaluation of judges, career decisions,⁴¹ court administration⁴² and the assignment of cases⁴³ in considerable factual and/or legal independence from the executive. In such countries, judicial review, e.g. of career decisions, can be an important factor to preserve judicial independence, as for example in Germany.

In countries without a judicial council, decisions on the appointment and promotion of judges may fall under the responsibility of judges,⁴⁴ the executive⁴⁵ or parliament.⁴⁶ In many countries, even some with judicial councils, appointments, promotions and complaints may be decided by a separate body⁴⁷ which may be composed of judges and lay persons.⁴⁸

In Nordic countries like Norway and Sweden, judicial administration is handled by a separate body which may be de facto independent from the executive. However, judicial councils have been introduced recently as in Finland or reformed and now identify as judicial council such as Denmark and Norway. In Luxembourg and Sweden, there is a discussion to introduce a judicial council.

³² Belgium, Malta, Montenegro, Slovenia.

³³ Latvia.

³⁴ Albania, Bosnia and Herzegovina, Latvia, Slovenia.

³⁵ Albania, Bosnia and Herzegovina, Latvia, Montenegro, The Netherlands, Slovenia,

³⁶ Azerbaijan, Latvia, Monaco (advises the Prince), Turkey.

³⁷ Bosnia and Herzegovina.

³⁸ Albania.

³⁹ Bosnia and Herzegovina, the Netherlands, Slovenia.

⁴⁰ Austria, Czech Republic, Germany, UK.

⁴¹ Austria, Germany, Luxembourg.

⁴² Austria, Germany, UK.

⁴³ Austria, Germany.

⁴⁴ Luxembourg: Commission de recrutement des attachés de justice.

⁴⁵ Czech Republic, Germany based on evaluations drafted by court presidents and subject to judicial review.

⁴⁶ Switzerland in some cantons public vote, Germany Richterwahlausschüsse (federal level, certain Länder).

⁴⁷ Czech Republic: committee appointed by MOJ or Court Presidents; Estonia Judicial Examination Committee, Denmark, Finland: Judicial Appointments Board, Greece: Entering the school of judges after difficult exams carried out by a committee of judges, prosecutors and university professors, Hungary (President of the National Office for the Judiciary), Ireland, Latvia, Lithuania, Luxembourg (Commission de recrutement des attachés de justice), the Netherlands (National committee of selection of judges), Norway (Judicial Appointment Board), Russia (the High Examination Commission, the High Qualification Board of Judges of the Russian Federation), Sweden (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 proposes candidates - in order of qualification - to the government (cabinet of ministers), which decide on appointments), Ukraine High Qualification Commission of Judges of Ukraine), UK.

⁴⁸ E.g. Denmark, Finland, Norway, UK.

3. In which countries the appointment to the judicial positions (or some judicial positions at the top level, for example) or removal from them depends on the *discretion* of a political body, i.e. the legislature or the executive?

Please distinguish between the countries where (by force of law or tradition) the political body has to follow the advice made by the expert bodies (composed partly of the judges), and those countries where appointment/removal depends on the political discretion of the body making such decisions (even if an expert body is still involved somehow in the process and may make recommendations).

In some countries, the selection of judges for a first appointment and/or their promotion fall under the responsibility of the executive⁴⁹ or legislature⁵⁰. In some countries, appointment of judges is only formally made by a president, minister or parliament without any decision-making power.⁵¹

The focus of the CCJE survey was not on removal of judges and disciplinary procedures. However, in most responding states, judges are appointed until retirement. A different case is Switzerland, where judges are elected for relatively short terms by parliament in many cantons and on the federal level. There is a tradition to reelect judges and no formal disciplinary procedure at least on the federal level. This system is under discussion now. In some countries, the executive⁵² legislature⁵³ or a special body for disciplinary procedures, often a court,⁵⁴ have a decisive role in disciplinary procedures including the removal of judges from office.

⁴⁹ Austria, Czech Republic, Estonia: Supreme Court, Finland: Supreme court, France (council gives binding opinion upon suggestion of MoJ), Germany, Luxembourg (election by members of the Supreme Court), Sweden (cabinet of ministers which decide the appointments), Ukraine (High Qualification Commission of Judges of Ukraine).

⁵⁰ Georgia (judges Supreme Court), Germany (Richterwahlausschüsse), Switzerland, in some cantons public vote.

⁵¹ Estonia, Finland, Lithuania, Norway, Poland, Portugal, Slovakia, Slovenia.

⁵² Czech Republic, Estonia (over court president), France, Italy, Monaco, Poland.

⁵³ San Marino: Permanent Parliamentary Commission for Justice is one of the parties entitled to initiate disciplinary proceedings against judges.

⁵⁴ Albania (High Justice Inspector), Andorra; Austria (disciplinary courts, partly other administrative courts); Belgium (disciplinary court and disciplinary court of appeal), Czech Republic (Ombudsman for court presidents, Disciplinary Chamber of the Supreme Administration Court), Denmark (the Special Court of Indictment and Revision), Estonia (Disciplinary Chamber), Finland (appeals to courts possible), France (first presidents of the courts of Appeal), Germany (special court - Dienstgericht), Hungary (Judges Service Court), Italy (Attorney General at the Supreme Court), Latvia (the Judicial Disciplinary Committee, Disciplinary Court), Lithuania (Judicial ethics and Discipline Commission, Court of Honour, Supreme Court), The Netherlands (Supreme Court), Norway (Independent Disciplinary Board), Poland (Disciplinary proceedings representatives, Disciplinary Chamber at Supreme Court), Russia (Council of Judges, the High Qualification Board of Judges), San Marino (Guarantors' Panel on the Constitutionality of Rules), Slovakia (as part of reform, will be transferred to Supreme Administrative Court), Sweden (started 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. Dismissal only in case of crime), UK (Judicial Conduct Office investigates, sanctions may be imposed, Lord Chief Justice and MoJ acting together).

Focus on countries identified in question no. 1 as having strong and centralized judicial council of a mixed composition

4. Please name countries where judicial councils are composed exclusively (or almost exclusively) of judges elected by their peers, countries where judges are in a majority, and countries where there are more lay members than judges elected by their peers.

The composition of judicial councils varies considerably. It starts with the number of members which can range from 3 as might be the case in the Netherlands, where the actual number is now 4, up to 166 (all) Irish judges. Most countries seem to favour 11 (6) or 15 members (6). Judicial councils also show an impressive variety of compositions, as set out in the table below.

Table 2. Composition of judicial councils

Composition	State	
All judges	5	Cyprus, Greece, Hungary, Ireland, Lithuania.
Majority judges	18	Albania, Azerbaijan, Bulgaria: among 14 members, 6 members are elected by their peers, but the number is higher because of 2 ex officio judges and parliament elects judges as well as members; Croatia, Estonia, Finland, Georgia, Greece, Latvia, Monaco, The Netherlands, North Macedonia, Poland, Romania, Slovenia, Spain, Turkey, Ukraine.
Half/Half	5	Armenia, Belgium, Montenegro, San Marino, Slovakia.
Minority judges	7	Bosnia and Herzegovina (15 members, 11 from judiciary, at least 5 judges), Denmark (11 members, 5 judges), France (22 members, 6+6 judges and prosecutors elected by their peers, 8 prominent figures outside judiciary, 2 ex officio), Italy (27 members, 16 from judiciary, 12 judges), Malta (but majority of votes), Norway, Portugal (8 of 17).
No judges	1	Andorra, but one is elected by judges.

5. Please identify countries where judicial members of a judicial council are not elected by their peers but selected otherwise (for example, by the legislature). Please identify countries where judicial members elected by their peers are in a minority, but judges represent the majority of the council because of the presence of some *ex officio* members representing the judiciary.

The nomination and selection of members of judicial councils varies considerably. Judges (and prosecutors) are usually elected by their peers,⁵⁵ and can be nominated by judges,⁵⁶ associations of judges,⁵⁷ courts,⁵⁸ the conference of judges⁵⁹ or by the different instances⁶⁰ or courts they represent.⁶¹ In the process, not only a diversity of courts and instances, but

⁵⁵ Andorra, Armenia (5 by peers, 5 by parliament), Bosnia and Herzegovina, Bulgaria, Estonia, France, Georgia, Hungary, Italy, Latvia, North Macedonia, The Netherlands, Portugal, Romania, San Marino (not yet, such a reform was under discussion in 2021), Slovenia.

⁵⁶ Bulgaria.

⁵⁷ Azerbaijan, Spain, Denmark (2).

⁵⁸ Finland, Latvia: supreme Court; Romania (general assemblies in every court, election results verified by Senate).

⁵⁹ Armenia, Bulgaria, Estonia, Georgia, Hungary (proposals for the Council are made by a committee), Latvia, Lithuania. Montenegro, organised by election committee, Ukraine.

⁶⁰ Croatia.

⁶¹ Croatia, Denmark, Finland, France, Latvia, Montenegro.

also gender, language and region may be aimed at.⁶² In Poland, Spain⁶³ and Turkey, judges are not elected by their peers but by parliament and/or the president.

Countries with judges on their councils – all except Andorra – often require that judges meet certain requirements, for example, that members come from different courts and instances,⁶⁴ only from the Supreme Court,⁶⁵ have a minimum years of experience as judges⁶⁶ and must not have disciplinary procedures open against them or having been found guilty of a disciplinary transgression,⁶⁷ and show high integrity and impartiality.⁶⁸ In Albania, good evaluations and reporting financial assets are also necessary. In Belgium, there are two different colleges for different linguistic groups, in Bosnia and Herzegovina, North Macedonia and Slovakia candidates must come from different regions. In cases such as Cyprus and Ireland, where all judges or all judges of the Supreme Court are members, the selection for those courts automatically results in a membership to the council.

In Bulgaria, Latvia, Malta (majority of votes) and Romania judicial members elected by their peers are in the minority, but there is a majority of judges (or votes) including ex-officio members.

6. How many councils are joint councils (comprised of judges and prosecutors) and how many have separate councils? Insofar as joint councils are concerned, do prosecutors participate in deciding upon careers and discipline of judges, or only involved in the more general administrative matters common for the judiciary and the prosecution service (budget, legislative process, standard setting, etc.)?

Joint councils (council of magistrates) have been reported from Belgium, Bosnia and Herzegovina, Bulgaria: divided into two colleges, France, Greece, Italy, Romania, Turkey, Ukraine. The questionnaire did not cover the role of prosecutors specifically.

7. Election of judicial members by their peers: should each candidate receive an approval of a majority of all judges or there could be “minority candidates” (i.e., those supported by smaller groups of judges)?

The questionnaire did not address voting in such detail. Some details are mentioned under 5 including rules securing diversity among instances, courts and regions which may lead to a selection of a minority candidate.

8. Election of lay members: please identify which countries belong to the following category:

- all lay members are elected by Parliament.
- some lay members are elected by Parliament, others are delegated by the executive or independent institutions or are *ex officio* members.

Some responding states' councils only have judges as members.⁶⁹ Other countries may have councils with members who work in the law⁷⁰ such as academics⁷¹ advocates,⁷² often

⁶² Belgium, Finland.

⁶³ Before, however, there is an election among the judges and parliament appoints the judges elected.

⁶⁴ Albania, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Finland, Georgia, Hungary, Latvia, Monaco, Montenegro, North Macedonia, Norway, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Turkey.

⁶⁵ Cyprus, Greece.

⁶⁶ 15 years: Bulgaria; 10 years: Albania, Armenia; 7 years: Romania; 5 years: Georgia, Hungary; 3 years: Lithuania; Spain: 3 judges must have more than 25 years of experience.

⁶⁷ Albania, Lithuania, Romania. 3 previous years.

⁶⁸ Bosnia and Herzegovina.

⁶⁹ Bulgaria: 6, but those can be judges as well, Cyprus, Greece, Ireland, Lithuania.

requiring a minimum of years of work experience⁷³ and high integrity and reputation.⁷⁴ In the Nordic countries, court personnel is represented as well.⁷⁵ Some countries also require that a certain number of members are representatives of agencies,⁷⁶ or members of the civil society/public.⁷⁷ Councils which represent prosecutors as well have - of course - members who are prosecutors.⁷⁸

In some countries (8), members may also be politicians such as ministers or members of parliament,⁷⁹ In some countries (12), a number of members are nominated by a certain authority⁸⁰ such as the Minister of Justice/Government,⁸¹ President of the Republic,⁸² Parliament,⁸³ the Prosecutor General⁸⁴, or the Bar association.⁸⁵ In Albania, candidates may not have had a post in public administration in the last ten years. In Finland, members may not be a member of parliament or hold a position in public administration.

In some countries, some or all members, usually non-judges are elected by parliament,⁸⁶ or appointed by the Government/Minister of Justice,⁸⁷ King⁸⁸ or President of the Republic.⁸⁹ In some responding states, elections by parliament and or among judges must be done by secret ballot⁹⁰ and/or with a minimum number of candidates exceeding the number of open positions.⁹¹

In some countries, open positions must be advertised publicly in the media.⁹² In Bulgaria, candidates for election by parliament must be nominated by an MP. Candidates need to fill out different forms and - in some responding states – reports on their assets⁹³ and ethics.⁹⁴ In Romania, the nomination process is regulated in detail including the right to appeal the denial to stand election as a candidate. In Romania and Bulgaria, candidates must present

⁷⁰ Armenia (5), Bulgaria (6), Hungary (President of the National Office for the Judiciary, MoJ, Chief Public Prosecutor, President of the Bar Association, President of Notaries, President of the National Council for the Judiciary may attend in a consultative capacity and also representative of interested organisations), Italy (8), Montenegro (1), Romania, Slovenia (5), Spain (8) Turkey (3), Ukraine (4).

⁷¹ Albania (2), Belgium (6), Croatia (2), Denmark, Italy, Spain, Turkey (1 min), Ukraine (2).

⁷² Albania (2), Belgium, Denmark, Estonia (1), Italy, Norway (2) Turkey (1 min), Ukraine (2).

⁷³ Albania, Armenia, Bulgaria, Italy, Montenegro, Turkey, Ukraine: 15 years, Belgium: 10 years, Romania: 7 years, Georgia: 5 years.

⁷⁴ Albania, Bulgaria, Montenegro, Romania (members will be checked for work in the secret service before 1990 and may not have held public office in the last 5 years), Spain (high prestige), Ukraine.

⁷⁵ Denmark, Finland, Norway.

⁷⁶ Denmark.

⁷⁷ Belgium, Bosnia and Herzegovina, Norway (2).

⁷⁸ Belgium, Bosnia and Herzegovina, France, Italy, Romania, Ukraine, Turkey.

⁷⁹ Albania (1), Croatia (2), Estonia (2), Monaco (also Crown Council), North Macedonia, Poland (4 mp, 2 senators, San Marino (MoJ and 11 members of Parliament), Turkey.

⁸⁰ Andorra, Armenia, Bosnia and Herzegovina, Croatia, Denmark, Estonia, Finland, France, Georgia, North Macedonia, Ukraine, in Turkey, non-judge applicants apply to the President of Parliament.

⁸¹ Azerbaijan, Slovakia.

⁸² Azerbaijan, France, Poland (1), Portugal, Slovakia, Ukraine, Turkey.

⁸³ Azerbaijan, Bulgaria, France, Georgia, Poland (4 Sjem, 2 Senate), Portugal, Slovakia, Ukraine.

⁸⁴ Azerbaijan.

⁸⁵ Azerbaijan, Denmark, France.

⁸⁶ Albania, Azerbaijan, Belgium (Senate, non-judge members), Bulgaria (members not elected by judges), Georgia (5), Italy (1/3 of members, "lay members"), Poland (4 Sjem, 2 Senate), Portugal (7), North Macedonia (3), Romania (Senate, non-judges), San Marino, Slovakia (3), Slovenia (5), Spain (all, including judges selected by their peers, 10 by congress, 10 senate), Turkey (non-judges and prosecutors), Ukraine (some).

⁸⁷ Denmark, Finland, Slovakia (3).

⁸⁸ Norway.

⁸⁹ Georgia (1), Slovakia (3), North Macedonia (3), Poland (1), Portugal (2), Ukraine.

⁹⁰ Belgium, Croatia, Estonia, Romania, Slovenia.

⁹¹ Croatia, Slovenia.

⁹² Montenegro, The Netherlands, Slovenia, Ukraine.

⁹³ Albania.

⁹⁴ Armenia (Corruption Prevention Commissions gives advisory opinion), Bulgaria, Romania (Anti-Corruption and Crime Directorates).

the goals and a project they want to pursue as members. In Ukraine and Romania, information about the candidates is published on the official website. In some countries, special commissions test the qualifications⁹⁵ of the applicants and organize selection and election processes.⁹⁶ In Albania, a list of non-judge members is prepared by a parliamentary sub-committee with five members, three of the majority, two of the minority.

9. Please identify countries where:

- all lay members are elected by a simple majority.
- lay members are elected by a qualified majority in the Parliament or through a proportionate system (guaranteeing the opposition some number of seats in the council).
- all lay members are elected by a simple majority but there is a process of pre-selection which gives the opposition a say in the process.

Table 3. Information on election requirements

Election requirements	State	
No vote by parliament	5	Andorra, France, Finland, Hungary, The Netherlands
Simple majority	9	Azerbaijan, Bosnia and Herzegovina, Croatia, Estonia, North Macedonia (with special regional rules), Norway, Slovakia, Slovenia, Ukraine
3/5 majority	5	Armenia, Belgium, Georgia, Poland, Spain
2/3 majority	7	Albania, Belgium, Bulgaria, Montenegro, Portugal, San Marino, Turkey

Some countries requiring a qualified majority mentioned a rule for cases where such a majority is not reached. In Albania, if the list prepared by a subcommittee, composed of three members of the parliamentary majority and two of the minority, can only be rejected twice. In Armenia, there is a second round between the two candidates with the highest votes. If there is still no qualified majority, factions can nominate new candidates within ten days. In Poland, a simple majority is enough in the second round. In Turkey, in the second round, a 3/5 majority must be met. If this is not reached, the lot is cast between the two candidates with the most votes. Interesting is the rule in Croatia, where the two members of parliament are elected by simple majority, but one must be from the opposition.

10. Full-time or part-time councils: please identify countries where all members of the judicial council are full-time, those where the members are part-time, and those where full-time members sit together with part-time members.

This point was not addressed in the CCJE survey; therefore, the information presented here is based on available information from the ENCJ and is limited to EU-members. Among these, the majority of councils does have full-time members or only a few in leadership positions.

Table 4. Information full time or part time councils

Position	State	
Full time position	4	Bulgaria, Italy, The Netherlands, Romania.
Part time with some full-time positions	4	Belgium: full time positions for 4 members of bureau only, Denmark: part-time for members, full-time position only for Director General, Portugal: decision of members, in 2021 only judge members

⁹⁵ Bulgaria (specialised sub-committee in parliament), Ukraine: secretariat of the Council, Romania, Turkey in Parliament.

⁹⁶ Albania (sub-commission in parliament for election of non-judge members), Hungary, Latvia, Montenegro, The Netherlands.

		are in full-time position, Slovakia: only president is full-time, Spain: standing committee is full time.
No full-time positions	9	Finland, France, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Slovenia.

11. Eligibility requirements for lay members: in which countries does the law prohibit MPs from being lay members? Which country require that lay members do not have affiliations (active or in the recent past) with the political parties?

As pointed out above at question 8, many responding states include politicians or candidates nominated by politicians in the composition of their judicial councils. The CCJE asked in its questionnaire how the integrity and independence of members were ensured. Answers pointed out various requirements for the selection such as high integrity⁹⁷ and that there were no actions worthy of a disciplinary procedure and no criminal convictions.⁹⁸ Moreover, different institutions are involved in the selection process to verify the candidates' independence and integrity.⁹⁹ There are also rules of incompatibility with political positions.¹⁰⁰ In Albania, candidates may not have held a post in public administration in the last ten years. Some responses mentioned the secret¹⁰¹ or politically independent¹⁰² selection of members. Georgia mentioned that members cannot be reelected.

As a means to preserving independence during their time in office, responding states mentioned the members' consciousness and their oath of office,¹⁰³ that council members enjoyed the privileges of judges¹⁰⁴ and may not be held responsible for votes and opinions given in the council.¹⁰⁵ They must not vote on their own affairs,¹⁰⁶ and obey the rules concerning work in the council.¹⁰⁷ Moreover, rules of incompatibility apply; 10 responding states reported that members may not hold other public offices or run a business.¹⁰⁸ In France, members must draw up declarations of interests within two months of taking office. Violations of the duty to perform membership appropriately are investigated and sanctioned by the council.¹⁰⁹ Albania and Georgia mentioned a declaration of income and assets during their time in office. Ukraine reported that the Commission of Integrity and Ethics also as responsible for the selection and work of the members.

⁹⁷ Bosnia and Herzegovina, Bulgaria.

⁹⁸ Albania, Belgium, Bulgaria, Hungary, Slovakia.

⁹⁹ Albania: Sec. General of Parliament, Ombudsman, Armenia: advisory Opinion by Commission for the Prevention of Corruption, Ukraine: Commission on Integrity and Ethics, High Qualification Commission of Judges of Ukraine.

¹⁰⁰ Belgium, Bulgaria, Denmark, Finland.

¹⁰¹ Estonia, Greece (by draw), Lithuania, Romania.

¹⁰² Bosnia and Herzegovina.

¹⁰³ Greece.

¹⁰⁴ Armenia, Azerbaijan, Croatia, this applies to all members who must be judges, e.g., Ireland, North Macedonia, Portugal.

¹⁰⁵ Andorra, Armenia, Croatia, North Macedonia, in San Marino, non-judge members enjoy parliamentary immunity, judge members do not, Slovenia, Spain.

¹⁰⁶ Hungary, Latvia.

¹⁰⁷ The Netherlands, Romania, Slovenia.

¹⁰⁸ Albania, Andorra, Armenia, Belgium, Bulgaria: both political office and incompatibilities with running a business, Denmark: no member may hold political office, Georgia, Latvia, The Netherlands. In Finland, members may not be a member of parliament or hold a position in public administration.

¹⁰⁹ France, in the Netherlands, there are also rules for this case.

12. Ex officio members: how many countries have the following officeholders as ex officio members (or members are delegated directly by the respective officeholders):

- **the President of the Republic:** Italy, Malta
- **the President of the Supreme Court (or another similar top court):** Azerbaijan, Bulgaria, France, Estonia, Georgia, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Monaco, Montenegro, North Macedonia, Poland, Portugal, Romania, Ukraine
- **the Minister of Justice:** Azerbaijan, Latvia, Montenegro, North Macedonia, Poland, Romania, San Marino, Turkey
- **the Prosecutor General:** Bulgaria, France, Estonia, Greece, Italy, Malta, Romania
- **the Ombudsperson:** -
- **the President of the Bar:** Latvia, Malta

Which other officeholders sit on the councils ex officio and in which countries?

- Cyprus: all judges of the Supreme Court,
- Estonia: legal chancellor,
- Ireland: all judges,
- Latvia: The Chairperson of the Legal Affairs Committee of the Saeima; The Prosecutor General; The Chair of the Latvian Council of Sworn Notaries; The Chair of the Latvian Council of Sworn Bailiffs;
- Lithuania: President of Court of Appeal,
- Monaco: director of judicial services.

Slightly more responding states (20) have ex officio members on their councils,¹¹⁰ often the President of the Supreme Court. However, a considerable number of responding states (15) reported not having ex officio members.¹¹¹

The author considers it useful to add a few lines on **the removal of members from judicial councils**. In some responding states, a removal is not allowed/not regulated at all.¹¹² In others, a dismissal is possible for mainly two different reasons:

- First, because members have lost their position, either as ex-officio members, or as members representing a certain court and have changed their position or because they have retired or were dismissed as a judge because of disciplinary reasons.¹¹³

¹¹⁰ Azerbaijan: MoJ, President of Supreme Court, Cyprus all judges of the Supreme Court, Bulgaria: President of SC, Supreme Administrative Court and Prosecutor General, Estonia: Chief Justice, Legal Chancellor and Chief Public Prosecutor, France: president cour de cassation for formation of judges and Public Prosecutor general for formation for prosecutors, Georgia: President of Supreme Court, Greece: President of the Supreme Court and prosecutor general, Hungary: The president of the Kúria, Ireland: all judges, Italy The President of the Republic, The President of the Supreme Court (Suprema Corte di cassazione), The Attorney General at the Supreme Court (Procuratore Generale della Repubblica presso la Suprema Corte di cassazione), Latvia: The Chief Justice of the Supreme Court; The President of the Constitutional Court; The Minister of Justice; The Chairperson of the Legal Affairs Committee of the Saeima; The Prosecutor General; The Chair of the Latvian Council of Sworn Advocates; The Chair of the Latvian Council of Sworn Notaries; The Chair of the Latvian Council of Sworn Bailiffs; Lithuania: The President of the Supreme court, The President of the Supreme administrative Court and the President of the Court of Appeals, Monaco: director of judicial services, first president of the court of revision, Montenegro: President of the Supreme Court, Minister of Justice, North Macedonia: President of the Supreme Court and MoJ, Poland: president SC, president Supreme Administrative Court, MoJ, Portugal: president of the supreme court, Romania: the President of the High Court of Cassation and Justice, who represents the authority of the judges, the Minister of Justice and the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, San Marino: MoJ, draft reform aims at removal, Turkey: MoJ = President of Council, Deputy MoJ member, Ukraine: President Supreme Court.

¹¹¹ Albania, Andorra, Armenia, Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, The Netherlands, Norway, Slovakia, Slovenia, Spain: answer no, but President SC is attached to it,

¹¹² Estonia, Monaco, San Marino, Greece: only in case of retirement or ill health, Hungary,

¹¹³ Azerbaijan, Bulgaria, Croatia, Cyprus, Finland, Ireland, Italy, Latvia, Poland.

- Second, members may lose their membership in the council for other reasons. The mandate can be terminated because of a court decision or because of a decision of the council.¹¹⁴

The reasons justifying such a dismissal and the rules on the vote in the council can be regulated in more or less detail. If a vote of the council is necessary, the decision can require a qualified majority.¹¹⁵ Reasons justifying a termination of the mandate can be misconduct, e.g. a conviction for a crime in a court¹¹⁶ (in some cases a special court,¹¹⁷ e.g. the Constitutional Court¹¹⁸), inability/disability/loss of the ability to do one's work,¹¹⁹ failure to do one's duty in the council,¹²⁰ disciplinary procedure.¹²¹ A failure to "act unworthy of a member"¹²² or not fulfilling duties of independence, impartiality or dignity¹²³ may also justify sanctions up to dismissal.¹²⁴

¹¹⁴ France.

¹¹⁵ Andorra (anonymous and unanimous), Belgium: 2/3 majority in each linguistic college.

¹¹⁶ Armenia, Azerbaijan, Bulgaria, Finland.

¹¹⁷ Denmark.

¹¹⁸ Albania.

¹¹⁹ Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Greece.

¹²⁰ Azerbaijan, Bosnia and Herzegovina (also biased performance of duties, France).

¹²¹ Croatia.

¹²² Azerbaijan, Bosnia and Herzegovina.

¹²³ France.

¹²⁴ Georgia.