



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

ENCJ PROJECT TEAM

Development of Minimum Judicial Standards

Questionnaire Report 2010-2011



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1) Recruitment, selection, appointments and (where relevant) promotion of members of the Judiciary:

1.a. Standards for recruitment, selection, appointments and promotion

Which are the standards applied in your legal system (regarding criteria and competences of the candidates) for the recruitment, selection, appointments and (where relevant) promotion of members of the Judiciary?

Austria

The full personal and professional qualification – including the soft skills – is the main requirement in Austria to become a judge or a public prosecutor.

After finishing law studies at the university, the judicial training in Austria starts with a 9 months lasting court internship. Within this period all candidates applying for a position as a trainee judge have to take part at a selection process consisting of at least two written and two oral exams, a personal hearing and psychological aptitude test (standardized written or computer based tests, interview with a psychologist). The best candidates - whose number varies depending on the amount of positions of trainees available at a certain time - who have passed the selection process will be appointed to the position of a trainee judge by the minister of justice based on a proposal of one of the presidents of the higher regional courts. The appointment to a position for a trainee judge is followed by a initial training period lasting for three years. Beside working at different departments of all kinds of courts as well as a five months lasting training at a public prosecutor's office and at a lawyer's office, all trainee judges have to attend regular and compulsory „training days“ and seminars including judicial topics and topics like “psychological skills”, “court room management”, “ethics” and “hearing methods and techniques” likewise. After the training period every trainee judge has to pass two more written exams (each lasting for 10 hours) and one oral exam (by an examination board of five people including judges/public prosecutors and one lawyer). Having passed these final exams, every judge trainee has the right to apply to an available position of a judge or public prosecutor.

Belgium

There are two ways to become a magistrate:

1. JUDICIAL TRAINEESHIP:

- *deputy public prosecutor or of labour prosecutor* → traineeship 18 months. If nominated at the end of this period → to remain with the public prosecution service for a minimum of 5 years.
- *seat on the bench (judge)* → traineeship 36 months.



The **High Council in favour of a single traineeship** → allowing trainees to receive practical training in both civil and criminal proceedings, with a view to greater mobility between the public prosecution service and the bench (and vice versa).

2. PROFESSIONAL COMPETENCE EXAMINATION

Intended to be taken by experienced lawyers (advocates/barristers/solicitors, corporate lawyers, government lawyers, etc).

3. EVALUATION ORAL EXAMINATION

This third way is opened to advocates/barristers/solicitors who had practised for more than 20 years.

B. EXAMINATIONS

- competitive examination for admission to the judicial traineeship
- professional competence examination

→ Organized by Dutch-speaking and French-speaking Nomination and Appointment Commissions

These Commissions form examining boards:

- composed of an equal number of magistrates and non-magistrates
- with responsibility for the actual arrangements for these two examinations.

→ programmes of both these examinations are published annually in the *Moniteur belge/Belgisch Staatsblad* (the Official Gazette of the Kingdom of Belgium).

1. COMPETITIVE EXAMINATION

1° WRITTEN PART

⇒ **first paper**:

Multiple Choice Questionnaire : general legal knowledge and general knowledge

- writing of a **summary of a judicial decision**, **selection key words** and writing of a **commentary**

Candidates can choose one of the following three types of proceedings:

- civil law, including procedural law,
- criminal law, including criminal proceedings,
- social law, including procedural law.

⇒ **second paper: essay** (max. four pages) on a topical **social, economic, political** or **cultural issue related to law**.



2° ORAL PART

- ⇒ **discussion on a case** (maximum of 90 minutes to prepare)
Here again, candidates can choose from the same types of proceedings
⇒ if deemed appropriate, an **exchange of views on the written part**

2. PROFESSIONAL COMPETENCE EXAMINATION

1° WRITTEN PART

- ⇒ **first paper:**
⇒
• Multiple Choice Questionnaire : general legal knowledge and general knowledge
• writing of a judgment in a case for which full background information and papers are provided.

Candidates can choose one of the following three types of proceedings:

- civil law, including procedural law,
- criminal law, including criminal proceedings,
- social law, including procedural law.

⇒ **second paper:** analysis of a judgment of the supreme court (identify the point(s) of law ruled on and set it/them in context in language which lay people can understand)

Candidates can again choose from the same types of proceedings.

⇒ **The candidates who pass these two papers must take part in questionnaire about the personality (including a discussion with a psychologist) of the candidates to assess their specific skills to become a judge of a prosecutor (ability to take a decision, integrity, etc.). It's a pilot-project starting for the first times in 2011.**

The report is included in the file of the jury for the oral part.

2° ORAL PART

- ⇒ **discussion on a case** (maximum of 90 minutes to prepare)
Here again, candidates can choose from the same types of proceedings
⇒ if deemed appropriate, an **exchange of views on the written part**

3. EVALUATION ORAL EXAMINATION

- ⇒ the candidate is assessed by three different jury's :
- legal knowledge
 - personality
 - motivation to the function of magistrate



Selection of candidates must be **based on an assessment of** whether they have both the **maturity** and the **ability** required to hold the office of magistrate. Examining boards must therefore take care to ensure that they do not simply make a technical assessment of candidates' legal abilities as such.

- There is, however, a **difference between the two types of examination**:
- The **competitive examination for admission to the traineeship** = designed to *reveal candidates' potentialities* in terms of their *ability to meet the demands of the traineeship*. *Nomination is not the automatic outcome* once the traineeship has been completed.

The number of places reserved each year for new trainees is determined by royal decree (about 50 places for all the courts and public prosecution services in the Kingdom of Belgium).

- The **professional competence examination** = designed to **reveal not only** the candidate's **legal abilities** but also the **qualities required to be a magistrate**.

Reason: anyone who has passed this examination – but who has perhaps never set foot in a law court – may apply for all vacancies, both on the bench and in the public prosecution service.

→ Nomination and Appointment Commissions are **aware that** the current examinations do **not enable an appraisal to be made of all the qualities required and that** all too often their members' specific competences mean that **legal abilities are the main selection criterion**. They believe that it would be a good idea if they could **call in experts** capable of providing objective input to add to their views **on candidates' personalities** (a recent law of 3 May 2003 allows the Commissions to use the services of experts for preparation of the papers and tests).

II. NOMINATION AND APPOINTMENT

- High Council's Nomination and Appointments Commissions play a **decisive role** in the nomination of magistrates
- Objectification and depoliticization of recruitment to the magistrature are thus becoming a reality

Before setting out the procedure in detail, the following points need to be made:

- ⇒ **'Nomination'** means nomination to a basic post of magistrate:
- justice of the peace and police court judge
 - court of first instance, commercial court and labour court judge
 - counsellor at the court of appeal, labour court or supreme court
 - deputy public prosecutor (court of first instance public prosecution service) or deputy chief public prosecutor (court of appeal public prosecution service) or advocate-general at the supreme court
 - federal magistrate



⇒ **'Appointment'** means appointment to the post of chief officer for a fixed term (i.e. for a 7-year period of office):

- president of a court of first instance, of a commercial court or of a labour court
- chief president of a court of appeal, of a labour court or of the supreme court
- public prosecutor at the court of first instance
- labour prosecutor at the labour court
- chief public prosecutor at the court of appeal
- chief public prosecutor at the supreme court
- federal prosecutor

⇒ The procedures are **applicable to** both candidates for a **post on the bench (judge)** **and** candidates for a **public prosecution service post**.

⇒ The procedures are **applicable to candidates for all courts**, including the supreme court.

⇒ The following **are not covered** by these procedures:

- posts of deputy, such as deputy president of a court or chief deputy public prosecutor
- specific posts, such as inquiry magistrate or seizure/attachment judge.

A. NOMINATION PROCEDURE

⇒ Candidates who have passed the magistrature examination and who, where applicable, have completed their traineeship **do not automatically become magistrates**. There first has to be a vacancy.

Once the vacancy has been published in the *Moniteur Belge/Belgisch Staatsblad*, candidates have **one month to submit their applications** by registered letter, sent to the Minister of Justice, who supervises the administrative operation of recruitment.

⇒ The Ministry of Justice requests a **written opinion of the candidate** from the people and authorities:

- of his/her working environment and
- of the place where the vacancy has arisen.

In practice, this means essentially the chief officers of the branches of the judiciary are concerned; or a representative of the local lawyers' association (bar).

⇒ The **complete appointment files are then sent to the High Council** of Justice: either to the French-language Nomination and Appointment Commission or to the Dutch-language Nomination and Appointment Commission or to the Joint Commission (competent when the post to be filled requires a knowledge of both



French and Dutch). The French-language and Dutch-language Commissions normally convene every week.

⇒ The Nomination Commission has 40 days in which **to compare the candidates** in terms of their merits, knowledge and skills. The Nomination Commission is required **to hear any candidate** who so requests.

⇒ The Nomination Committee **nominates a specific candidate, selected by a two-thirds majority of its members.**

⇒ The Nomination Commission **can refuse** to nominate anyone. In that case the post is declared vacant again.

⇒ Finally, the King, but in fact the Minister of Justice, is required **formally to appoint** the nominee.

The Head of State may, however, refuse to make the nomination, setting out the reasons. In that case, the complete file is referred back to the Nomination Commission, which has two possibilities: it can nominate either the same candidate or another one.

Here again, the King can agree to or reject the nominee (setting out the reasons for his decision). In the latter case the nomination procedure is restarted from scratch. Such a situation can, incidentally, arise when the Head of State fails to take the decision expected of him in good time.

Important note: the entire procedure takes **200 days** (or even 275 days if the King requests a new nominee)

The High Council considers that several of the statutory time periods could be shortened considerably in order to allow the courts, public prosecution services and prosecutors' offices to have their full staff complement as quickly as possible, thus enabling them to perform their statutory duties.

B. APPOINTMENT PROCEDURE

⇒ Chief officers of the different branches of the judiciary are appointed

⇒ limited period of seven years.

⇒ required to ensure that public prosecution services and courts operate smoothly, by using modern management techniques on a permanent basis.

⇒ **In view of the considerable importance** of the new chief officers of the different branches of the judiciary, the legislators have **objectified their appointment** by entrusting it to the **High Council of Justice's Nomination and Appointment Commissions.**

⇒ **Followed procedure is largely the same as the procedure for the nomination of magistrates:**



- exchange of opinions from different parties
- objective comparison of the candidates has to be made
- the Nomination Commission has to put forward a nominee, chosen by a two-thirds majority, to the Head of State
- who may only refuse to make the appointment if he sets out the explicit reasons.

⇒ The **candidates** need **not necessarily** come from the branch of the judiciary where the **vacancy** has arisen (the supreme court excepted).

⇒ essential to attach a **management plan** to their application, in which they describe the objectives that they wish to pursue throughout their term of office.

⇒ In addition, the Nomination Commissions will take account of the **general profiles** determined beforehand by the High Council of Justice for each post of chief officer.

Bosnia Herzegovina

In making decisions on appointment, the High Judicial Council and Prosecutorial Council of Bosnia & Herzegovina (HJPC of B&H) takes into account, amongst others, the following criteria:

- Professional knowledge, work experience and performance;
- Capacity through academic written works and other professional activities;
- Professional ability based on previous career results, including participation in organized forms of training;
- Work capability and capacity for analysing legal problems;
- Ability to perform impartially, conscientiously, diligently, decisively, and responsibly the duties of the office for which he or she is being considered;
- Communication abilities;
- Relations with colleagues, conduct out of office, integrity and reputation; and
- Managerial experience and qualifications, in relation to the positions of Court President, Chief Prosecutor and Deputy Chief Prosecutor.

Bulgaria

Requirements for appointment of a magistrate



Under Article 162 of Judicial System Act an individual with only a Bulgarian citizenship may be appointed as a judge, prosecutor and investigating magistrate, provided he also meets the following conditions:

- has a higher education in law,
- has completed the obligatory 6-months' internship as a trainee-lawyer and obtained legal competency after passing a special exam;
- has got the required standard of ethics and professionalism complying with the Code of Ethics for judges, prosecutors and investigating magistrates,
- has not been sentenced to imprisonment for a deliberate criminal offence, notwithstanding rehabilitation,
- is not an elected member of the Supreme Judicial Council who has been relieved from office on disciplinary grounds due to impairing the prestige of the judiciary;
- Does not suffer from a mental illness.

There is an additional prerequisite - previous legal service record, which is different for the different positions depending on the level in the judicial system, for example: An individual with at least three years of service record shall be appointed as a judge at a regional court and a prosecutor at a regional prosecution office. An individual with at least 8 years of service record shall be appointed as a judge with a district court, a prosecutor with a district prosecution office and an investigating magistrate with a district investigation department. An individual with at least 8 years of service record shall be appointed as a judge with an administrative court. An individual with at least 10 years of service record shall be appointed as a judge at an appellate court and as a prosecutor at an appellate prosecution office. An individual with at least 12 years of service record shall be appointed as a judge at the Supreme Court of Cassation and at the Supreme Administrative Court, as a prosecutor at the Supreme Prosecution Office of Cassation and at the Supreme Administrative Prosecution Office and as an investigating magistrate at the National Investigation Service.

Recruitment

Available positions in courts, prosecution offices and investigating bodies are filled/occupied in two possible ways, t.e. by two types of competition:

I. centralised competitions for the following positions are carried out:

- a. Junior judges and junior prosecutors,
- b. Initial appointment in the judicial system bodies. The Supreme Judicial Council shall designate, by a draw of lots, 20 percent of the number of available positions in court, the prosecution office and investigation bodies for occupation through a competition for initial appointment. The percentages are separately specified for each of the levels in court, the prosecution office and investigation bodies.

This type of competition is held in two stages: a written and verbal examination.

II. The other available positions in courts, prosecution offices and investigation bodies, shall be taken after a competition based on a performance appraisal. As a matter of fact, these positions are open only for people working in the judicial system /judges, prosecutors, investigating magistrates/. The Supreme Judicial Council's Commission on proposals and the performance appraisal of judges, prosecutors and investigating magistrates shall appraise the performance of every candidate satisfying the occupational requirements for the available position



announced, with the exception of candidates whose performance has been appraised a year before the announcement of available positions.

The appraisal of qualifications of a judge, prosecutor or investigating magistrate shall be made on the basis of general and specific criteria.

The general criteria for the performance appraisal of a judge, prosecutor or an investigating magistrate shall be:

1. The number, type and complexity of files and cases,
2. Observance of procedure terms,
3. The number of acts confirmed and repealed and the grounds therefor,
4. The presence of easy to understand and justified reasoning of the acts,
5. The outcomes of inspections carried out by the Inspectorate at the Supreme Judicial Council,
6. The presence of incentives and sanctions in the period to which the performance appraisal refers,
7. Observation of professional ethics rules for judges, prosecutors and investigating magistrates.

The overall workload in the judicial area concerned and of the specific judicial system body, as well as the workload of the appraised judge, prosecutor or investigating magistrate, compared to that of other judges, prosecutors or investigating magistrates at the same judicial system body, shall also be taken into consideration for the purposes of performance appraisal

Specific criteria for the performance appraisal of judges shall be:

1. The compliance with the schedule of court hearings,
2. The skills for conducting court hearings and drawing up records of proceedings.

Specific criteria for the performance appraisal of prosecutors shall be:

1. The skills for planning and adopting a structured approach at taking action in pre-trial and trial proceedings,
2. The level of implementation of written instructions and personal orders of a higher-standing prosecutor,
3. The ability to organise the work and to direct investigation bodies and teams involved in pre-trial proceedings.

Specific criteria for the performance appraisal of investigating magistrates shall be:

1. The skills for planning and adopting a structured approach at taking action in pre-trial proceedings,
2. The level of implementation of written instructions and personal orders of the prosecutor.

The Chairperson of the Commission on proposals and the performance appraisal of judges, prosecutors and investigating magistrates shall submit to the Supreme Judicial Council a reasoned opinion, summarising the results of the performance appraisal for each candidate. The integrated score from the performance appraisal may be positive or negative. The levels of a positive integrated score are: Satisfactory, Good, Very good.

The Supreme Judicial Council shall carry out ranking for every position in accordance with the results of the performance appraisal.

Where several candidates for one position share the same result at the performance appraisal, the candidate with a higher rank shall be given preference. Where the candidates also are of equal rank, preference shall be given to a candidate with a longer service record in judicial system bodies.



On-the-job promotion of a judge, prosecutor and an investigating magistrate to a higher rank and remuneration may take place against substantiated high qualifications and the exemplary discharge of official duties, where the judge, prosecutor and investigating magistrate has served at least three years at this or an assimilated position and provided he meets the requirements of the necessary length of legal service record. Applicable procedure is performance appraisal /see above – II./. Proposal for on-the-job promotion of a magistrate is made by the chairperson of the respective court or prosecution office, or by the magistrate himself, or by one fifth of the members of the Supreme Judicial Council.

Czech Republic

Requirements concerning candidates are set by the Act. No. 6/2002 Coll. On Courts and Judges (§ 60) and by the Decree of the Ministry of Justice No. 303/2002 Coll. On the selection procedure of candidates.

Judges are appointed by the President of the Republic upon proposal of the minister of justice (approved by the government).

Judges can be assigned to the higher court (not “promoted”) with their consent or upon their request (according to §71 of the Act on courts and judges).

Denmark

Only persons with a law degree can be appointed judge. When appointing judges the Danish Administration of Justice Act states that an overall assessment of the candidates’ personality, legal qualifications and experience must be considered.

England and Wales

For most judicial posts, the statutory criteria state that individuals must hold “the relevant legal qualification” for either 5 or 7 years and whilst holding that qualification show that they have gained legal experience. In the past this has meant that applicants have had to have been either solicitors and barristers for either 5 or 7 years, the difference being that for the more senior posts there is a requirement of 7 years’ pre-appointment experience; for the lower posts the requirement is a minimum of 5 years’ pre-appointment experience. However, since the Tribunals, Courts and Enforcement Act 2007 came into effect, fellows of the Institute of Legal Executives, Registered Trade Mark Attorneys and Registered Patent Attorneys are also eligible to apply for certain judicial posts. Individuals who are not practitioners, but who are still gaining the required legal experience, such legal academics, may also apply.



England and Wales refers to full-time judicial posts as “salaried posts”. However, there is also a considerable body of judges appointed to sit on a day-by-day, part-time, basis who receive a daily fee for sitting as a judge: those positions are known as “fee paid posts”.

For salaried posts, non-statutory criteria (in other words, criteria not laid down in legislation) usually apply in that candidates are expected to have had experience in a fee-paid judicial post. To give an example, the writer became a solicitor in 1975. In 1991 he was appointed a fee-paid deputy district judge in which capacity he sat (on average) one day a week whilst continuing to practice as a solicitor the other four days a week. In 1994 he was appointed a district judge, a salaried post which he still holds; he ceased to practice as a solicitor on his appointment.

However, in some exceptional circumstances, candidates may be selected without previous fee-paid experience (for instance for certain specialist posts).

Applicants for judicial office should also meet the nationality requirements: individuals must be citizens of the UK, Republic of Ireland or Commonwealth country (also holders of dual nationality including one of the above).

Aside from eligibility criteria, the Judicial Appointments Commission (the body which undertakes the selection process for judicial appointments) has the following statutory obligations :

- to select candidates solely on merit
- to select only people of good character
- to have regard to the need to encourage applications from a wider range of candidates.

The Judicial Appointments Commission (JAC) uses qualities and abilities to assess whether candidates should be selected to a judicial post. The generic qualities and abilities are set out at Annex A.

Finland

Sections 11 – 13 of the Act on Judicial Appointments read as follows:

Section 11— Required qualifications and grounds for appointment

(1) The following qualifications shall be required for appointment to a position in the judiciary: The applicant must be a righteous Finnish citizen who has earned a Master’s degree in law and who by his or her previous activity in a court of law or elsewhere has demonstrated the professional competence and the personal characteristics necessary for successful performance of the duties inherent in the position. Separate provisions may be enacted on the required qualifications for positions where special expertise is necessary.

(2) The following qualifications shall be required for appointment as the President or a Justice of the Supreme Court or the President or a Justice of the Supreme Administrative Court: The applicant must easily meet the qualifications referred to in paragraph (1) and be an eminent legal expert. In addition, the Presidents of the Supreme Court and the Supreme Administrative Court must have leadership skills.

(3) In addition to the qualifications referred to in paragraph (1), the President of a Court of Appeal, the Chief Judge of a District Court, the Chief Judge of an



Administrative Court, the Chief Judge of the Insurance Court, the President of the Labour Court and the Chief Judge of the Market Court must have leadership skills.

Section 12 — Exemptions

No exemptions shall be granted as to the qualifications required for appointment to a position in the judiciary.

Section 13 — Language proficiency

Separate provisions apply to the language proficiency required for appointment to a position in the judiciary.

Germany

Pursuant to section 9 of the German Judiciary Act (Deutsches Richtergesetz, DriG), only persons who

- are Germans within the meaning of Article 116 of the Basic Law (Grundgesetz, GG),
- make it clear that they will at all times uphold the free democratic basic order within the meaning of the Basic Law,
- are qualified to hold judicial office, and
- possess the requisite social skills

may be appointed as judges.

Hungary

Judges:

The judicial career is regulated by the Constitution and the Act LXVII of 1997 on the Legal Status and Remuneration of Judges. Candidates for judicial office are obliged to meet specific eligibility requirements, which include Hungarian citizenship, a clean criminal record, eligibility to vote, a university law degree, successfully passing the professional legal examination and a financial disclosure statement as specified by law. Under present rules, an eligible candidate may submit an application to become a judge after having worked for at least one year as a court secretary or in another law-related field that requires a professional examination in law or public administration. Candidates must also pass a medical and psychological test.

There are two categories of judges: professional judges (bíró) and lay judges (ülnök). Lay judges take part in adjudication in the cases and in the manner defined by the law and are elected by the general assembly of the local governments. As mentioned above, when adjudicating cases, the rights and obligations of lay judges are identical to those of professional judges.

Judges shall be selected by way of an application procedure. Applications shall be invited by the president judge of the competent county court for a seat in a local court, employment tribunal or the county court; by the president judge of the high



court of appeal for a seat in the high court of appeal; by the Chief Justice of the Supreme Court for a seat in the Supreme Court. The announcement inviting applications shall specify all of the requirements for winning the position to which it pertains. Applications shall be submitted to the president judge of the court where the position is open; the president judge shall attach his opinion and forward the application to the president judge of the competent county court. The president judge shall interview the applicants and consult the competent members of the judiciary. The president judge, if vested with powers to assign the posting of all applicants, shall conclude the procedure himself. Recommendations made by the judiciary shall not be binding on the president judge.

Where the National Judicial Council (NJC) has the authority to assign any of the applicants, the president judge shall forward the applications - together with recommendations from the judiciary and his own opinion - to the NJC. The NJC shall notify the president judge if they disagree with his opinion and listen to his comments. The NJC shall interview the applicants. The NJC shall have powers to make the final selection itself without having to abide by the recommendations presented.

If the selection process is unsuccessful, new applications shall be invited. The selection procedure shall be declared unsuccessful if none of the nominations is accepted or if no nominations for appointment are submitted. Applications must be handled confidentially. Applicants shall be notified of the results in writing with their applications attached.

The service relation of a judge is created upon his appointment, and it shall commence on the date indicated in the letter of appointment. Judges are appointed and recalled by the President of the Republic. Candidates to be appointed judges in the Republic of Hungary must be Hungarian citizens, must have no prior criminal record, must have the right to vote, must have a university law degree, must have passed the legal qualifying exam, and must agree to file a financial disclosure statement.

A candidate to be appointed to serve as a judge advocate must be a staff officer in the Hungarian Army. The prior consent of the Minister of Defence is required for a motion for appointment. The appointment of a judge advocate shall be specifically for this post.

[See: The Constitution of the Republic of Hungary; the Act LXVI of 1997; the Act LXVII of 1997; Decree No.5/1991(IV.4.)IM]

Judicial vacancies are filled through an open application process and are normally announced in the Court Bulletin (Bírósági Közlöny), the monthly publication of the NCJ. Appointment to the bench is a multi-step process, which involves the completion of a clerkship, examinations, court secretarial appointment, probationary judicial appointment and final appointment. Law school graduates may be appointed as junior clerks by the president of a regional court for a three-year apprenticeship period; their training is regulated by a decree of the Ministry of Justice. After the three-year clerkship, candidates who pass the state professional exam and a vocational exam may be appointed as court secretaries. They must serve at least one year in this post, after which they are eligible for judicial



appointment. The professional examination seeks to measure the candidate's legal knowledge, as well as their psychological capabilities and to assess their general character and intelligence through an interview and a standardised psychological test. Candidates who were previously appointed as a prosecutor, prosecutorial secretary, public notary or constitutional court judge, may be appointed as a judge directly.

There are no clear fixed criteria for selection; the presidents of the Supreme Court, appeal courts and regional courts select candidates for the bench on the basis of a personal interview with the applicant and non-binding opinions provided by the NCJ. The presidents of regional courts decide on the selection of district court judges. Having selected the candidates, the court president recommends them to the National Council of Justice, which in turn forwards its own nominations to the President of the Republic.

Judges are initially appointed for a fixed three-year probationary period and do not receive tenure until they are re-appointed for life upon the recommendation of the NCJ. Judges may continue to exercise their functions until they reach 70 years of age. The Constitution and Act LXVII of 1997 provides guidelines for the proper and reasonable conduct required not only for the fulfilment of their professional duties but also for the conduct of judges in their private life. Judges are obliged to exercise unimpeachable conduct that is worthy of their office at all times and must refrain from any behaviour which would detract from the integrity of the judicial process and the dignity of the courts. In addition to their professional tasks, judges may only be involved in scientific, artistic, literary, educational, and technical activities. These activities should not jeopardise judicial independence and impartiality, and should not restrict the fulfilment of the judge's official duties. In order to avoid any conflict of interest, judges are not permitted to undertake business activities, join political parties or engage in any political activities. The law also provides that judges must also receive a fair and equitable remuneration, in order to ensure their economic independence.

There are no standardised, formal criteria governing promotions to a higher court; in practice, a president of a higher court generally invites applications for vacant posts. The judicial section then issues a non-binding opinion on the application before nomination by the president of a regional court or the Supreme Court and the court president generally follows the opinion of the judicial section.

As stated above, judges are initially appointed for a fixed three-year term and do not receive tenure until they are re-appointed by the President for an indefinite period. A judge's overall performance is therefore evaluated at the end of the first three years on the bench. Judges who have actually performed their functions for less than 18 months during this term can be re-appointed to a second three-year term. Professional evaluation is regulated by the afore-mentioned Act LXVII on the Legal Status and Remuneration of Judges and by a ruling of the National Council of Justice, with the objective of filtering out those who are unable to perform a judge's tasks to a satisfactory level.

Throughout their careers, judges are evaluated on a regular basis. There are two types of judicial evaluation processes: ordinary and extraordinary. An extraordinary evaluation of a judge's performance must be held either when a judge requests it or in cases where a judge is declared unable to perform his or her tasks. An extraordinary evaluation is ordered by the president of the respective court (except for district courts, as authority lies with the relevant regional court president). The ordinary evaluation of a judge's performance is carried out three times during a judge's career: prior to indefinite appointment to the bench and, subsequently, six



and twelve years following the initial evaluation. The court president or a designee conducts the evaluation, and the judge's performance is evaluated on both substantive and procedural grounds. Judges may receive of the following ratings: outstanding, suitable, or unsuitable. Judges who are assessed as unsuitable have the right to challenge the result before a court of law.

Prosecutors:

Eligibility and professional qualification requirements of the public prosecutors are the same as those of judicial candidates. A further requirement is applied for military prosecutors as candidates must be an officer of the Hungarian Army. The Prosecution Service is led and directed by the Prosecutor General who disposes - inter alia- the exclusive right to appoint prosecutors or to promote them to any higher position. All the vacancies are filled through an open application process. The conditions of appointment are identical to that of the judges. Public prosecutors are not allowed to be members of political parties or engage in any political activity. The Prosecutor General is elected for a nine-year term by the Parliament upon the recommendation of the President of the Republic, while the deputies of the Prosecutor General are appointed by the President of the Republic on the proposal of the Prosecutor General. The Prosecutor General is accountable to the Parliament. He has obligation to report on the activities of the prosecution service (and his own activities as well) to the Parliament on an annual basis; he is bound to give answer to questions addressed to him by MPs within the scope of his duties.

Prosecutors - except the Prosecutor General and the Deputy Prosecutor General - are subject to evaluation. There are two types of professional evaluations for prosecutors: ordinary and extraordinary. An extraordinary evaluation of a prosecutor's work must be held either when a prosecutor requests it or in cases in which a public prosecutor is declared unable to perform his or her duties. Ordinary evaluation of a prosecutor's performance is performed prior to indefinite appointment.

Advancement and remuneration of prosecutors are regulated by Act LXXX of 1994 on the service relations and data processing within the prosecution service. This Act provides that the prosecutor is entitled to remuneration equal to the honour of his profession and the responsibility that he/she holds. Promotion is dependent on the length of service and the level of the prosecution office the prosecutor serves at. According to these criteria, all prosecutors are ranked according to remuneration classes and degrees. Every three years, they are promoted a degree higher. In the case of outstanding work, prosecutors may be placed to a higher remuneration degree twice during his career. Remuneration is calculated on the basis of the Budget Act of the given year. It is prescribed by law that the lowest salary of prosecutors should always be the same as the lowest judicial salary. The method of calculating the salaries of prosecutors is identical to that of judges.



Ireland

As the Irish legal system operates in the common law tradition, justice is administered by an exclusively professional and full-time judiciary. There are no part-time judges or lay magistrates and Ireland does not appoint “career” judges. Appointments to the judiciary are made from a pool of experienced legal practitioners who are selected from both branches of the legal profession, i.e., solicitors and barristers.

The formal qualifications of judges are regulated by law and vary according to the court to which a person is to be appointed. There are four different levels namely (in descending order of seniority) the Supreme Court, The High Court, the Circuit Court and the District Court. The Constitution outlines the structure of the court system as comprising a court of final appeal, the Supreme Court, and courts of first instance which include a High Court with full jurisdiction in all criminal and civil matters and courts of limited jurisdiction, the Circuit Court and the District Court organised on a regional basis.

In the High Court and Supreme Court, a practising solicitor or barrister of not less than twelve years standing is eligible for appointment as a judge, provided he or she was in practice for a continuous period of two years immediately before such appointment. In the District and Circuit Courts, a practising solicitor or barrister of not less than ten years standing is eligible for appointment as a judge. There is no structured or automatic system of promotion between different court levels. Such promotions do occur and especially for appointments to the Supreme Court where many of the judges are promoted from the High court.

Italy

To become career magistrates, candidates have to pass a competitive public examination pursuant to Article 106, paragraph 1, of the Constitution; the provisions regulating access to the Judiciary have been amended several times over recent years by the lawmaker, with the aim, on the one hand, to expedite the examination procedure and, on the other, to ensure that candidates have a better qualification, since before the reform they only needed a degree in law to take part.

Legislative Decree 398/97 has set up post-graduate Schools for Legal Professions within the Universities to complete the training of law-graduate students who want to exercise the professions of judge, prosecutor, lawyer and notary public. The said Schools, which started operating as from the 2001-2002 university year, at the end of two-year courses, confer a diploma which is required to participate in the public examination, and also have the clear aim of training the people who want to perform the above professions in the future.

Access to the Judiciary is today regulated by Legislative Decree no. 160/2006, Chapter I, which sets forth the conditions for participating in the exam, the modalities for presenting the application, the composition and functions of the examining committee, the conduction of the written and oral exams and the modalities to be followed by the examiners. The said examination is thus organised like second level public exams.



The law provides for given pre-requisites for being admitted to take the examination so as to ensure that the candidates are technically qualified and their number is reduced. In fact, only candidates who have a law degree and the diploma issued by the post-graduate Schools for Legal Professions are admitted to take the written examinations. Furthermore, administrative and accounting magistrates, State employees who have given qualifications and at least a five-year seniority, university professors, civil servants of the public administration having a law degree and at least a five-year seniority, lawyers who have not been subjected to disciplinary sanctions, honorary magistrates who have practiced the profession for at least six years and have had no demerits, and law graduates who have a PhD in legal matters, or a specialisation diploma in a post lauream School, are also admitted to take the exam.

The number of positions available is clearly indicated in the announcement for each competitive state examination; the competitive state examination is indeed announced pursuant to a Ministry of Justice decree, subject to decision by the High Council for the Judiciary, which dictates the number of positions, pursuant to article 3, comma 2, of Legislative Decree n. 160/2006.

Candidates whom, on three previous occasions, have been deemed unsuited to sit the competitive state examination for the appointment of career judge, are not admitted, with reference made to the expiry date for presentation of the application in question.

The examination includes both written and oral components. There are three written examinations; the themes are formulated by the Examining Board (appointed by the Council) on the following subject matters: civil law, criminal law and administrative law. In the oral examinations, candidates are firstly required to provide a succinct explanation of their written examination and the subject matters are: civil law and ancient roman law, criminal law, civil procedural law, criminal procedural law, administrative law, constitutional law, tax law, commercial law, employment law, private and public international law and EC law (in view of the growing importance of European training of magistrates, both community and international law with specific reference both to the public and private sectors have been included in the curriculum of the oral exam); judicial system and judicial data processing systems; knowledge of a foreign language (English, Spanish, French or German).

Those who pass the examination are appointed magistrates.

The recently approved reform to the judicial system provides that magistrates, upon completion of traineeship, are not to be appointed to the position of public prosecutors, single criminal judge, judge of preliminary investigations or judge of preliminary hearings, until after having completed their first professional appraisal which takes place four years after their initial appointment. Judges conferred with jurisdictional functions have the right to chose their place of work from those offered by the High Council for the Judiciary, in accordance with the results of the competitive state examination in question.

With regard to the training of career magistrates, appointed on the outcome of a competitive state examination, it should be noted that such judges must undergo a period of mandatory traineeship. Magistrates under training do not fulfil any judicial functions.

Promotion of members of the Judiciary.



Career advancement is the same for judges and prosecutors.

The reform of the judicial system by Legislative Decree no. 160/2006, as amended by Law no. 111/2007, provides for all magistrates to be appraised every four years, until they pass their seventh professional appraisal, after 28 years of employment.

These recurring appraisals stress that the professionalism of magistrates, under its various profiles, is repeatedly and thoroughly monitored during their whole professional career.

Assuming that a magistrate's independence, impartiality and balance are indispensable conditions for a proper exercise of the judicial functions, these professional appraisals mostly concern: professional capacity, hardworkingness, diligence and commitment.

The indicators used for assessing magistrates are: legal expertise, mastery of the techniques used in the different judicial sectors; the outcome of the judicial decisions issued in subsequent instances of the proceedings; the quantity and quality of judgements issued; compliance with deadlines for drafting and filing provisions; degree of participation and actual contribution to the proper operation of the office (if available for replacing colleagues, frequency of attendance of refresher courses, contribution to solving organisational issues, etc.).

In particular, the reform provides for the identification of average standards for settling proceedings to which to compare the activity carried out by every individual magistrate.

In order to safeguard the autonomy and independence of magistrates, in no case can a professional appraisal reconsider the law applied to individual cases.

When collecting information needed to make a professional appraisal, particular importance is given to the reports drafted by the heads of the judicial offices.

The C.S.M. makes professional assessments on the basis of the opinion expressed by the Judicial Council and the documents acquired. The Council expresses a favourable professional appraisal when the assessed magistrate is given a pass mark on each of the above mentioned parameters. In that case, the magistrate gets the professional appraisal corresponding to his seniority.

A "non positive" appraisal is expressed when there are shortcomings in respect of one or more of the above parameters.

A "negative" appraisal is expressed when there are serious shortcomings in respect of one or more of the above parameters.

The law provides for specific consequences, both professional and economic, as a result of a "non positive" or "negative" appraisal; in particular, the law provides for a magistrate to be released from service in case of a double adverse appraisal.

The C.S.M., by its own circular letter no. 20691 issued on 4 October 2007, has implemented the primary legislation, and has regulated criteria, sources and parameters of assessment that will serve as guidelines for the four-year professional appraisals.

Latvia

In the Republic of Latvia the Law on Judicial Power prescribes judiciary issues.

Section 51 of this Law sets nomination requirements for a judge, namely, in selecting a candidate for the office of a judge, the principle shall be observed that only Latvian citizens, who are highly qualified and fair lawyers, may work as judges.



In the selection of judges, no discrimination based on origin, social and financial status, race or nationality, sex, attitude towards religion, type and nature of occupation, or political or other views is permitted. The requirement that a judge must be a Latvian citizen shall not be considered as discriminatory.

The Minister for Justice shall nominate candidates to be appointed to or confirmed in the office of a judge of the district (city) court or of a judge of a regional court on the basis of the opinion of the Judicial Qualification Board. (Law on Judicial Power, Section 57).

A candidate for confirmation to the office of a Judge of the Supreme Court shall be nominated by the Chief Justice of the Supreme Court, on the basis of an opinion of the Judicial Qualification Board. (Law on Judicial Power, Section 59).

For the Minister for Justice to nominate for the office of a judge, the person must comply with several criteria set in the law On Judicial power.

In Latvia the procedure of the selecting of a candidate for the office of a judge is prescribed in the Cabinet regulations of 3rd March 2009 No. 204 "Procedures for the Selection, Apprenticeship and Passing of Qualification Examination of Candidates to the Office of a Judge".

Pursuant to the Section 60 of the Law judges of a district (city) court shall be appointed to office by the Saeima (the Parliament), upon the recommendation of the Minister for Justice, for three years. After a judge of a district (city) court has held office for three years, the Saeima, upon the recommendation of the Minister for Justice, and on the basis of an opinion of the Judicial Qualifications Board, shall confirm him or her in office, for an unlimited term of office, or shall re-appoint him or her to office for a period of up to two years. After the expiration of the repeated term of office, the Saeima, on the recommendation of the Minister for Justice, shall confirm in office a judge of a district (city) court for an unlimited term of office. If the work of a Judge is unsatisfactory, the Minister for Justice, in accordance with an opinion of the Judicial Qualification Board, shall not nominate a judge as a candidate for a repeated appointment to or confirmation in office.

Pursuant to the Section 61 of the Law judge of a regional court shall be confirmed by the Saeima, upon a recommendation of the Minister for Justice, for an unlimited term of office. On the ground of confirmation by the Saeima the Judicial Council specifies the regional court or its courthouse in which the judge is to fulfil his/her duties.

Pursuant to the Section 62 of the Law justices of the Supreme Court, upon the recommendation of the Chief Justice of the Supreme Court, shall be confirmed in office by the Saeima, for an unlimited term of office.

After nomination of the candidate for the promotion, the Judicial Qualification Board makes the assessment of the candidate by generally using the method of evaluation of performance (the number of decisions taken, the number of confirmed, quashed or amended decisions, existence of complaints) and other data (continuous training, scientific work, pedagogical work etc.). One of the criteria used for promoting judges is references about his or her work. References are submitted from the district (city) courts and from the higher instance court. References are submitted to the Judicial Qualification Board and they evaluate them. According to the Law on Judicial Power, Section 98, judges after the completion of attestation examinations, may be granted the following categories of qualification class: the fifth, fourth, third, second or first qualification class in the following sequence: 1) fifth qualification class – after three working years, 2) fourth qualification class – after three working years in office with a fifth qualification class, 3) third qualification class – after four working years in office with a fourth qualification class, and 4)



second qualification class – after five working years on office with a third qualification class, and 5) first qualification class – after five working years in office with a second qualification class.

A judge may be granted a higher qualification class if he or she has been working with the previous qualification class not less than two-thirds of the time period specified in Section 98 and has completed the examination for the next qualification class.

Lithuania

Requirements for a Candidate to Judicial Office of the Court, the status of judges, their appointment, career and liability are regulated by the Law on Courts (*A new version of 24 January 2002 No IX-732, as last amended by 31 May 2010 No XI - 810*). *Requirements for a Candidate to Judicial Office of the Court*

A Person Seeking Judicial Office of the Court must comply with high requirements. These requirements establish Law of the Republic of Lithuania on Courts of Chapter VII, Section I (*A new version of 24 January 2002 No IX-732, as last amended by 13 May 2010 No XI - 810*).

The post of a district court judge may be filled by a national of the Republic of Lithuania of high moral character, having a university degree in law – the academic title of bachelor in law and master in law or the lawyer's professional academic title (one-cycle university education in law) meeting the requirements established by law required for security clearance procedure or work permit or right of access to or exchange in classified information, upon submitting a health certificate, having a record of at least five years of work in the legal profession and passing the examination for candidates to judges (the Law on Courts, Article 51, part 1).

A person having Doctor or Habil. Doctor of Social Sciences (Law) degree, also a person of at least five years standing as a judge, if not more than five years have lapsed since he last held that position, shall be exempt from sitting for the candidate examination (the Law on Courts, Article 51, part 1).

In order to reveal the importance of the requirements for judges, more appropriate review each of these criteria is needed.

1) The first very important criterion - impeccable reputation, which must be taken into account at each stage of the career.

A person may not be held to be of high moral character and may not be appointed a judge if: under an effective court judgment he has been found guilty of commission of a criminal offence; has been dismissed from the position of a judge, a prosecutor, a lawyer, a notary, a bailiff, a police officer or an employee of the system of the interior or from the civil service for violation of professional ethics or malfeasance and if less than five years have lapsed after the dismissal; he abuses psychotropic substances, narcotic drugs, toxic substances or alcohol; does not meet other requirements of the judicial code of conduct (the Law on Courts, Article 52).

2) Individuals seeking for the career of judges must hold a university degree in law, which includes a Bachelor and Master of Laws degree.

The Constitutional Court of the Republic of Lithuania clarified [...] that only such person, who has completed university studies of the trend of law and who has acquired the qualification degrees of bachelor of law and master of law, or who has



completed university integrated studies of the trend of law and who has acquired the professional qualification degree of a lawyer (university one-stage education in law), is eligible to the position of a judge of a local court (or of any other court); under these provisions, a person, who has only the qualification degree of bachelor of law and who does not have the qualification degree of master of law, or who has only the qualification degree of master of law and does not have the qualification degree of bachelor of law, is not eligible to the position of a judge of a local court (or of any other court). (Ruling of the Constitutional Court, February 20, 2008)

Legal education obtained abroad shall be recognized in accordance with the procedure established by the Government (the Law on Courts, Article 51, part 2).

3) The length of service in the legal profession shall be calculated from the moment when the person acquired a university degree in law and took up an office specified in the list of legal professions (the Law on Courts, Article 53, part 1).

4) Health examinations of candidates to judges shall be performed before holding the examination of candidates to judges. Health examination of (appointed) judges shall be performed at least once in five years. The Health examination shall also cover psychological assessment. The psychological assessment shall be performed seeking to establish the type of personality and formative experiences (the Law on Courts, Article 531).

5) The candidate to judicial office shall submit to the National Court Administration documents certifying that he meets the requirements. In addition, the candidate to judicial office shall submit the completed questionnaire of the form set by the commission of the protection of secrets of the Republic of Lithuania and agree in writing to the check of his candidature. The National Court Administration shall check the paperwork submitted by the candidate to judicial office. Seeking to establish whether the candidate to judicial office meets the requirements of security clearance procedure or for issuing work permit or for being granted access to classified information, the National Court Administration shall apply to the Security Department. The State Security Department shall within 40 working days from the application to make a reasoned submission whether the candidate to judges meets the requirements of security clearance or permit to work or being granted access to classified information. Before taking a decision the State Security Department may summon the candidate to judges for talking with him, to request his written explanation and, as necessary, if the person does not object, to be tested with the polygraph. During the testing the operational activity methods and means may not be used with respect to the candidate to judges, except for operational interrogation and review of data in the operational record file (the Law on Courts, Article 532).

6) The Examination Commission of Candidates to Judicial Office (hereinafter – the Examination Commission) is a Commission formed under the provisions of Part 1 of Article 54 of the Law on Courts.

The Examination Commission composed of seven persons shall be formed for a period of three years by the Judicial Council. At least four members of the Commission must be judges. The Chairman of the Judicial Council shall nominate to the Examination Commission two judges and one academic having a law degree, whereas the largest judicial organisation and the Minister of Justice shall each nominate one judge and one academic having a law degree. The Judicial Council shall appoint one member from the Commission the chairman of the Commission (the Law on Courts, Article 533, part 1).

The National Courts Administration shall provide technical services to the Commission.



Applications for the examination shall be presented according to the procedure established by the National Courts Administration (app. by The Rules of the Examination Commission of Candidates to Judicial Office, the Resolution No. 13P-141-(7.1.2) of 12 October 2008 of the Judicial Council).

The Director of the National Courts Administration shall decide whether a person is allowed to take the examination for candidates to judicial office.

The examination for candidates to judicial office shall be set at least one every half year, except cases when there are no candidates able to take the examination.

A decision of the Commission about the results of the examination may be appealed to the Judicial Council within ten days after its announcement. If the complaint of a person was met and the decision of the Commission concerning the examination results was quashed a person during the nearest meeting of the Commission has a right to take the examination for candidates to judicial office once again (The Rules of the Examination Commission of Candidates to Judicial Office, the Resolution No. 13P-141-(7.1.2) of 12 October 2008 of the Judicial Council).

The examination shall consist of two parts: theoretical part and practice. The test program is very wide. It covers the administrative law and justice, employment law, civil law, civil procedure law, criminal law, criminal procedure law, constitutional law, c international law, European Union law and others.

Selection criteria for candidates to the Judicial Office at a District Court (app. by The decree No. 1K-103 of 8 September 2009 of the President of the Republic of Lithuania).

1. Selection criteria for candidates seeking to be appointed a judge of the district court:

1.1. Experience of legal work is calculated from a Bachelor's and Master of Laws degree or professional qualification degree of a lawyer (one-tier university legal education) acquisition. Scores are available only for more than five years of legal experience. For each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.2. The nature of legal work. Work in the courts as a judge assessed by 2 points for each year of the work, work as the Chairman, deputy chairman, adviser to the chairman of the division, department head of the judiciary law, the judge assistant, consultant considered 1 point for each year. Work as a lawyer, assistant to lawyer, prosecutor, assistant to prosecutor for each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.3. The results of judge exam (assessment). If the exam estimated by mark 10, the candidate receives 20 points, if mark 9-18, if mark 8-15, if 7 mark then receive 10 points. If the applicant has previously worked as a judge and is relieved from the exam of the candidates to judges he receives 20 points.

1.4. The opinion of the court to which the candidate is claiming regarding suitability of concrete candidate, which as well reflects the position of judge of that court. The opinion may be based on personal interviews or a candidate's position set out in writing, the applicant's job performance and others. Court's opinion can be given with the assessment of a candidate by 10 points, but that assessment does not bind the Selection Commission, if the Commission decides otherwise.

1.5. The science degree of the candidate (not the Law direction), academic title, Scientific activities, participation in the drafting of legislation, conclusions regarding



them, participation in the Lithuanian and international expert working groups, and others are rated up to 5 points

1.6. Intensity of applicant's qualification improvement, internships, knowledge of foreign language (s), which may be approved by the appropriate licenses or certificates are valued up to 5 points.

1.7. Personal qualities and generic skills of the candidate, as reflected in the recommendations, the conclusions of career development and so on received from the applicant's employer or other persons, valued up to 20 points.

1.8. Applicant's motivation (said at the meeting of Selection Commission or put in writing if the candidate does not attend the meeting), and other criteria that the Selection Commission recognizes as the significant are valued up to 20 points.

Selection criteria for candidates – Doctors or Habil. Doctors of Social Science in Law direction – to the Judicial Office at a District Court (app. by The decree No. 1K-103 of 8 September 2009 of the President of the Republic of Lithuania).

1. Selection criteria for candidates who have Doctor or Habil. Doctor in Social Science in Law direction seeking be appointed as a judge of a district court:

1.1. Experience of legal work is calculated from a Bachelor's and Master of Laws degree or professional qualification degree of a lawyer (one-tier university legal education) acquisition. Scores are available only for more than five years of legal experience. For each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.2. The nature of legal work. Work in the courts as a judge assessed by 2 points for each year of the work, work as the Chairman, deputy chairman, adviser to the chairman of the division, department head of the judiciary law, the judge assistant, consultant considered 1 point for each year. Work as a lawyer, assistant to lawyer, prosecutor, assistant to prosecutor for each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.3. Scientific and pedagogical work direction and expertise of the candidate values up to 30 points.

1.4. Personal qualities and generic skills of the candidate, as reflected in the recommendations of the employer or characteristic of other people, the conclusions of career development, intensity of applicant's qualification improvement, internships, knowledge of foreign language(s), which may be approved by the appropriate licenses or certificates valued up to 20 points.

1.5. The opinion of the court to which the candidate is claiming regarding suitability of concrete candidate, which as well reflects the position of judge of that court. The opinion may be based on personal interviews or a candidate's position set out in writing, the applicant's job performance and others. Court's opinion can be given with the assessment of a candidate by 10 points, but that assessment does not bind the Selection Commission, if the Commission decides otherwise.

1.6. Candidate' internships, participation in the drafting of legislation, conclusions regarding them, participation in the Lithuanian and international expert working groups, and others are rated up to 5 points.

1.7. Candidate's motivation (said at the meeting of Selection Commission or put in writing if the candidate does not attend the meeting), and other criteria that the Selection Commission recognizes as the significant are valued up to 15 points.



Selection Criteria for Judges seeking Judicial Promotion (app. by the Resolution No 13P-122-(7.1.2) of 4th September 2009 of the Judicial Council, Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1. Selection criteria for judges seeking appointment to judge position in higher court:

1.1. Experience of work as a judge. For each of the years allocated 1 point, but the total amount can not exceed 15 points.

1.2. Performance and rates of the last three years. The Commission, having considered conclusions of the Permanent Commission for the Assessment of the Activities of Judges, in the light of the previous judge periodic performance evaluation of the results of the judge, of number and complexity of cases examined by the judge, workload, the duration of proceedings, the average duration of court proceedings in court and in the Republic, reasons for amendments and abolishing judgments etc. and appoints him up to 40 points.

(Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1.3. Personal qualities of judge essential for taking position of judge in a higher level court: organizational skills, compliance with the Code of Judicial Ethics, professional culture, value up to 20 points. The Commission this assessment may make in the light of the reasoned opinions expressed by the Chairman of the Court exercising the administrative supervision of the activities, and of the Chairman of the court where the judge works by evaluating the judge with the certain amount of points. As well taking into account other documents submitted to the Commission or circumstances got known at the meeting.

1.4. Scientific degree of the judge, academic title, scientific activity, participation in the activity of self-governance institutions, participation in the drafting of legislation, conclusions regarding legal acts, participation in the Lithuanian and international expert working groups, and others are valued up to 10 point.

1.5. Intensity of applicant's qualification improvement, internships, knowledge of foreign language (s), which may be approved by the appropriate licenses or certificates are valued up to 5 points.

1.6. Candidate's motivation (said at the meeting of Selection Commission or put in writing if the candidate does not attend the meeting), and other criteria (workload of the judge, specialization and etc.) that the Selection Commission recognizes as the significant are valued up to 10 points.

Selection criteria for persons – Doctors or Habil. Doctors of Social Science in Law Direction – seeking Judicial Promotion (app. by the Resolution No 13P-122-(7.1.2) of 4th September 2009 of the Judicial Council, Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1. Selection criteria for persons who have Doctor or Doctor Habil. Degree in social science in Law direction seeking be appointed as a judge in the higher level court:

1.1. Experience of legal work is calculated from a Bachelor's and Master of Laws degree or professional qualification degree of a lawyer (one-tier university legal education) acquisition. Scores are available only for more than five years of legal experience. For each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.2. The nature of legal work. Work in the courts as a judge assessed by 2 points for each year of the work, work as the Chairman, deputy chairman, adviser to the



chairman of the division, department head of the judiciary law, the judge assistant, consultant considered 1 point for each year. Work as a lawyer, assistant to lawyer, prosecutor, assistant to prosecutor for each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.3. Scientific and pedagogical work direction and expertise of the candidate values up to 30 points.

1.4. Personal qualities and generic skills of the candidate, as reflected in the recommendations of the employer or characteristic of other people, intensity of applicant's qualification improvement, knowledge of foreign language (s) , which may be approved by the appropriate licenses or certificates valued up to 20 points.

1.5. The opinion of the court to which the candidate is claiming, which as well reflects the position of judge of that court. The opinion may be based on personal interviews or a candidate's position set out in writing and etc. Court's opinion can be given with the assessment of a candidate by 10 points, but that assessment does not bind the Selection Commission.

1.6. Candidate' internships, participation in the drafting of legislation, conclusions regarding legal acts, participation in the Lithuanian and international expert working groups, and others are rated up to 5 points.

1.7. Candidate's motivation (said at the meeting of Selection Commission or put in writing if the candidate does not attend the meeting), and other criteria that the Selection Commission recognizes as the significant are valued up to 15 points.

Selection Criteria for Judges seeking Judicial Promotion at a court of the same level (app. by the Resolution No 13P-122-(7.1.2) of 4th September 2009 of the Judicial Council, Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1. Selection criteria for judges seeking appointment to the position of the court chairman, vice chairman or chairman of the division:

1.1. Experience of legal work. For each of the years allocated 0.5 points, but the total amount can not exceed 10 points.

1.2. Administrative skills of the candidate gained during work in courts or in other legal institutions. For each of the years allocated 0.5 points, but the total amount can not exceed 5 points.

1.3. Performance and rates of the last three years. The Commission, having considered conclusions of the Permanent Commission for the Assessment of the Activities of Judges, in the light of the previous judge periodic performance evaluation of the results of the judge, of number and complexity of cases examined by the judge, workload, the duration of proceedings, the average duration of court proceedings in court and in the Republic, reasons for change and abolishing judgments etc. and appoints him up to 25 points.

(Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1.4. Personal qualities of judge essential for taking position of chairman of court, vice chairman position or position of chairman of the division: organizational skills, compliance with the Code of Judicial Ethics, professional culture, value up to 20 points. The Commission this assessment may make in the light of the reasoned opinions expressed by the Chairman of the Court exercising the administrative supervision of the activities, and of the Chairman of the court where the judge works by evaluating the judge with the certain amount of points. As well taking into



account other documents submitted to the Commission or circumstances got known at the meeting.

1.5. Participation in the activity of self-governance institutions, and other data confirming personal activeness and interest of the candidate to improve courts' work are valued up to 15 point.

1.5.1. Participation in activity of self-governance institutions',

1.5.2. participation in work of workgroups established to solve questions regarding courts' activities or prepare drafts of legislations,

1.5.3. participation in work of professional lawyers' organizations; lawyers' associations and other social institutions,

1.5.4. participation as an expert in international workgroups or Workgroups of Lithuania and work in international organizations,

1.5.5. proposal of the candidate made to self-governance, legislative and other institutions or officers regarding work of courts and improvement of legal acts,

1.6. candidate's participation in trainings, seminars and conferences related to deepening of professional and administrative knowledge relevant to the post of the Chairman, the Vice-Chairman of the Court or the Chairman of the division, knowledge of foreign language(s), which may be approved by the appropriate licenses or certificates to be assessed up to 10 points.

1.7. Candidate's motivation regarding ambition to take the position to which he applies (read orally in the Commission meeting or put in writing if candidate is not present at the meeting). Motivation should include information on main directions of the future work, general problems and their solutions of all courts and of the court to which candidate other criteria that the Commission deems relevant, valued up to 15 points.

Selection criteria for Judges willing to be transferred to another court of the same level or a court of the same level but another jurisdiction (app. by the Resolution No 13P-122-(7.1.2) of 4th September 2009 of the Judicial Council, Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1. Selection criteria for judges willing to be transferred to another court of the same level or a court of the same level but another jurisdiction:

1.1. Experience for work as a judge. Scores are available only for more than 3 years of experience as a judge. For each of the years allocated 2 points, but the total amount can not exceed 20 points;

1.2. Performance and rates of the last three years. The Commission, having considered previous judge periodic performance evaluation of the results of the judge, in the light of number and complexity of cases examined by the judge, workload, the duration of proceedings, the average duration of court proceedings in court and in the Republic, reasons for change and abolishing judgments etc. and appoints him up to 20 points;

(Amendment of the Resolution No. 13P-20-(7.1.2) of 26th February 2010 of the Judicial Council)

1.3. Personal qualities of the judge, organizational skills, compliance with the Code of Judicial Ethics, professional culture, value up to 10 points. The Commission this assessment may make in the light of the reasoned opinions expressed by the Chairman of the Court exercising the administrative supervision of the activities, and of the Chairman of the court where the judge works by evaluating the judge with the certain amount of points. As well taking into account other documents submitted to the Commission or circumstances got known at the meeting;



1.4. The opinion of the court to which the candidate is claiming, which as well reflects the position of judge of that court. The opinion may be based on personal interviews or a candidate's position set out in writing and etc. If it is enough of this data the candidate could be valued up to 10 points, but that assessment does not bind the Selection Commission and Commission by appropriate motivation of its decision could allocate bigger or smaller amount of points proposed by the chairman of the court;

1.5. Candidate's motivation (read orally in the Commission meeting or put in writing if candidate is not present at the meeting) and other criteria. That the Commission deems relevant (date of the application, interests of the court where judge works and of the court to which judge is applying) valued up to 40 points.

Person applying to take the position of judge (the Chairman, the Vice-Chairman of the Court (division)) must keep statistical indicators of his hearings, annually provide information about improvement of qualification, language courses, etc.

The Netherlands

(a) Anyone who wants to become a judge has to have a Master's degree in Law from one of the universities in The Netherlands. The final examination should encompass at least two of the three main areas of the law, i.e. civil law, criminal law, and administrative law, including the relevant procedural law. The third additional area can be either constitutional law or tax law. A judge should have intellectual and contact skills of a high level, as well as the proper work attitude and the ability to express himself. The intellectual requirements include a judge's analytical capacities and his ability to independently make judgments. In addition, judges are evaluated on the basis of other personal qualifications, such as the ability to make a decision, equanimity, independence, the ability to cooperate, persuasiveness, sensibility, so-ciability, integrity, and unflappability.

Prior to being considered for admission, a judge's criminal record will be investigated. Any conviction of a criminal offence will preclude admission to the judiciary, unless it concerns a minor felony committed more than ten years ago or a minor misdemeanour committed more than five years ago. An independent selection committee, consisting of judges, academics, and other representatives of high legal professions, determines whether an applicant is considered admissible to the judiciary.

(b) There are two main roads to becoming a (fulltime) judge. The first is meant for people with little or no work experience. They have to submit to a four to six-year training period, during which they are familiarized with all sections of the judiciary. A candidate begins working as a clerk and eventually becomes a judge-trainee. During the first years, there is no distinction between trainings for judges and those for prosecutors. In other words, those who want to become a judge also have to work as a prosecutor and vice versa. The national training institute for judges (SSR) is responsible for training and evaluation. Training takes place in one of the courts of first instance (rechtbank). In addition, applicants frequently have to take courses offered by the SSR. Depending on their work experience, trainees have to spend up to two years in a working environment outside the court system, such as a law



firm or an NGO. Prior to being admitted to the training period, the applicants have to undergo interviews and psychological tests.

The second road to the judiciary is for people with at least six years (and ten years for those who want to apply to an appellate court) of relevant practical experience. In order to qualify, applicants have to submit to an assessment, which includes tests and interviews meant to determine whether the applicant meets the requirements listed above. The outcome of the test is not decisive, but can be taken into account by the selection committee. Upon admission candidates will be subject to training activities within the court to which they apply. Each court has its own training and admission requirements. Most courts require their applicants to qualify for at least two out of the three main sections (civil, criminal, and administrative law). Trainees will also take courses offered by the SSR.

Norway

The minimum requirement to be appointed as a judge is master in law and then at least 10 years of practice in a field of law (as an advocate, a police prosecutor, a civil servant etc.). The average age to be appointed to a judge is 48 years. The most common background is to be an advocate.

There are no other formal criteria than a master and at least 10 years of practice. An applicant has to give information of what kind of work has been done. And it is important to have references from senior members of the legal profession; advocates, judges etc.

Promotion is not an important part of our legal system. We have three levels of courts: district courts, courts of appeal and one Supreme Court. Most of the judges stay in the court where they first are appointed. If you wish to go to a higher court references from senior judges in your own court, as well as from appeal court judges (which have read your judgements) are important.

Poland

Common courts.

The President of the Republic of Poland, at the request of the National Council of the Judiciary, appoints judges of common courts for the post of judge, within a month from the date of sending such request.

Judges of common courts are appointed for the posts of:

1. district court judge,
2. circuit court judge,
3. court of appeal judge.



District court is the court of first instance in minor cases. Circuit court is the first instance court in cases concerning more serious crimes, as well as second instance court for cases from district courts. Court of appeal is the court of second instance for circuit courts (i.e. for cases concerning more serious crimes).

There are several ways to become a judge in Poland:

1. by completing traineeship (initial training) lasting three and a half years conducted by the Polish National School of Judiciary and Public Prosecution, passing a state judicial examination and at least two-year official practice at court (in the post of an assistant to a judge – for at least one year, and a court referendary - for at least one year);
2. by independent performance of other legal professions (attorney at law, legal counsel, notary, public prosecutor, counsel of the General Public Prosecutor of the State Treasury);
3. by way of scientific career – obtaining a degree of a habilitated doctor or professor of law.

A judge may be a person who:

1. is a Polish citizen and enjoys full civil and full public rights,
2. is a person of integrity,
3. has completed higher education in law in the Republic of Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in the Republic of Poland,
4. has the ability to perform duties of a judge, as regards health condition.

The above-mentioned conditions are binding for all levels of judicial posts.

A district court judge may be a person who, apart from above conditions:

1. has attained 29 years of age,
2. has passed a judicial or prosecutor exam,
3. has completed judicial apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office or has worked as an assistant prosecutor – for at least three years before applying for the appointment of a judge.

The requirements specified above in points 2 and 3 shall not concern the person who prior to the appointment:

1. held the position of public prosecutor,
2. worked in a Polish university, Polish Academy of Sciences or a research and science institute or other science facility, and holds the academic title of a professor or a Ph. D. in legal sciences degree.
3. has worked as an attorney at law, legal counsel or notary - for at least three years,
4. has held the post of a president, vice-president, senior counsel or counsel at the General Public Prosecutor of the State Treasury - for at least three years.

Additionally, district court judge may be a person, who:

- has completed the general apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office, notarial apprenticeship, attorney at law apprenticeship or legal counsel apprenticeship and passed a relevant exam and held the full time post of court referendary



for at least five years

- has completed the general apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office, notarial apprenticeship, attorney at law apprenticeship or legal counsel apprenticeship and has passed a relevant exam and held the full time post of an assistant to judge for at least six years.

An appointment to a post of circuit court judge may be given to a person, who:

1. Is a district court judge or a military garrison court judge who has held the post of district court judge or military garrison court judge or the post of public prosecutor for at least four years.
2. Is a public prosecutor who has held the post of public prosecutor or a judge for at least four years.
3. Has worked as an attorney at law, legal counsel or notary - for at least six years,
4. has held the post of a president, vice-president, senior counsel or counsel at the General Public Prosecutor of the State Treasury - for at least six years,
5. worked at the post of lecturer, lecturer and researcher or researcher at a Polish university, Polish Academy of Sciences, or in an academic research institute or other research facility, having the title of a professor or a post doctoral degree (habilitated doctor) in legal sciences,
6. held the post of military judge in a circuit court.

An appointment to the position of a court of appeal judge can be given to a person, who:

1. Is a common court and military court judge who has held the post of judge or the post of public prosecutor for at least six years, including at least three years as a circuit court judge, military judge in a circuit court or circuit public prosecutor;
2. Is a public prosecutor who has held the post of public prosecutor or a judge for at least six years, including at least three years at the post of circuit public prosecutor, a circuit military public prosecutor, a circuit court judge, military circuit court judge or a public prosecutor in an appellate public prosecutor office, or in State Prosecutor Office, General Prosecutor Office, Chief Military Prosecutor Office or a prosecutor of the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation;
3. Has worked as an attorney at law, legal counsel or notary - for at least eight years;
4. Has held the post of a president, vice-president, senior counsel or counsel at the General Public Prosecutor of the State Treasury - for at least eight years;
5. worked at the post of lecturer, lecturer and researcher or researcher at a Polish university, Polish Academy of Sciences, or in an academic research institute or other research facility, having the title of a professor or a post doctoral degree (habilitated doctor) in legal sciences.



A Supreme Court Judge shall perform his or her function after being appointed by the President of the Republic of Poland, upon the motion of the National Council for the Judiciary.

A appointment to a post of Judge of the Supreme Court may be given to a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights;
 - 2) is a person of integrity;
 - 3) has completed the higher school of law in Poland and has obtained the title of "magister" (graduate), or the higher school of law abroad which has been recognised in Poland;
 - 4) distinguishes himself or herself by a high level of juridical knowledge;
 - 5) is fit, as regards health condition, to perform the tasks constituting Justice's duties,
 - 6) has held - for at least ten years - the post of a judge, public prosecutor, has worked in Poland as an advocate, legal advisor or notary public.
6. The condition provided for in point 6), shall not apply to professors or doctors habilitated of law employed in the Polish schools of higher education, the Polish Academy of Sciences or other academic or research units.

Administrative courts

The President of the Republic of Poland, at the request of the National Council of the Judiciary, appoints judges of administrative courts for judicial posts.

Judges of administrative courts are appointed to the post of a Provincial Administrative Court judge or a Chief Administrative Court judge.

Provincial administrative courts are courts of the first instance. The Chief Administrative Court is the court of cassation in administrative cases.

A person appointed to hold the post of a Chief Administrative Court judge shall meet the requirements set forth in items 1-4 and 6, provided that he or she attains at least 40 years of age and has held the post of a judge or public prosecutor for at least ten years or performed the profession of an attorney at law, legal counsel or notary for at least ten years. The requirement consisting in attainment of 40 years shall not apply to a judge who held the post of a provincial administrative court judge for at least three years.

The body competent to decide about the issues of recruitment, selection and promotion of judges is the National Council of the Judiciary (www.krs.pl).

The selection of candidates to a judicial post (for the first time in career and within the scope of promotion to a higher post) is entirely competition-based.

The Minister of Justice places an announcement about a vacant post of a judge in Monitor Polski [Official Journal], and all persons willing to hold the post and meeting statutory requirements pertaining to the appointment to the post of a judge may participate in the competition. The previous professional work is subject to assessment by auditing judges from the circuit court or the court of appeal, and then - upon conducting an opinion on the candidate by the auditing judge – three



stages of the competition procedure take place, namely: 1) voting by the board of the court (a collective body supporting the President of the court), 2) voting during the general assembly of all the judges of a given court, 3) proceedings before the National Council of the Judiciary. Assessment of the candidate's work is conducted in accordance with statutory substantive criteria (quantitative and qualitative outcomes of the candidate's work, as well as lack of arrears, substantive level of the statements of reasons, personal shall be subject to assessment, personal conduct, scientific achievements, etc.) A person who wins the competition is presented for nomination to the President of the Republic.

Romania

Recruitment

The recruitment modalities, provided by Law no. 303/2004, republished, with the subsequent amendments regarding the statute of judges and prosecutors, are:

- ❖ The main recruitment method is the competition for admission to the National Institute of Magistracy, based on professional competence, aptitudes and good reputation; the candidates for the National Institute of Magistracy have to meet cumulatively the following requirements (art. 14):
 - a) to be Romanian citizens, with permanent residence in Romania and have full legal capacity;
 - b) to be bachelors of law;
 - c) not to have criminal and fiscal record;
 - d) to speak Romanian;
 - e) to be able, medically and psychologically, to exercise this profession .The candidates have to pass an exam on theoretical knowledge and on case-law issues in the main fields of law: civil, criminal, civil procedural and criminal procedural law, for obtaining the position of auditors of justice within the National Institute of Magistracy and for beginning the two years of initial training. After graduating NIM they practice as probationer judges/prosecutors at the courts and the prosecutors' offices and they will be appointed as judges/prosecutors, after passing the capacity exam, consisting on verification of the theoretical and the practical knowledge, through written and oral examinations.
- ❖ The exceptional recruitment method is the competition for admission into magistracy for candidates with at least 5 years length of service within the specific field, provided by art. 33 of the Law no. 303/2004; the candidates should also meet the requirements provided by art. 14 paragraph (2), mentioned above, and they have to pass a theoretical and practical (case-law) exam in the main fields of law (civil, criminal, civil procedural and criminal procedural law) and on the ECHR jurisprudence; after passing this exam, the psychological examination and the examination of their good reputation, the candidates attend a short term training within NIM and than are appointed as judges/prosecutors.



Promotion to execution positions

According to art. 43 of the Law no. 303/2004, judges and prosecutors shall be promoted only by means of a competitive exam held at a national level, within the limits of vacancies existing at tribunals and courts of appeal or, the case being, at the prosecutor's offices, organized by the Superior Council of Magistracy through the National Institute of Magistracy.

According to art. 44 of the Law no. 303/2004, the judges and prosecutors who have received the reading "very good" in the last evaluation, who were not disciplinarily sanctioned within the last 3 years and who meet the following minimum requirements of length of service may sit for the promotion exam to the immediately superior courts or prosecutor's offices:

- a) 5 years' length of service in the office of judge or prosecutor, for promotion as judge in a tribunal or specialized tribunal and prosecutor in a prosecutor's office attached to a tribunal or in a prosecutor's office attached to a specialized tribunal;
- b) 6 years' length of service in the office of judge or prosecutor, for promotion as judge in a court of appeal and as prosecutor in a prosecutor's office attached to it;
- c) 8 years' length of service in the office of judge or prosecutor, for promotion as prosecutor in the Prosecutor's Office attached to the High Court of Cassation and Justice

The promotion exam consists of written tests, of theoretical and practical nature, such as the following :

- a) depending on specialization, one of the following matters: civil, criminal, commercial, administrative, financial and fiscal, labour, family, and private international law;
- b) the jurisprudence of the High Court of Cassation and Justice and of the Constitutional Court;
- c) the case law of the European Court of Human Rights and of the European Court of Justice;
- d) depending on the specialization of the judge or prosecutor, either civil or criminal procedure.

Regarding the promotion of judges to the High Court of Cassation and Justice, a Guideline was recently elaborated in order to offer a transparent and unitary procedure. Therefore new conditions were added to the requirements that should be met by the candidates, such as the condition of analyzing a number of 10 works drawn-up by the candidate (court decisions or solutions adopted by the prosecutor), that shall be comprised in the consultative report issued by the leading board of HCCJ; this analysis of the quality of works will aim to assess the level of knowledge, assimilation and application of the jurisprudence in the field as set up by HCCJ, CCR, ECHR and ECJ; this analysis will be carried on by 2 judges appointed by the leading board of HCCJ out of the judges of the section envisaged by the competition; beside these 10 works, the judges may analyze other works drawn up by the candidates, those works being chosen by a random procedure; also, the judges within the envisaged section shall be consulted as regards the quality of candidate's works assessed by HCCJ during the exertion of appeals, as the case may be; the procedure of interview the candidates was developed in order to offer a better verification of the professional knowledge of the candidate and the issues on the conduct and professional deontology; also, it was added the provisions according to which the president of HCCJ section for which the



candidates opted shall also participate at the interview; the president is able to ask questions on the themes specific to the section's activity;

Appointment of judges and prosecutors

According to art. 31 of the Law no. 303/2004, the judges and prosecutors who have passed the capacity exam shall be appointed by the President of Romania, at the proposal of the Superior Council of Magistracy.

The candidates with at least 5 years length of service within the specific field, provided by art. 33 of the Law no. 303/2004, who have passed the exam for admission into magistracy, shall be appointed by the President of Romania, at the proposal of the Superior Council of Magistracy.

Appointment in leading positions

According to art. 48 of the Law no. 303/2004, the appointment of judges into the offices of president and vice-president in first instance courts, tribunals, specialized tribunals and courts of appeal and the appointment of prosecutors as general prosecutor of a prosecutor's office attached to a court of appeal, as prime-prosecutor of the prosecutor's office attached to a tribunal, as prime-prosecutor of the prosecutor's office attached to a tribunal for minors and family or as prime-prosecutor of the prosecutor's office attached to a first instance court and as deputy to the above offices is possible only through an exam organized by the Superior Council of Magistracy, through the National Institute of Magistracy, any time considered necessary.

The magistrates who have received the reading "very good" in the last evaluation, who were not sanctioned disciplinarily within the last 3 years and who meet the legal requirements of length of service may sit for the competitive examination.

The exam consists in presenting a project on the exercise of duties that are specific of the leading position and of written tests on management, communication, human resources, and the candidate's ability to take decisions and to assume responsibility, his resistance to stress and of a psychological test.

According to art. 50 of the Law no. 303/2004, for appointment into a leading position, the following requirements of minimum length of service apply:

a) for the office of president and vice-president of a first instance court, prime-prosecutor with a prosecutor's office attached to a first instance court and his deputy, 5 years' length of service as judge or prosecutor;

b) for the office of president and vice-president of a tribunal or specialized tribunal, as well as of section president within a tribunal, of prime-prosecutor within a prosecutor's office attached to a tribunal or with a prosecutor's office attached to a tribunal for minors and family, of deputy to the above mentioned offices and of chief prosecutor of a section within the prosecutor's office attached to a tribunal or a tribunal for minors and family, 6 years' length of service as judge or prosecutor;

c) for the office of president and vice-president, section president within a court of appeal, of general prosecutor within the prosecutor's office attached to a court of appeal and of deputy to the latter, of chief prosecutor of section within a prosecutor's office attached to a court of appeal, 8 years' length of service as judge or prosecutor.



Scotland

(1) Eligibility Criteria for appointment to the main judicial offices in Scotland (starting with the more senior judicial offices) are:

Judges of the Court of Session/High Court and Chairman of the Scottish Land Court - Those eligible are: (a) Serving judges – a Sheriff Principal or a Sheriff who has exercised these functions continuously for a period of at least five years; (b) Practising court lawyers - an Advocate of five years standing, a Solicitor who has had rights of audience before either the Court of Session or the High Court of Justiciary continuously for a period of not less than five years, a Writer to the Signet of ten years standing.

Sheriffs Principal, Sheriffs and Part-time Sheriffs – Those eligible are lawyers who have been legally qualified (either as an Advocate or a Solicitor) for at least 10 years.

(2) Statutory Selection criteria:

The Judiciary and Courts (Scotland) Act 2008 sets out the following statutory selection criteria to be applied by the Judicial Appointments Board for Scotland:

- Selection must be solely on merit*.
- The Judicial Appointments Board for Scotland may select an individual only if it is satisfied that the individual is of good character.

The Act also provides for assessment of legal knowledge and of skills and competence in the interpretation and application of the law by the judicial and legal members of the Board.

(3) Qualities and Skills agreed by the Judicial Appointments Board for Scotland as constituting merit* and which successful applicants for judicial office must demonstrate: see Judicial Appointments Board for Scotland note attached.

The 2008 Act also contains a provision encouraging diversity in the appointment of judges, which states that the Judicial Appointments Board for Scotland “in carrying out its functions...must have regard to the need to encourage diversity in the range of individuals available for selection to be recommended for appointment to a judicial office.” This provision is, however, subject to the section of the Act which requires that selection must be solely on merit.

Spain

The issue of selection, appointment and promotion of members of the Judiciary in Spain is dealt with by two basic texts of primary legislation: the Spanish Constitution of 1978 (article 122.2) and the Organic Law on the Judicial Power (Law 6/1985 of 1 of July; articles 298 to 323) as well as other secondary legal texts, basically regulations issued by the Ministry of Justice (hereinafter MoJ) and the General Council for the Judiciary (hereinafter CGPJ).



In order to understand correctly the system it is necessary to underline that there are three ranks of the judicial career in Spain: junior judge, senior judge and justice of the Supreme Court. The distinction between these three ranks is relevant, since the procedures for selection and appointment of holders of judicial offices may differ depending on the respective rank.

The procedure for the selection and appointment of junior judges (i.e. members of the Judiciary who belong to the third rank of the judicial career) comprises two stages: 1) a public competitive examination, jointly with the candidates to Public Prosecutors; and 2) a theoretical and practical selection course delivered by the Judicial School under the CGPJ.

According to the Law on the Judiciary this procedure should “be based on merit and capacity for performing jurisdictional duties” and “ensure in an objective and transparent manner” the selection and appointment of candidates “possessing the conditions and aptitude required, in addition to the professional suitability and sufficiency of the persons selected to carry out the jurisdictional tasks”. Eligibility criteria for participation in the selection procedure include: Spanish nationality, full legal age (i.e. 18 years old) and a University Degree in Law. Moreover candidates must not be affected by any of the causes of inability established by law (persons affected by physical or psychological inability to perform judicial duties; persons convicted for wilful misconduct who have not yet been rehabilitated; persons indicted or accused of unlawful conduct who have not been acquitted or had their case dismissed or withdrawn; and persons who are not in full use of their civil rights).

Furthermore, the Law contains some provisions encouraging selection and appointment of disabled persons on the basis of the “principles of equal opportunities, non-discrimination and compensation for disadvantages”. According to these provisions the selection procedures must be respectful with “the principle of equality between men and women, including measures against gender violence, and its transversal application within the scope of jurisdictional functions”, and be adapted, if appropriate, “to the special needs and specific requirements” of disabled candidates, so that a percentage (no less than 5%) of the positions to be covered “shall also be reserved for persons with disability of a degree equal to or greater than 33 percent, provided that they successfully complete the selective examinations and attest the degree of disability and their compatibility for carrying out the (judicial) duties and tasks in accordance with regulations”.

Candidates who have passed the examination must opt for the profession of judge or prosecutor according to the marks they have achieved. Only those candidates who opt for the judiciary must undergo the selection course organised by the Judicial School under the CGPJ, whilst the candidates for the profession of prosecutor must undergo a similar (but shorter) initial training and selection course organised by the Centre of Legal Studies under the MoJ. The public examination comprises a preliminary written test of one hundred questions with four multiple-choice answers on different branches of Law (Constitutional Law, Civil Law, Criminal Law and Procedural Law) and two oral exams (lasting 60 minutes each) where ten lessons (five lessons in each exam) must be orally presented by the candidate before the examination panel. The first oral exam comprises Constitutional Law, Civil Law and Criminal Law, whereas the second oral exam is focused on Procedural Law, Commercial Law, Administrative Law and Labour Law. Currently, a reform of the subjects included in the examination is under way, and it will most probably include some practical cases.



Candidates who have successfully passed the competitive examination are considered civil servants on practical training during the initial training and selection course organised by the Judicial School. The School is a centre for selection and training for Judges under the CGPJ “designed to provide integral, specialised and high quality training to members of the Judiciary and to candidates who aspire to become judges”. The initial training and selection course at the Judicial School consists of two stages: a) a theoretical phase based on a programme of multidisciplinary training; and b) a practical period of training in different courts, in which the trainees act as assistants to mentor judges. During this practical stage the task assigned to the trainees shall not, in principle, exceed the drafting or planning of judgments and other judicial decisions, so that the mentor judge can, if appropriate, assume the text of the drafts adding any amendments or corrections that may be deemed necessary. The duration and contents of the two phases of the initial training and selection course are determined by the CGPJ according to the programme devised by the Judicial School, but under article 307.2 of the Law on the Judiciary, “the duration of the theoretical course shall not be less than nine months and the duration of the practical course shall not be less than six months”. The current duration of the theoretical and practical stages of the course is nine months each.

The candidates who successfully complete the theoretical and practical stages of the course shall be appointed junior judges by the order of the proposal made by the Judicial School. To this purpose, the panel of trainers at the Judicial School shall draw up a list of candidates who have passed the theoretical and practical course according to the grade achieved. The list is submitted to the CGPJ, who formally issues the appointment order, and with the taking of office in a court the candidates are invested as Judges. In principle, all junior judges appointed after the completion of the examination process and the initial training and selection course assume a judicial office in a first instance (civil) and investigating (criminal) court. On the other hand, candidates who fail the course may repeat it in the next call (i.e. the call which follows the next public competitive examination), but if they fail the course again, they shall be definitively excluded from any expectation of entering the Judiciary based on the selective examinations they had initially passed.

The appointment of senior judges is done following three procedures. Two of every four vacant positions in the rank of senior judges are provided by promotion of junior judges of the third rank, according to their seniority. The third vacant position is provided among judges in the third rank, by means of selective examinations in the civil, criminal, administrative and labour branches of the jurisdiction. These selective examinations are organised by the CGPJ and the specialisation in these branches of the jurisdiction includes a compulsory training course delivered by the Judicial School under the CGPJ (see 2b).

The fourth vacant position is provided through a competition between legal professionals of renowned competence with over ten years of professional practice. The CGPJ establishes the merits to be taken into account in the selection process, which, pursuant to article 313 of the Law on the Judiciary include: “a) Law Degree with a grade higher than a pass, including academic history; b) Doctorate of Law and grade reached on completing, including academic history; c) Years of effective law practice in the Courts and Tribunals, opinions issued and assessment provided; d) Years of effective service as Professor of Law or full time University teacher in legal disciplines at Public Universities or with similar categories in private



Universities; e) Years of service as civil servant in any other divisions of the Public Authority or Civil Service, entry to which requires express possession of the qualification of Doctor or Bachelor of Law and implies intervention before the Courts of Justice, in the Public Prosecution Service or in the division of Clerks of the Court, having served and performed duties in said posts; f) Years of effective service in judicial functions without being a member of the judicial services and number of judgments handed down, including evaluation of said judgments; g) Scientific-legal publications; h) Talks and lectures in conferences and courses on relevant legal interest; i) Completion of legal specialisation courses with a duration of no less than three hundred hours, as well as obtaining research qualifications accredited by the National Agency for Quality and Accreditation; j) Having passed one of the exercises as part of the examinations for access to the judiciary in the rank of judge”.

The competition process also includes a practical examination based on the drafting of an opinion report which will help to assess the candidates' aptitude. The assessment of the candidates is done by a panel appointed by the CGPJ and composed by senior judges, public prosecutors, university professors, advocates and court clerks. In order to assess the merits of the candidates the selection panel may interview them and discuss these merits together with the professional curriculum of the candidates. The sole purpose of the interview is to attest to the reality of the legal training and suitability for access to the Judiciary of the candidates on the basis of the alleged merits, and shall not become a general examination of legal knowledge. The panel may exclude those candidates who “do not possess the quality of legal professional with renowned competence, either due to insufficiency or lack of aptitude deduced from the objective data in the case, or due to the presence of circumstances which presuppose discredit incompatible with that condition, even when a candidate has exceeded the minimum mark” fixed by the panel for the assessment of candidates' merits. At the end of the selection procedure the panel issues a report of the content and result of the process expressing the criteria applied for the definitive qualification of the candidates and proposing the list of candidates to be appointed by the CGPJ. Pursuant to article 313.11 of the Law on the Judiciary, the CGPJ “may reject a candidate on specific grounds despite the favourable proposal of the qualifying panel, provided that subsequent to that procedure, evidence arises of a circumstance which implies insuperable discredit (of the candidate)”.

Candidates included in the proposal list issued by the panel must attend an initial training and selection course organised by the Judicial School under the CGPJ, which consists of two stages: a) a theoretical phase based on a programme of multidisciplinary training; and b) a practical period of training in different courts, in which the trainees act as assistants to mentor judges. As in the case of the initial training for junior judges, the task assigned to the trainees during the practical phase of the induction training shall not, in principle, exceed the drafting or planning of judgments and other judicial decisions, whose text the mentor judge can, if appropriate, assume adding any amendments or corrections that may be deemed necessary. The duration and contents of the two phases of the initial training and selection course are determined by the CGPJ according to the programme devised by the Judicial School. The current duration of the theoretical phase is four weeks and the practical period of training currently lasts eight weeks.

The candidates who successfully complete the theoretical and practical stages of the course shall be appointed senior judges by the order of the proposal made by the Judicial School. To this purpose, the Judicial School shall draw up a list of



candidates who have passed the theoretical and practical course according to the grade achieved. The list is submitted to the CGPJ, who formally forwards the appointment order to the MoJ, since the appointment of senior judges is formally done through a Royal Decree signed by the King and the Minister of Justice. Neither the King nor the Ministry of Justice may object the appointment of the candidates proposed by the CGPJ. Candidates are finally invested as senior judges with the taking of office in a court.

Furthermore, pursuant to article 330.4 of the Law on the Judiciary “in the Civil and Criminal Divisions of the High Courts of Justice one out of every three posts shall be covered by a lawyer of renowned prestige with over ten years of professional practice in the Autonomous Community (where the High Court has its seat), appointed at the proposal of the CGPJ on a short-list of candidates presented by the legislative Assembly (of the Autonomous Community)”. The candidate is proposed by the Plenary Assembly of the CGPJ by simple majority and formally appointed through a Royal Decree signed by the King and the Minister of Justice, who may not object the appointment of the candidate proposed by the CGPJ. Unlike the other senior judges appointed among legal practitioners, the candidates proposed by the CGPJ for the positions of senior judges at the Civil and Criminal Divisions of the High Courts need not undergo any kind of training before being formally appointed.

The proposal for appointment of justices of the Supreme Court is always done by the Plenary Assembly of the CGPJ by a qualified majority of 3/5 of its members and on the basis of the merits of the candidates. Pursuant to article 343 of the Law on the Judiciary, four out of five vacant positions at the Supreme Court “shall be assigned to members of the Judiciary having served for at least ten years with the rank of Senior Judge and a minimum of fifteen years in the Judiciary”. The fifth vacant position is assigned to candidates among lawyers and other legal professionals, all of renowned competence. These “prominent lawyers and legal professionals may be appointed justices of the Supreme Court, provided that they fulfil the established requirements and have sufficient merit in the opinion of the General Council of the Judiciary, and have practised professionally for a period of more than fifteen years preferably in the branch of law corresponding to the jurisdiction of the division for which they are to be appointed” (article 345 of the Law on the Judiciary). The candidates are formally appointed following the proposal of the CGPJ through a Royal Decree signed by the King and the Minister of Justice, who may not object the appointment of the candidate proposed by the CGPJ. All candidates appointed following the proposal by the CGPJ for the positions of justices of the Supreme Court need not undergo any kind of training before being formally appointed.

Sweden

Questions concerning recruitment and selection of candidates applying for appointments as judges are handled by an independent body called the Judges Proposals Board. Previously, the non-independent Swedish National Courts Administration has examined the necessity of recruitment based on the conditions and workload at the court wanting to appoint a new judge. Thus, the Judges Proposals Board can only start a recruitment procedure when the Swedish National Courts Administration has informed them that there is a need to recruit. Then there



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are four formal criteria which must be fulfilled by the candidates. Firstly, the candidate must have a Master of Laws degree. Secondly, he or she must be a Swedish citizen. Furthermore, the candidate must not be in a condition of bankruptcy nor have an administrator appointed for him or her. When ranking the candidates for a certain position as a judge, the Judges Proposals Board use two different material criteria, namely competence and experience. The appointment is then handled by the Government on the basis of the ranking from the Judges Proposals Board. However, the Government are not obliged to appoint the candidate that the Judges Proposals Board has suggested. But in case the Government contemplate in appointing another candidate the Government must give the Judges Proposals Board an opportunity to speak. The recruitment, selection and appointment for a promoted position is handled the same way. However, the chief judge of a court has also an opportunity to promote a judge working at the court and appoint him or her as chief for a unit at the court.

1.b. Competent organ for recruitment, selection, appointments and promotion

Which is the competent organ in your legal system to decide on recruitment, selection, appointments and (where relevant) promotion of members of the Judiciary?

Austria

Following the Constitution, the appointment and every further promotion of judges is task of the president of the republic, who is bound to the proposal by the minister of justice. For judges at lower courts, the president has delegated the right of appointment to the minister of justice herself/himself.

Basis for appointment by the minister or for the binding proposal for the president are consecutive but independent proposals given by two councils. Each council consists of two legal members (president and vice-president of the court) and three or five elected judges. These proposals should consist of at least three candidates, who applied the vacant position. There are certain criteria to determine a ranking for of the candidates: Professional knowledge, abilities and perception, effort, endurance, diligence, ability to communicate, verbal skills, comportment on job and the formal periodical appraisal. If a ranking based on these criteria is not possible, the seniority will decide. The proposals of the councils are not binding for the minister.

Belgium

High Council's Nomination and Appointments Commissions play a decisive role in the nomination of magistrates

Bosnia Herzegovina

The independent HJPC of B&H alone has competence to decide on selection, appointment, and promotion of members of the judiciary in Bosnia and Herzegovina.

Bulgaria

The Supreme Judicial Council of the Republic of Bulgaria.



Czech Republic

It is the Judicial Department of the Ministry of Justice (upon consultation with heads of courts).

Denmark

The Judicial Appointments Council, established on 1 July 1999, submits recommendations to the Minister of Justice for all judicial appointments except the post of president of the Supreme Court. The Council may only recommend one applicant for an opening. Recommendations must be reasoned and include any differences of opinion. In practice, the Minister of Justice always follows the Council's recommendations.

The Danish Judicial Appointments Council is an independent council. The Danish Court Administration acts as secretariat to the Council, and the Minister of Justice appoints the members of the Council based on the comments of a plenary sitting of the Supreme Court, the high courts, the Association of Danish Judges, the General Council of the Danish Bar and Law Society, the National Association of Local Authorities in Denmark and the Danish Adult Education Association. The Council is composed of a supreme court judge (chairman), a high court judge (vicechairman), a district court judge, a lawyer and two representatives of the public.

England and Wales

The recruitment and selection of judicial office-holders is carried out by the Judicial Appointments Commission, an independent non-departmental public body. The Commission consists of 15 Commissioners, who include members of the judiciary, the legal profession, the magistracy and lay members. After the selection exercise is completed, the Commission recommends candidates to the Lord Chancellor (the Minister of Justice) for appointment; the formal appointments are then made either by the Lord Chancellor or, in the case of salaried members of the courts' judiciary, The Queen.

The JAC was set up in 2006, to maintain and strengthen judicial independence by taking responsibility for selecting candidates for judicial appointment out of the hands of the Lord Chancellor and making the appointments process clearer and more accountable.

The selection of judges for promotion from one rank to another is also a task entrusted to the JAC



Finland

There are no specific procedures for recruiting members of the judiciary. Young lawyers interested in court service normally start their career by a training period at a district court for a year after graduation. After this they may apply for a temporary appointment at a court of appeal as law clerk. This way they might after some years demonstrate “the professional competence and the personal characteristics necessary for successful performance of the duties inherent in the position as judges” as required for an appointment as a judge. This is, however, not the exclusive way to become a judge. The professional competence can be acquired also for instance as a prosecutor or an attorney. The selection and promotion of judges is made merely by appointments to judges’ offices. During a career there will normally be several applications for positions as judge (junior/senior/chief judge) often at different court levels (district court/court of appeal).

In accordance with the Constitution the appointments are made by the President of the Republic on the basis of a draft decision submitted by the Government.

For the purpose of filling positions in the judiciary, there is an independent Judicial Appointments Board, whose task is to make preparations for the filling of positions and to make a reasoned proposal on an appointment to a position in the judiciary. The proposal is delivered to the Government in order for the draft decision on the appointment to be presented to the President of the Republic. In practice the proposal of the board will be followed by the Government and the President.

The Judicial Appointments Board is chaired by a member nominated by the Supreme Court; a member nominated by the Supreme Administrative Court is the vice-chair. Otherwise, the Board has as members one President of a Court of Appeal, one Chief Judge of an Administrative Court, one Chief Judge of a District Court, one Senior Justice or Justice of a Court of Appeal, one District Judge, one Administrative Court Judge, another Administrative Court Judge or a Judge from one of the special courts, one Advocate, one Public Prosecutor and one person representing the research and teaching of law. Each member has a personal alternate.

Germany

The respective Land decides autonomously in each individual case on the appointment of a judge to the Land service. The Land parliaments determine the precise requirements for appointment of judges to their respective judicial service. In some Länder, appointment is a matter for decision by the executive, in others this decision is taken by boards of mixed composition known as judicial selection committees. At federal level, judges are appointed by the competent federal minister and a judicial selection committee.



Hungary

Ireland

Under the Courts and Court Officers Act 1995 a Judicial Appointments Advisory Board was set up for the purposes of 'identifying persons and informing the Government of the suitability of those persons for appointment to judicial office'.

The Board consists of ten persons:

- ❖ the Chief Justice, (Chair of Board);
- ❖ the President of the High Court;
- ❖ the President of the Circuit Court;
- ❖ the President of the District Court;
- ❖ the Attorney General;
- ❖ a practising barrister nominated by the Chair of the Council of the Bar of Ireland;
- ❖ a practising solicitor nominated by the President of the Law Society of Ireland;
- ❖ and not more than three persons appointed by the Minister for Justice who are engaged in or have appropriate knowledge or experience of commerce, finance or administration or persons who have experience as consumers of the service provided by the courts.

Section 14 of the Courts and Court Officers Act 1995 empowers the Board to adopt its own procedures, and in this respect it may and does advertise for applications, require applicants to complete application forms; consult persons concerning the suitability of applicants to the Board; invite persons to submit their names for consideration to the Board; and arrange to interview applicants who wish to be considered for judicial appointment. The general procedure that has developed for vacancies is to require applicants to supply a completed application form, along with a Tax Clearance Certificate prior to selection for interview. Existing judges do not have to apply to the advisory board for promotion to a higher court jurisdiction. The Judicial Appointments Advisory Board then draws up a list, in no particular order, of suitable candidates for presentation to the Government. Judicial appointments are made by the President of Ireland on the recommendation of the Government. The Judicial Appointments Advisory Board publishes annual reports which are available in the 'publications' section on <http://www.courts.ie> .

Italy

On completion of the traineeship, the High Council for the Judiciary appraises whether the judge is suitable to take up judicial functions. If this appraisal is positive, the C.S.M. decides to confer judicial functions. If the outcome of appraisal is negative, the judge is admitted to a new traineeship of one year duration. If this is followed by a second negative appraisal, the employee-employer relation with the trainee career judge is terminated.



This having been said, it is worthwhile reiterating the following, in connection with the traineeship of newly-appointed judges, as provided for by the recently adopted regulatory reform, legislative decree n. 26 of January 30, 2006, appoints the School for the Judiciary with exclusive competence for judges' training and refresher courses (a body constituted in 2006, discussed below). Therefore, once operative, the School shall also be responsible for the initial training of judges and public prosecutors.

With regard to the initial training of judges, the reform makes the following provisions.

The School's Committee approves the traineeship programme to be carried out in the court offices of the provincial capital in the district where each judge is resident. Upon completing the traineeship, the Committee writes a summary report on each judge. The High Council for the Judiciary then makes a decision regarding the suitability of each judge to be conferred with judicial responsibility, also taking into consideration the Committee of Governors' reports and their summary report, the opinion of the judicial council and any other relevant and objectively verifiable information available to them. A decision in favour of the judge's suitability includes specific reference to the judge's aptitude with regard to judging and investigative functions. The trainee career judge receiving a negative appraisal is admitted to undertake a second period of traineeship of one year duration, comprising a two month session at the School itself and a session at court offices. The session at court offices is split into three distinct phases. The initial three month period is undertaken in a law court and foresees the trainee's participation in jurisdictional activity involving litigation or crimes for which the law court in question is competent, either with a panel of judges or single judge, which is to include participation in the jury room in such a way that the trainee career judge gains a balanced experience across the various sectors. The second period, lasting two months, takes place at the public prosecutor's office at a law court. The third, five month period is undertaken in an office of the sort where the trainee career judge is destined to work in the future. If this is followed by a second negative appraisal, the employee-employer relation with the trainee career judge is terminated.

Over the first four years of judicial employment, newly appointed judges are obliged to take part in professional training sessions at least once a year.

Latvia

In the order prescribed by the Law on Judicial Power concerning the nomination of the candidates the competent organ is the Minister for Justice and Judge of the Supreme Court. Further judges are appointed to office by the Saeima (the Parliament) and promoted by the Judicial Qualification Board – self-governing judicial institution, the purpose of which is to strengthen the professional independence of judges (see the answer to the previous question).

Concerning selecting and recruitment of a candidate for the office of a judge the competent organ is Court Administration – direct administrative institution subordinate to the Minister for Justice, which organizes and ensures the



administrative work of district (city) courts, regional courts and Land Registry Offices.

According to its duties Court Administration deals with the personnel files of judges; ensures the selection of candidates for offices of judges and organizes their apprenticeship; prepares documents and perform measures connected with appointment of judges and their approval for the office, as well as their depriving of an office, dismissal and removal from the office; issues or prepare orders regarding vacations, business trips and training of judges; prepares office lists of judges and approve the office lists of employees of court; approves descriptions of offices of employees of court; upon co-ordination with Chief Judge, hires and dismisses employees of a court issue orders regarding vacations, business trips and training of employees; plans and ensures the training of judges, employees of a court; requests from court the necessary data and from the employees thereof – explanations; prepares materials regarding initiation of a disciplinary matter against a judge; punishes disciplinary employees of a court regarding the employment discipline violations determined (Law on Judicial Power, Section 107).

Lithuania

Impartiality and transparency of judges' selection and evaluation procedures are guaranteed in the Law on Courts (*A new version of 24 January 2002 No IX-732, as last amended by 13 May 2010 No XI - 810*) by settled order of composition of certain commissions and (or) subjects who offer and allot members of these commissions. Members of these commissions can be not only judges but also public representatives. Their participation in the activities of the commissions has positive influence for the society to value these procedures as objective, transparent and impartial.

The Selection Commission of Candidates to Judicial Office (in accordance with regulations of Article 55¹ of the Law on Courts is the Commission the aim of which shall be to help the President of the Republic in selecting the candidates for Judicial Office)

The President of the Republic composes the Selection Commission of Candidates to Judicial Office (Selection commission), settles the work order of this commission and criteria of the selection of the candidates to judicial office in order to solve question regarding selection of candidates to the vacant positions in district courts. The Selection Commission shall be composed of seven persons and formed for a period of three years. Three members of the Selection Commission shall be judges and four members shall be the representatives of the society. The President of the Republic shall appoint the Chairman of the Selection Commission from among the members of the Commission. Members of the Judicial Council may not be appointed members of the Selection Commission (*the Law on Courts, Article 55¹, part 1*).

Activities of the Selection Commission shall be based on the principles of collegiality, impartiality, independence, objectivity and legality. Persons to the position of the judge (and persons seeking judicial promotion) are selected according to clearly set selection criterion. (*The Description of the Selection Commission of Candidates to Judicial Office, item 3*)



Selection procedure starting from the begging till the end is published in the website of the National Courts Administration. The begging of the selection is published by initiative of the Office of the President of the Republic. The list of candidates, the date, time and venue of the Selection commission are published according to the order. Furthermore the list of candidates' priority order and the conclusions are published after the meeting of the Selection commission.

Conclusions of the Selection commission are given over to the President of the Republic, but they do not oblige the President (they are recommendatory) (*the Law on Courts, Article 55¹, part 10*).

The President of the Republic before the appointing the person as a judge or before the promotion of the judge according to the Constitution should appeal to the special judicial institution – Judicial Council – which is an executive body of the self-governance of courts ensuring the independence of courts and judges. The Judicial Council is like a balance for the President of the Republic who according to Constitution takes decisions regarding appointment, transfer, promotion and dismissal of judges. According to the Constitution the President of the Republic has nor right to appoint, transfer, promote or dismiss a judge without the advice of the Judicial Council. The activity of the Judicial Council as well is public.

The Permanent Commission for the Assessment of Activities of Judges is the commission formed under the regulations of the Law on Courts stated in Article 91³ Part 4.

The Permanent Commission for the Assessment of Activities of Judges (Assessment commission) implements the assessment of the judges' activities. The Assessment Commission is formed for the term of office of the Judicial Council from seven members: three of them must be not judges. Four members of the Commission are elected from the judges by the Judicial Council, three members are appointed by the President of the Republic. The Chairman of the Commission from the appointed members is elected by the Judicial Council. The activities of the Assessment Commission are serviced by the National Courts Administration (*the Law on Courts, Article 91³, part 4*).

Members of the Judicial Council can not be appointed as members of the Assessment Commission. The remuneration of the members' of the Assessment Commission except judges is settled by the Government.

The procedure for assessment of the activities of judges shall comply with the principle of legal certainty and efficiency, legitimate expectations and other principles specified in this Law, provide conditions for a comprehensive and objective assessment of the judges' professional activities (*the Law on Courts, Article 91³, part 3*).

1. The activities of judges shall be assessed seeking to reveal the level of professional activities and skills possessed by the judges, also Chairmen of Courts, Deputy-chairmen of Courts, Chairmen of the divisions (hereinafter in this Section together referred to as judges), the capacities to use in practice theoretical knowledge and skills, to participate in the administrative work of the court and to organise it, to establish the strengths and weaknesses of the activities of judges and to promote them, to improve professional skills).

2. The results of assessing the activities of judges shall be used for the following purposes:

1) when organizing adequate training of judges (establishing the trends of teaching, compiling and improving the programmes of teaching of the judges, tailoring teaching etc.);



2) objectively deciding the issues of promotion of judges and appointment for a new term of office of judges and Chairmen of courts, Deputy-chairmen of courts, Chairmen of the divisions, seeking to establish whether the judge who is a candidate to promotion or the Chairman of Court who is a candidate to a new term of office meets the requirements put to the candidate, as well as objectively comparing several candidates between one another;

3) promoting the improvement of the judge's qualifications;

4) developing the administration of courts (*the Law on Courts, Article 91¹, part 1*). If judge is a candidate for the higher court or higher position his activities should be evaluated before the selection procedure (extraordinary assessment). The results of the assessment are included into the selection criteria.

Information about meetings of the Assessment Commission is published in the website of National Courts Administration.

The Assessment Commission, Selection Commission and Judicial Council are serviced by the National Courts Administration which is established by the separate law. This institution is independent from legislative or executive authorities. This is a budgetary institution which aim is to guarantee the administrative and organizational activity of courts and self-governance of courts.

The Netherlands

An independent selection committee, consisting of judges, academics, and other representatives of high legal professions, determines whether an applicant is considered admissible to the judiciary.

Norway

Judgeships must be applied for. Officers in the National court administration may do some work to have applicants, but normally there are many applying by themselves. There is a nominating board for appointments of judges. The National Court Administration is the secretariat of this board. The board consists of three judges, two advocates and two people from outside the legal professions.

This board nominates three candidates for each judgeship in preferential ranking. The government appoints judges. However, these are taken from the nomination list given by the board, and in 99 per cent of the cases the candidate nominated as number one is chosen.



Poland

The body competent to decide about the issues of recruitment, selection and promotion of judges is the National Council of the Judiciary (www.krs.pl).

The selection of candidates to a judicial post (for the first time in career and within the scope of promotion to a higher post) is entirely competition-based.

The Minister of Justice places an announcement about a vacant post of a judge in Monitor Polski [Official Journal], and all persons willing to hold the post and meeting statutory requirements pertaining to the appointment to the post of a judge may participate in the competition. The previous professional work is subject to assessment by auditing judges from the circuit court or the court of appeal, and then - upon conducting an opinion on the candidate by the auditing judge – three stages of the competition procedure take place, namely: 1) voting by the board of the court (a collective body supporting the President of the court), 2) voting during the general assembly of all the judges of a given court, 3) proceedings before the National Council of the Judiciary. Assessment of the candidate's work is conducted in accordance with statutory substantive criteria (quantitative and qualitative outcomes of the candidate's work, as well as lack of arrears, substantive level of the statements of reasons, personal shall be subject to assessment, personal conduct, scientific achievements, etc.) A person who wins the competition is presented for nomination to the President of the Republic.

Romania

The Superior Council of Magistracy is the authority with competences regarding the magistrate's career.

The recruitment of judges and prosecutors is realized with the support of the National Institute of Magistracy (NIM).

The appointment of magistrates is realized by the President of Romania but at the proposal of the Superior Council of Magistracy.

The appointment in leading positions is realized through the examination organized by the Superior Council of Magistracy.

Scotland

The Judicial Appointments Board for Scotland is the body with principal responsibility* for the selection of judges in Scotland, whether for first appointment or for appointment to a more senior judicial position. (Appointment to a more senior position may be by promotion of a serving judge of a lower level or appointment of an experienced lawyer who is not already a judge [see 1(a)(1)above]). The Board is an independent statutory body. In its present form it was set up by the Judiciary and Courts (Scotland) Act 2008, but it was originally established as an independent non-statutory body in 2002. It consists of a chairman and an equal number of judicial/legal members and lay members. Government Ministers and officials are disqualified from membership of the Board. The Board does not appoint judges as such. It carries out the independent selection process and makes nominations and



recommendations to the First Minister of the Scottish Government, who in consultation with the Head of the Scottish Judiciary (the Lord President) makes recommendations to Her Majesty the Queen, by whom appointments are formally made. In terms of the Act the Minister may nominate or recommend an individual for appointment to a judicial office only if the Board has recommended the individual for appointment to the office.

*(The Board deals with the selection/appointment of Judges of the Court of Session/ High Court, the Chairman of the Scottish Land Court and Sheriffs Principal, Sheriffs and Part-time Sheriffs. The Board is not involved in the special arrangements for the appointment of the two most senior judges in Scotland, or the separate arrangements for the appointment of Justices of the Peace, who are not qualified lawyers and sit in local Justice of the Peace courts dealing with minor criminal cases.)

Spain

According to article 122.2 of the Spanish Constitution the General Council for the Judiciary is the governing organ of the Judiciary and exercises the functions determined by the law, “particularly in matters of appointments, promotions, inspections, and disciplinary regime (of the Judiciary)”. Consequently, pursuant to the relevant provisions of the Law on the Judiciary, the CGPJ plays a major role regarding decisions on recruitment, selection, appointment and promotion of members of the Judiciary.

Concerning the recruitment, selection and appointment of junior judges (i.e. members of the Judiciary who belong to the third rank of the judicial career) the CGPJ exercises some competences, together with the MoJ and the General Prosecutor’s Office, in the organization of the public competitive examination, which is common for the recruitment of junior judges and junior prosecutors. The CGPJ, the MoJ and General Prosecutor’s Office appoint the members of the Selection Committee in charge of the organization of the selection process, which is competent for the appointment of the members of the examination panels that evaluate the candidates participating in the competitive examination. Under article 305 of the Law on the Judicial Power, the Selection Committee is chaired alternatively for a period of one year by a member of the CGPJ and a Prosecutor of the Supreme Court and is also composed by a senior judge, a public prosecutor, the Director of the Judicial School under the CGPJ, the Director of the Centre for Legal Studies under the MoJ, and finally a member of the technical bodies of the CGPJ and a civil servant of the Ministry of Justice with the minimum rank of General Assistant Director, both Law graduates, who shall act alternatively as Secretaries of the Committee. The members of the Committee are formally appointed for a period of four years by Order of the Ministry of Justice, according to the following rules: a) The member of the CGPJ, the Senior Judge, the Director of the Judicial School under the CGPJ and the member of the technical bodies of the CGPJ are proposed by the Plenary Assembly of the CGPJ; b) the members who are public prosecutors are proposed by the General Prosecutor’s Office; and c) the Director of the Centre for Legal Studies under the MoJ and the officer of the MoJ are proposed by the MoJ.



The examination panels are chaired by a Justice of the Supreme Court (or a Senior Judge of a High Court of Justice), or a Prosecutor of the Supreme Court (or a Prosecutor at the Public Prosecutor's Office before a High Court of Justice) and are also composed by two Senior Judges, two Public Prosecutors, a University professor, a State advocate, an advocate with more than ten years of professional practice and a senior Clerk of the Court, who shall act as Secretary of the panel. The appointment of the members of the panel is done by the Selection Committee at the proposal of the CGPJ, the General Prosecutor's Office, the University Coordination Board, the MoJ and the General Bar Council.

On the other hand, the CGPJ is the only competent organ regarding the second phase of the selection process for the appointment of junior judges (i.e. the theoretical and practical selection course delivered by the Judicial School under the CGPJ). The panel of trainers of the Judicial School under the CGPJ draws up a list of candidates who have passed the theoretical and practical course according to the grade achieved. The list is submitted through the Training Committee of the CGPJ to the Plenary Assembly of the CGPJ, who formally issues the appointment order, pursuant to article 131 of the Law on the Judicial Power.

As regards the process of selection and appointment of senior judges and justices of the Supreme Court and promotion of senior judges in general, all competences are exercised by the CGPJ, which is the only constitutional organ with powers in this respect. Thus, the CGPJ appoints all the members of the panel in charge of evaluating the candidates who participate in the competition between legal professionals of renowned competence with more than ten years of professional practice. The selection panel is chaired by the President of the Supreme Court or a Justice of the Supreme Court or a Senior Judge of a High Court of Justice delegated to the procedure, and is composed by two Senior Judges, a Public Prosecutor, two University Professors appointed according to the subject, an advocate with more than ten years of professional practice, a State advocate, a Senior Clerk of the Court and a member of the technical bodies of the General Council of the Judiciary with a Law Degree who shall act as secretary of the panel. Furthermore, as it has already been explained, pursuant to article 313.11 of the Law on the Judicial Power, the Plenary Assembly of the CGPJ "may reject a candidate on specific grounds despite the favourable proposal of the qualifying panel, provided that subsequent to that procedure, evidence arises of a circumstance which implies insuperable discredit (of the candidate)". The CGPJ is also the only competent organ as regards the second phase of the selection process for the appointment of senior judges (i.e. the initial training and selection course, which is organised by the Judicial School under the CGPJ). The panel of trainers of the Judicial School under the CGPJ draws up a list of candidates who have passed this course according to the grade achieved, and the list of candidates is submitted through the Training Committee of the CGPJ to the Plenary Assembly of the CGPJ, who formally issues the appointment order and submits it to the Minister of Justice and the Head of State for their signature and publication in the form of a Royal Decree.

Finally the Plenary Assembly of the CGPJ is the only competent organ for the appointment of the holders of the following high judicial offices: a) President of the Supreme Court (following his immediately previous designation as President of the CGPJ), Presidents of the Divisions of the Supreme Court and justices of the Supreme Court; b) President of the National Court and Presidents of the Divisions



thereof; c) Presidents of the High Courts of Justice of the Autonomous Communities and its Divisions and judges of the High Courts of Justice of the Autonomous Communities; d) Presidents of the Provincial Courts. The decision regarding the appointment of the holders of these high judicial offices is adopted by the Plenary Assembly of the CGPJ by simple majority, in principle. However, the decision on the appointment of the President of the Supreme Court, Presidents of the Divisions of the Supreme Court, justices of the Supreme Court and Presidents of the High Courts of Justice of the Autonomous Communities require a qualified majority of 3/5 of the members of the CGPJ. As it has already been explained, the Plenary Assembly of the CGPJ submits its decision to the Minister of Justice and the Head of State for their signature and publication in the form of a Royal Decree. Neither the King nor the Minister of Justice may object the appointment of the candidate proposed by the CGPJ.

When adopting decisions regarding the proposals for appointment of the abovementioned holders of high judicial offices the Plenary Assembly of the CGPJ exercises a discretionary power. However, all decisions of the Plenary Assembly of the CGPJ concerning this issue must be reasoned and can be challenged before the Administrative Division of the Supreme Court (judicial review) by any of the applicants. In order to regulate its discretionary power in this matter, the Plenary Assembly of the CGPJ has recently adopted Regulation n^o 1/2010 of the 25th February 2010, on decisions regarding appointment of holders of high judicial offices, which stipulates the merits and criteria of competence to be assessed when adopting decisions on appointment and contains some provisions in respect of the procedure for adoption of decisions in this field. All proposals for appointment must be consistent with the principles of merit and capacity in the performance of jurisdictional duties, objectivity, transparency and gender balance. The merits and criteria of competence stipulated in the Regulation include seniority in judicial service and particularly in court panels consisting of more than one judge, previous judicial practice in courts of the same branch of the jurisdiction, importance of previous judicial decisions from the technical point of view, practice of other relevant legal professions, qualification as a Doctor of Law, previous experience or practice in any of the organs of self administration of the Judiciary, and the contents of the specific programme for the direction of the court (in the case of candidates to the office of president of any of the courts or divisions).

Sweden

As pointed out under a) there are three organs who are handling those issues. The Swedish National Courts Administration has the competence to examine the need of recruitment. The Judges Proposals Board has the competence to recruit and select candidates and the Government has the competence concerning appointments. Soon this arrangement will be applied for all positions, including appointments in the highest courts.

2) Judicial Training (both initial and continuing):

2.a. Role of the Initial Training in the selection of Judges

Which is the role assigned in your legal system to initial judicial training in the process of selection/appointment of members of the Judiciary?

Austria

The initial judicial training in Austria is a major part in the process of selection and appointment of judges (see answer to point 1a).

Belgium

Bosnia Herzegovina

Participation in organised training is one of the explicit criteria that is assessed by HJPC of B&H when selecting members of the judiciary.

Bulgaria

Initial training as provided in Judicial System Act takes place after selection/appointment of a magistrate. The only prerequisites referring to professional qualification, as mentioned above, are: holding a degree in law; internship and obtained legal capacity, and, with exception of junior magistrate's positions, a certain period of legal service record.

Czech Republic

The initial judicial training is organised for candidates for judges after their selection by the Judicial Academy. Initial training is obligatory (candidates work at district court and they participate on short time courses organized by the Judicial Academy in its seat – Kroměříž).



Denmark

The initial judicial training consists of a three-year basic training module. The training module intends to ensure that the applicant possesses professional knowledge concerning both national and international law. In addition the applicants must among others show good communication skills and demonstrate an understanding of conflict management. The three-year training module includes practical casework, a variety of obligatory courses and ends with an exam.

England and Wales

The Judicial Studies Board (JSB) is an independent judicial body which forms part of the Judicial Office for England and Wales. Its purpose is to ensure that high quality training is delivered to enable those who discharge judicial functions to undertake their training effectively, in a way which preserves judicial independence and supports confidence in the justice system. The JSB is directly responsible for the development and training of judges in the Crown, county and higher courts. It also provides some training, advice and support to those providing training in the magistrates' courts and to tribunals. The JSB's activities fall under three main headings:

- 1) Initial training of new judicial office holders and those who take on new responsibilities
- 2) Continuing professional education to strengthen and deepen the skills and knowledge of existing judicial office holders
- 3) Delivering change and modernisation by identifying training needs and developing and delivering training programmes to support major changes to legislation and to the administration of justice.

One of the principles underlying the work of the JSB is that judges remain responsible for judicial training so training is delivered by existing judges who are trained as JSB tutor judges. The oft-quoted mantra is that "it is the training of judges by judges for judges".

Judges' terms and conditions state that the Lord Chief Justice expects all judicial office holders to attend conferences and courses organised by or on behalf of the JSB on subjects relevant to their work. Both the Lord Chief Justice and Lord Chancellor consider that training is of considerable value not only for newly appointed judges, but also for those who have been in office for some time.

Induction training is provided to newly appointed fee-paid judges and for salaried judges embarking on a different specialism. Newly appointed fee-paid judges also sit in with another, more experienced judge for a number of days before they start their sittings. Furthermore a mentoring scheme exists for newly appointed recorders and deputy district judges.



Finland

As described above a Masters' degree in law is required but the other qualifications can be acquired by practical legal work at courts or in positions connected with court proceedings.

Germany

The qualification to hold judicial office pursuant to section 5 of the German Judiciary Act is obtained by means of successful completion of (initial) legal training, which is composed of university studies and subsequent practically oriented preparatory service. This is one of the preconditions for appointment to judicial service (see response to question 1a above). The results obtained in the two legal examinations which are taken as part of (initial) training often serve as one of the deciding factors for appointment to judicial tenure. This is, however, not laid down in law, but is applied in practice. It is at the duty-bound discretion of the appointing authority to decide on the degree of significance to be accorded to exam results.

Hungary

In Hungary, training for judges is centralised within the Office of the National Council of Justice. Since 1st September 2006, the Hungarian Judicial Academy (HJA), which is governed by the NCJ, has been established for the purposes of providing judicial training. It develops and coordinates theoretical and practical training programmes (3-5 days length) that are carried out at various locations throughout the country. This Academy is a unique institution in Hungary's history, which aims to offer high quality education to the members of the judiciary. Relying on the Academy's institutional potential, its main objective is to support the efficient functioning of the courts with a scientific and educational centre of the highest European standards. The Academy's curriculum includes both initial and continuing training of judges, as well as training of court personnel. The HJA also serves as an information and documentation centre as well.

The professional training of public prosecutors is organised by the Office of the Prosecutor General. A separate training institution has been set up for the training of public prosecutors since 1st October 2005 through the establishment of the Hungarian Training Centre for Prosecutors, which began to operate in 2006. The Centre provides initial training for trainee prosecutors and training for junior prosecutors. Participation in the initial and continuous training programmes is both right and obligation for the members of the prosecution service and the participation is free of charge.

Initial training:

As mentioned above, candidates for judicial office must undertake an obligatory initial training period which consists of various phases (including clerkship, examinations, serving time as a court secretary or a prosecution secretary etc.) in



order to qualify as a judge or a prosecutor in Hungary. The HJA provides training for future judges not only theoretical training to help them prepare for the national public examinations but also in other areas such as mock trials, judgement drafting, non-legal subjects (sociology, psychology etc.)

From 1st January 2006, the initial training for public prosecutors (and also the training for trainers) has been provided by the Hungarian Training Centre for Prosecutors. The basic initial training period lasts for five semesters during a three-year traineeship, which aims to provide trainees with the relevant theoretical and practical knowledge to prepare for the national examination to qualify as a public prosecutor and also to develop appropriate skills for their career. Upon being appointed, junior prosecutors are required to follow a special training which lasts for two semesters and to pass a professional examination after this period. The Centre is also responsible for the organisation of the public examination to qualify as a public prosecutor and the organisation of training for trainer's programmes.

Ireland

As stated above, judges in Ireland are appointed from a pool of experienced and respected legal practitioners with vast experience in substantive and procedural matters. As there are no career judges in Ireland, training structures are less formal. The Judicial Studies Institute chaired by the Chief Justice was established in 1996 with a view to providing continuing education for all judges. Under its auspices seminars are organised for members of the judiciary, ranging from seminars on specific areas of law to procedural and practical issues. In addition, the Institute organises conferences, such as the Judges Annual Conference and conferences for each division of the courts, as well as training and study visits for the Judiciary both in Ireland and abroad.

The Judicial Studies Institute publishes a journal, the Judicial Studies Institute Journal, every six months. The journal contains articles concerned with contemporary legal issues of interest to the judiciary and members of the judiciary have published a number of articles in the journal. For more information, see <http://www.jsijournal.ie>.

Italy

With regard to the training of career magistrates, appointed on the outcome of a competitive state examination, it should be noted that such judges must undergo a period of mandatory traineeship. Magistrates under training do not fulfil any judicial functions.



It should be emphasized that the purpose of traineeship is twofold; firstly, it attends to the professional development of judges having won the competitive state examination, and secondly it seeks to verify their suitability for the execution of judicial functions.

In order to fulfil these tasks, the Council avails itself of the services of various judicial councils (local bodies of self-government comprising judges, lawyers and professors of law, present in each Court of Appeal) and judges expert in the field of professional training.

More specifically, within each judicial council a district committee is set up for trainee judges. Various different magistrates are members of this committee, amongst them are “aide magistrates”, chosen by the judicial council on the basis of their legal experience, theoretical and practical knowledge and professional prestige, in addition to well-developed communication, instructional and organizational skills. The appointment of “aide magistrates” is subject to the approval of the C.S.M.. The total duration of traineeship is determined for each competitive state examination by the High Council for the Judiciary and, according to regulations, can be no less than eighteen months. The traineeship is divided into two distinct phases, the first known as “ordinary training” and the subsequent one as “targeted training”. Ordinary training lasts no less than thirteen months. Targeted training lasts no less than five months. Ordinary training focuses on the development and completion of judges’ and public prosecutors’ cultural grounding and the introduction of work practice, the latter concentrating particularly on the study of procedural techniques and methods. Throughout traineeship, the training process is oriented towards developing qualities imperative in a judge and in a public prosecutor, commitment, balance, independence and impartiality, as well as fostering an attitude which permanently takes on board the teachings of the training course and develops an upright and mindful approach in dealings with users, colleagues, lawyers, investigative police and office personnel. During ordinary training, newly-appointed magistrates are assigned to civil and criminal court offices. Generally, the traineeship is carried out in the following order: firstly in civil court offices, then in criminal court offices, and lastly in investigating court offices. In this way, magistrates are able to gain experience in the various fields of judicial activity. Indeed, the main objective of this ordinary phase of training is to impart a knowledge of the methods used for the in-depth analysis of cases and problems, as well as developing the general organizational skills required by the profession.

Targeted training is carried out in the same sort of court in which the judge, provided that the traineeship is completed successfully, will eventually take up Court Office. Targeted training aims to complete judges’ basic training and hone those professional techniques demanded by the specific roles they are destined to fulfil.

This having been said, it is worthwhile reiterating the following, in connection with the traineeship of newly-appointed judges, as provided for by the recently adopted regulatory reform, legislative decree n. 26 of January 30, 2006, appoints the School for the Judiciary with exclusive competence for judges’ training and refresher courses (a body constituted in 2006, discussed below). Therefore, once operative, the School shall also be responsible for the initial training of judges and public prosecutors.



With regard to the initial training of judges, the reform makes the following provisions.

The School's Committee approves the traineeship programme to be carried out in the court offices of the provincial capital in the district where each judge is resident. Upon completing the traineeship, the Committee writes a summary report on each judge. The High Council for the Judiciary then makes a decision regarding the suitability of each judge to be conferred with judicial responsibility, also taking into consideration the Committee of Governors' reports and their summary report, the opinion of the judicial council and any other relevant and objectively verifiable information available to them. A decision in favour of the judge's suitability includes specific reference to the judge's aptitude with regard to judging and investigative functions. The trainee career judge receiving a negative appraisal is admitted to undertake a second period of traineeship of one year duration, comprising a two month session at the School itself and a session at court offices. The session at court offices is split into three distinct phases. The initial three month period is undertaken in a law court and foresees the trainee's participation in jurisdictional activity involving litigation or crimes for which the law court in question is competent, either with a panel of judges or single judge, which is to include participation in the jury room in such a way that the trainee career judge gains a balanced experience across the various sectors. The second period, lasting two months, takes place at the public prosecutor's office at a law court. The third, five month period is undertaken in an office of the sort where the trainee career judge is destined to work in the future. If this is followed by a second negative appraisal, the employee-employer relation with the trainee career judge is terminated.

Over the first four years of judicial employment, newly appointed judges are obliged to take part in professional training sessions at least once a year.

Latvia

The national legislation provides respective standards for the judge candidate. As a judge of may be appointed a person who has acquired a diploma of the State recognized second level higher education in legal sciences and a lawyer qualification; has at least five years length of service in a legal specialty after acquiring of a diploma of the State recognized second level higher education in legal sciences and a lawyer qualification or has been working in position of assistant to a Chief Judge or assistant to a judge for at least five years and has passed qualification examinations (Law on Judicial Power, Section 52).

Cabinet regulations of 3rd March 2009 No. 204 "Procedures for the Selection, Apprenticeship and Passing of Qualification Examination of Candidates to the Office of a Judge" prescribe that the selection of a candidate consists of two stages:

- structured interview for testing suitability of candidate's skills;
- professional qualification examination for testing candidate's professional knowledge.

After passing selection apprenticeship shall be determined upon the proposal by the Judicial Qualification Board, taking into account the level of professional qualification of the candidate for a position of a judge. In its turn the qualification examination follows.



Lithuania

Training of judges shall be organised, programmes and methodological materials shall be developed by the Judicial Council and the Ministry of Justice (the Law on Courts, Article 93, part 1). With the Judicial Council approved and adopted by the Minister of Justice the Training Centre of the Ministry of Justice comply education and training plans and programs for judges.

The aims of activities of the Training centre are training and refresher training of judges, judges' assistants, chairmen of courts, and advisors of chairmen of departments of courts. Implementation and organization of refresher training programmes for prosecutors, training and refresher training programmes for lawyers by agreements, and organization of other kind of training, seminars, meetings, conferences and provision of other paid services in Lithuania and abroad. The Training centre organizes seminars and participation in judicial internships in foreign countries in collaboration with other foreign legal institutions that carry out training for judiciaries. The National Courts Administration is also providing information on training and conferences abroad to the courts of Lithuania.

Initial training shall be intended for persons who have been appointed judges to the district court for the first time, with a view to expanding their knowledge and building professional skills. Initial training for judges shall last at least a month before the judge assumes the duties of the judicial office (the Law on Courts, Article 92, part 2).

The Netherlands

There are two main roads to becoming a (fulltime) judge. The first is meant for people with little or no work experience. They have to submit to a four to six-year training period, during which they are familiarized with all sections of the judiciary. A candidate begins working as a clerk and eventually becomes a judge-trainee. During the first years, there is no distinction between trainings for judges and those for prosecutors. In other words, those who want to become a judge also have to work as a prosecutor and vice versa. The national training institute for judges (SSR) is responsible for training and evaluation. Training takes place in one of the courts of first instance (rechtbank). In addition, applicants frequently have to take courses offered by the SSR. Depending on their work experience, trainees have to spend up to two years in a working environment outside the court system, such as a law firm or an NGO. Prior to being admitted to the training period, the applicants have to undergo interviews and psychological tests.

The second road to the judiciary is for people with at least six years (and ten years for those who want to apply to an appellate court) of relevant practical experience. In other to qualify, applicants have to submit to an assessment, which includes tests



and interviews meant to determine whether the applicant meets the requirements listed above. The outcome of the test is not decisive, but can be taken into account by the selection committee. Upon admission candidates will be subject to training activities within the court to which they apply. Each court has its own training and admission requirements. Most courts require their applicants to qualify for at least two out of the three main sections (civil, criminal, and administrative law). Trainees will also take courses offered by the SSR.

Norway

There is no training before the appointment. After the appointment there are seminars over three weeks for the new judges. It is to be remembered that the new judges normally have worked in court for years, and that the judges are selected from the group of best qualified advocates etc.

Poland

Since its establishment in 2006, the National School of the Judiciary and Public Prosecution (www.kssip.gov.pl) has operated in Poland (until March 2009 under the name the National Training Centre for the Officials of Common Courts of Law and the Public Prosecutor's Office).

The tasks of the National School include:

1. conducting the following trainings: general, judicial and public prosecutors (initial training), the purpose of which is to obtain by the trainees the necessary knowledge and functional preparation for the post of a judge, public prosecutor, assistant judge of the public prosecutor's office, assistant to a judge, assistant to a public prosecutor and court referendary;
2. training and professional enhancement of judges, public prosecutors, assistant judges of courts and of the public prosecutor's office (continuous training), in order to supplement their specialist knowledge and professional skills;
3. training and professional enhancement of court referendaries, assistants to judges and assistants to public prosecutors, court probation officers and officials of courts and public prosecutor's office (continuous training), raising their professional qualifications;
4. carrying out analyses and research for the specification of competence and qualifications attributed to the posts in courts and public prosecutor's office, to use them for the purposes of the training activity.
5. preparing programmes of seminars and practical training for court and prosecutor trainees and undertaking organizational measures related to the implementation of the programmes in question, including court or prosecutor specialization in frames of the ongoing training;
6. providing initial training (application): general application, judge's application and prosecutor's application;
7. preparing an organizing programmes of applications;
8. preparing programmes of legal trainings for judge's assistants and court



referendaries;

9. preparing and organizing exams for judges and prosecutors;
10. preparing programmes and organizing central training and other cyclical forms of professional development;
11. coordinating training activities of courts and public prosecutor's offices;
12. preparing and organizing conferences, symposiums, seminars related to the particular areas of law;
13. international cooperation and cooperation with the faculties of law of universities, institutions and research centers with respect to the training activity and other forms of professional development;
14. publishing activity related to the publication of training materials;
15. other tasks related to the development of officials of common courts of law and the public prosecutor's office, designated by the Minister of Justice.

Initial training – comprising a one-year (12-month) general training and a two-and-a-half (30-month) judicial and public prosecutor's training – is obligatory in a sense that if a person chooses to reach the profession of a judge through: 1) training (initial training), 2) state examination for the post of a judge or public prosecutor (see information on recruitment of judges in item I), then such a person shall complete the training.

Completing judicial training, passing the state judicial examination and appropriate apprenticeship in the post of an assistant to a judge or a court referendary is currently the most popular way of reaching the post of a judge. However, there exist other ways to reach the profession of a judge (for instance independent performance of other legal profession for a specified period). In such a case, completing judicial training is not necessary (obligatory).

A judge has a statutory obligation to continuously raise his or her professional qualifications and participate in trainings and other forms of professional improvement, organised under the Act on the National School of the Judiciary and Public Prosecution.

Romania

According to art. 16 of the Law no. 303/2004, the initial professional training is performed by the National Institute of Magistracy and it consists of academic education and practical training of the auditors of justice in order to become judges or prosecutors.

The Superior Council of Magistracy approves the professional training program for auditors, upon the proposal of the National Institute of Magistracy. After completing the training courses of the National Institute of Magistracy, the auditors of justice shall pass a graduation theoretical and practical exam, by which it is verified whether the knowledge necessary for exercising the office of judge or prosecutor was acquired.



Scotland

There is no pre-selection judicial training, but there is induction training for newly appointed members of the judiciary in Scotland. This training is provided by the Judicial Studies Committee for Scotland, a judicially-run body which assists the Head of the Scottish Judiciary (the Lord President) in fulfilling his statutory responsibilities for making and maintaining appropriate arrangements for the training of judicial office holders in Scotland.

Spain

As it has already been explained (see1a), initial training plays a key role in the process of selection and appointment of Spanish judges, particularly of those who belong to the second and third ranks of the judicial career (i.e. junior judges and senior judges), since the induction training is one the stages of the selection procedure of judges of those ranks. The initial training is organised by the Judicial School, which is the official centre for selection and training for Judges under the CGPJ.

Only those candidates for the positions of junior judges and senior judges who successfully complete the theoretical and practical stages of the induction training course organised by the Judicial School can be proposed for appointment as junior judges or senior judges by the order of the proposal made by the panel of professors at the Judicial School. To this purpose, the panel of professors at the Judicial School draws up a list of candidates who have passed the theoretical and practical stages of the initial training course according to the grade achieved. The list is submitted to the CGPJ, who formally issues the proposal for appointment, and with the appointment order and the taking of office in a court the candidates are invested as junior judges or senior judges.

The induction training and selection course at the Judicial School consists of two stages: a) a theoretical phase based on a programme of multidisciplinary training; and b) a practical period of training in different courts, in which the trainees act as assistants to mentor judges. During this practical stage the task assigned to the trainee judges shall not, in principle, exceed the drafting or planning of judgments and other judicial decisions, so that the mentor judge can, if appropriate, assume the text of the drafts adding any amendments he may deem necessary. The duration and contents of the two phases of the initial training and selection course are determined the CGPJ according to the programme devised by the Judicial School. The induction training and selection course for junior judges tends to be much longer than the induction training and selection course for senior judges, since it is assumed that the latter have a deeper knowledge of the judicial system and practice as a result of their previous practical experience as legal professionals in different fields. Thus, the current duration of the theoretical and practical stages of the initial training and selection course for junior judges is nine months each, whereas in respect of the induction training and selection course for senior judges the current duration of the theoretical phase is four weeks and the practical period of training currently lasts eight weeks.



European Network of Councils for the Judiciary (ENCJ)

Réseau européen des Conseils de la Justice (RECJ)

Unlike other senior judges appointed among legal practitioners, the candidates proposed by the CGPJ for the positions of senior judges at the Civil and Criminal Divisions of the High Courts and of justices of the Supreme Court need not undergo any kind of induction or initial training before being formally appointed. In these two cases it is assumed that the candidates proposed for those high judicial offices are prominent lawyers and legal professionals of renowned competence with a long professional practice, and this feature makes the initial training unnecessary.

Sweden

A few years ago a certain body called Courts of Sweden Judicial Training Academy was established. This body offers both initial and continuing judicial training for all judges, seeking to match the individual needs of each judge. The Academy has the primary responsibility for all competence development for judges regarding judicial skills. There is a judge who is head master of the Academy. The head master is responsible for planning the content in the education the Academy offers. In planning the training activities the head master seeks to meet the wishes from the Judiciary. Organisationally, the Academy is a semi-independent part of the Swedish National Courts Administration.

2.b. Role of the Continuing Judicial Training in promotion or specialization of Judges

Which is the role assigned in your legal system to continuing judicial training in the promotion or specialization of members of the Judiciary?

Austria

Continuing judicial training takes a remarkable role in the Austrian legal system. Seminars and Courses are offered in different fields of the Austrian legal system in order to provide the possibility for a more specialized training in certain areas as well as for gaining soft skills for better communication with everyone dealing with court.

Belgium

Bosnia Herzegovina

The HJPC of B&H approves the annual report of the Steering Boards on Judicial and Prosecutorial Training Centres insofar as it relates to the advanced professional training of judges and prosecutors. It also monitors and advises courts and prosecutors on appropriate procedures and initiates training as part of target reform projects. The Training Centres offer a range of topics and so judges and prosecutors can choose topics in which to specialize.

Bulgaria

Continuing judicial training doesn't have direct effect in the promotion procedure of judges and prosecutors. The number and types of training courses/programmes passed doesn't have direct effect on the performance appraisal of a judge/prosecutor. Presumably, the continuing training improves qualifications. Under Art. 261 of Judicial System Act, the Supreme Judicial Council may decide that particular courses are mandatory for judges, prosecutors, investigating magistrates in the event of: 1. Promotion in position; 2. Appointment as administrative heads; 3. Specialisation. Up till now the Supreme Judicial Council has not exercised this competence.

Czech Republic

The continuing training is also organised by the Judicial Academy (for judges, state prosecutors and other judicial staff), but for judges it is not obligatory (judges can decide on seminars and lectures they want to take (it is not condition for promotion)).



Denmark

The Danish Court Administration offers a broad selection of courses which the members can participate in on a voluntary basis.

England and Wales

Judges' terms and conditions state that the Lord Chief Justice expects all judicial office holders to attend conferences and courses organised by or on behalf of the JSB on subjects relevant to their work. Both the Lord Chief Justice and Lord Chancellor consider that training is of considerable value not only for newly appointed judges, but also for those who have been in office for some time.

The JSB offers continuation training for all levels of courts judiciary from High Court Judges to deputy district judges. There are 38 continuing training seminars for 2011-12 in civil, criminal, family law and magisterial law and a seminar on the craft of judging. Salaried judges are required to attend one national three-day seminar each year and are free to choose which one they wish to attend. Fee-paid judges are also required to attend a national seminar of their choice, although less frequently than once a year. Judges must ensure that their education programme includes regular training in the work they do or are authorised to do.

Circuit Judges also attend a training day held regionally, which includes training on sentencing, while district judges attend a one day national seminar each year.

Judges also have access to material on the JSB's dedicated private training website and receive regular e-letters in civil, criminal and family law.

Finland

Participation in training is considered to be a merit when applying for a higher position in the judiciary.

Germany

By virtue of their oath of office judges are under an obligation to undertake continuing training; however, as a result of their judicial independence they are at liberty to decide in which way they comply with this obligation (participation in continuing training events, independent study, etc.). A willingness to pursue continuing training and evidence that continuing training has been undertaken have already been integrated into the appraisal systems and personnel development schemes of almost all the Länder. In addition, the continuing training events put on



at Land and federal level and relating to specialised fields, e.g. family law, are met with a positive response and attract regular participation by judges, who make use of them for the purpose preparing themselves for a specific judicial task or further developing their expertise in that field.

Hungary

The Judicial Academy provides continuous training for experienced judges in the form of standard programmes, conferences, seminars generally focusing on new legislation (including EU law), as well as training in judicial, interpretative and managerial skills for court presidents and vice-presidents.

For public prosecutors, continuous training is provided by the Department for Professional Training at the Office of the Prosecutor General. There are approximately 20-25 training courses organised each year and public prosecutors are also permitted to attend training programmes in other judicial training institutions abroad.

Ireland

As stated above, judges in Ireland are appointed from a pool of experienced and respected legal practitioners with vast experience in substantive and procedural matters. As there are no career judges in Ireland, training structures are less formal. The Judicial Studies Institute chaired by the Chief Justice was established in 1996 with a view to providing continuing education for all judges. Under its auspices seminars are organised for members of the judiciary, ranging from seminars on specific areas of law to procedural and practical issues. In addition, the Institute organises conferences, such as the Judges Annual Conference and conferences for each division of the courts, as well as training and study visits for the Judiciary both in Ireland and abroad.

The Judicial Studies Institute publishes a journal, the Judicial Studies Institute Journal, every six months. The journal contains articles concerned with contemporary legal issues of interest to the judiciary and members of the judiciary have published a number of articles in the journal. For more information, see <http://www.jsijournal.ie>.

Italy

Following the institution of the School for the Judiciary (a body constituted in 2006, discussed below) and still at present until such time as the aforementioned becomes operational, training activities have been organized by the C.S.M., with the collaboration of the Scientific Committee, a technical body provided for under



art. 29 of the Internal Regulations of the C.S.M.; known as the Committee and comprising 16 members (twelve judges and four university professors in legal studies) appointed by the High Council.

The Council, as the body charged with guaranteeing the autonomy and independence of all members of the Judiciary, has for many years offered professional development courses aimed at furthering the technical skills and ethical awareness of both judges and magistrates in the Public Prosecution service, illustrating the necessary conditions required to guarantee the practice of the judicial profession in a manner which is truly autonomous and independent.

These activities, both in terms of initial and ongoing training, do not only provide an opportunity for the further study of procedural institutions but also develop and promote a more profound sense of commitment amongst judges to the preventive study of trial bundles, the implementation of attempts for conciliation and the promotion of the principle of cross-examination, as well as encouraging excellent organizational and interpretative practices amongst judges within their own offices.

The training courses, which are held in Rome, are part of an annual programme set out by the Council and address training-related issues which periodic surveys show to be of interest. The Ninth Commission of the C.S.M., most specifically, with the collaboration of the Scientific Committee mentioned above, identifies the subject matters to be addressed and draws up the programmes for each individual course of study. The programme is then submitted to the plenary assembly for approval. The Committee is responsible for drawing up and proposing the detailed programme for each individual study meeting, analytically organizing each training initiative, selecting the specific subject matters to be addressed and the methodology to be used, in addition to choosing speakers (judges, university professors, lawyers or members of other professional categories).

The ordinary programme is organized into around 70 study meetings per year, each one of a day and a half's duration and aimed at professional development; each meeting is attended by one hundred judges. The seminars deal mainly with substantial and procedural matters, in the criminal, civil and regulatory sectors.

The C.S.M. ensures that judges and public prosecutors every year attend at least one refresher course.

The Council also makes use of innovative teaching methods such as distance learning (e-learning).

It should be added that each year, alongside those seminars which are part of the ordinary programme, the Council also organizes further study meetings in order to address issues concerning the most important changes to regulations or other problematic areas.

In 2000, the C.S.M. set up a nationwide network of decentralized trainers. Decentralized training offices have been set up within the districts of each Court of Appeal, comprising judges appointed by the Council and working in close contact with the Scientific Committee and the Council itself. This decentralized training initiative represents an integral part of the overall training programme offered by the Council.

Latvia

In Latvia the Ministry of Justice ensures the training and further training of judges and court employees; however, Court Administration as a subordinate institution to



the Ministry of Justice is responsible for organizational arrangements in order to ensure the performance of functions of the Ministry of Justice. In order to fully implement training and improvement of the judges and court staffs skills, Court Administration concluded collaboration agreement with Latvian Judicial Training Centre (LJTC) thus empowering LJTC to implement the trainings for the district (city) courts judges, regional courts judges, administrative courts judges, Land Registry Offices judges, for candidates for the office of a judge and for court personnel. LJTC was established with the general aim of providing continuing legal education and training, as well as improving the level of professional knowledge and ethics for all judges, court employees, bailiffs and other legal professionals in Latvia.

Furthermore, yet one of the functions of the Ministry of Justice is to ensure the training and further training of judges and court employees, in addition judges themselves constantly have to improve their professionalism, as well as follow up to the branch news, case law updates, etc.

Lithuania

Obligatory in-service training involving broadening special professional knowledge and skill building shall be aimed at by judges: when they are given a promotion; when they are appointed or transferred from a court of general jurisdiction to a court of special jurisdiction and also in other cases when the judge's qualifications undergo a change; when regulation of public relations undergoes a fundamental change; at least every five years starting from the period of previous training and in other cases when appropriate (the Law on Courts, Article 92, part 3).

The Netherlands

Norway

Continuing judicial training has no role in the role of promotion. We are discussing specialization, but have today no such system.

Poland

Continuous training – comprising various forms of supplementing specialist knowledge and professional skills – however, it is not an obligatory condition for promotion to a higher judicial post, yet it is undoubtedly of significance in the appointment competition procedure. Candidates to higher judicial posts shall be subject to assessment also from the perspective of completed trainings, in particular in the form of post-graduate studies (these consist in professional studies organised by the National School of the Judiciary and Public Prosecution, in cooperation with the law departments of universities or the Polish Academy of Sciences, usually lasting one academic year and comprising 180 hours of lectures and seminars, highly valued by judges and proving the most beneficial to them).



Romania

According to art. 35 of the Law no. 303/2004, the continuous training of judges and prosecutors shall be the guarantee of their independence and fairness when exercising the office.

The continuous training of judges and prosecutors is the duty of the National Institute of Magistracy (the centralized continuous training) and of the persons in charge of the courts or prosecutor's offices where they work (decentralized continuous training), as well as of each judge and prosecutor, through individual training.

The continuous training must take into account the dynamics of the legislative process and consists, mainly, in acquiring knowledge of and studying the internal legislation, the European and international documents to which Romania is part of, the case law of courts and jurisprudence of the Constitutional Court, the case law of the European Court of Human Rights and of the European Court of Justice, the comparative law, the deontological provisions, the multidisciplinary approach of new institutions of law, as well as of the knowledge and study of foreign languages and

Scotland

The training of the judiciary in Scotland at all stages is provided primarily by the Judicial Studies Committee for Scotland (JSC). As there is no formal system of judicial promotion there is no training specifically designed for that purpose. However, continuing judicial training is provided to judges by the JSC through residential training courses on judicial skills and residential refresher courses. Training is also provided in specialist areas, practical skills (e.g. IT) and changes in the law.

Spain

In principle, promotion of judges in the Spanish legal system is based on seniority of service in the judiciary with the exception of holders of high judicial offices (i.e. President of the Supreme Court -who becomes it as a consequence of being elected as President of the CGPJ by its members-, Presidents of the Divisions of the Supreme Court and justices of the Supreme Court, President of the National Court and Presidents of the Divisions thereof, Presidents of the High Courts of Justice of the Autonomous Communities and its Divisions and judges of the High Courts of Justice of the Autonomous Communities, and Presidents of the Provincial Courts) who are appointed by the Plenary Assembly of the CGPJ in the exercise of its discretionary powers and on the basis of the merits and competences of the candidates. Therefore, participation in continuing training activities has no direct effect as to the promotion of judges in their career, but it can be taken into account by the relevant organs of the CGPJ (including the Plenary Assembly) when



assessing the merits and competences of candidates who apply for a promotion to the high judicial offices.

However, the relevant provisions of the Law on the Judicial Power and of the Regulation of the Judicial School adopted by the Plenary Assembly of the CGPJ (Regulation n° 3/1995, of 7th June 1995) stipulate that specialization of members of the Judiciary in some specific branches of the jurisdiction (civil and criminal, juvenile, commercial, labour and administrative branches of the jurisdiction) is recognised by the CGPJ to those judges who pass the selective examination and specialization courses organised by the Judicial School under the CGPJ. Pursuant to article 312 of the Law on the Judiciary “the regulations governing these examinations, the exercises and, if appropriate, the training programmes shall be approved by the CGPJ”. The competitive examination should “tend to take into account the degree of capacity and legal training of the candidates as well as their knowledge of the different branches of law” and “may consist of studies, successful completion of courses, the drafting of opinions or decisions and their defence before the examining panel, presentation of subjects and reply to observations formulated by the examining panel, or other similar exercises”. Currently all judge candidates who apply to be considered specialised judges in any of the abovementioned branches of the jurisdiction must pass a competitive examination before an examining panel whose members are appointed by the CGPJ (consisting of a Justice of the Supreme Court or a Senior Judge of a High Court of Justice delegated to the procedure, two Senior Judges, a Public Prosecutor, two University Professors appointed according to the subject, an advocate with more than ten years of professional practice, a State advocate, a Senior Clerk of the Court and a member of the technical bodies of the CGPJ with a Law Degree who acts as secretary of the panel) and undergo a specific training course organised by the Judicial School under the CGPJ, which consists of two stages (a theoretical phase based on a programme of multidisciplinary training focused on the branches of law related to the specialization and a practical period of training in specialised courts, where the trainees act as assistants to mentor judges). At the moment this is the only case where participation in a continuing training activity organised by the Judicial School under the CGPJ (i.e. the specialization course) plays a significant role as to the promotion of judges, since the judges who successfully undergo the specialization process are considered to be specialist and enjoy some preferences over non-specialised judges in order to be appointed for the courts of the branches of the jurisdiction corresponding to their field of specialization.

Sweden

The Courts of Sweden Judicial Training Academy is responsible for and offers continuing judicial training as well. The grade of the judicial training the Academy offers is so high that all of it can be said to meet what could be defined as continuing judicial training. There are also local academies run by judges offering continuing judicial training for both judges and other legal experts. When it comes to leadership and skills in this area and other issues which cannot be defined as judicial training, training is offered by the Swedish National Courts Administration.

2.c. Is Initial Training voluntary or compulsory for Judges?

Is Initial Training voluntary or compulsory for members of the Judiciary in your legal system?

Austria

Initial training is compulsory.

Belgium

Bosnia Herzegovina

There is no specific training on appointment for judges or prosecutors other than the standard 5 days of training a year that all members of the judiciary have to take. Judicial Associates must all undergo induction training on commencing their positions.

Bulgaria

Initial training is compulsory for magistrates who have just been appointed, t.e. newly appointed. These are two groups:

1/ junior judges and junior prosecutors.

Immediately after entering office they pass a training course at the National Institute of Justice. The length of the course is 6 months. At the end of the training junior judges and junior prosecutors sit for an examination that is marked as "pass" or "fail". When marked "fail", the junior judge and junior prosecutor concerned sit again for the examination three months later. If again marked "fail", the individual is dismissed from the occupied position.

2/ other newly appointed judges and prosecutors who have not worked in the judicial system.

Upon initial appointment to a position with the judicial system bodies, during their first year following entry in office, judges, prosecutors and investigating magistrates undergo a mandatory training course for the improvement of qualifications.

Czech Republic

The initial training is compulsory for judicial candidates.



Denmark

The initial training is compulsory.

England and Wales

Induction training is compulsory for fee-paid members of the courts judiciary and also for salaried judges embarking on a new specialism. Induction training for High Court Judges includes a programme of sitting in, attending appropriate seminars and access to an experienced mentor judge.

Finland

A Master's degree in law and demonstrated skills are formally sufficient.

Germany

The qualification to hold judicial office pursuant to section 5 of the German Judiciary Act is obtained by means of successful completion of (initial) legal training, which is composed of university studies and subsequent practically oriented preparatory service. This is one of the preconditions for appointment to judicial service

Hungary

As mentioned above, candidates for judicial office must undertake an obligatory initial training period which consists of various phases (including clerkship, examinations, serving time as a court secretary or a prosecution secretary etc.) in order to qualify as a judge or a prosecutor in Hungary. The HJA provides training for future judges not only theoretical training to help them prepare for the national public examinations but also in other areas such as mock trials, judgement drafting, non-legal subjects (sociology, psychology etc.)



Ireland

As stated above, judges in Ireland are appointed from a pool of experienced and respected legal practitioners with vast experience in substantive and procedural matters. As there are no career judges in Ireland, training structures are less formal. The Judicial Studies Institute chaired by the Chief Justice was established in 1996 with a view to providing continuing education for all judges. Under its auspices seminars are organised for members of the judiciary, ranging from seminars on specific areas of law to procedural and practical issues. In addition, the Institute organises conferences, such as the Judges Annual Conference and conferences for each division of the courts, as well as training and study visits for the Judiciary both in Ireland and abroad.

The Judicial Studies Institute publishes a journal, the Judicial Studies Institute Journal, every six months. The journal contains articles concerned with contemporary legal issues of interest to the judiciary and members of the judiciary have published a number of articles in the journal. For more information, see <http://www.jsijournal.ie>.

Italy

With regard to the training of career magistrates, appointed on the outcome of a competitive state examination, it should be noted that such judges must undergo a period of mandatory traineeship. Magistrates under training do not fulfil any judicial functions.

Latvia

Initial training is on voluntary base in our state.

Lithuania

The Law on Courts provides initial training and obligatory in-service training for judges, i.e. duty to keep training for judges. Accordingly this means that the initial and continuing trainings for members of the Judiciary in the Republic of Lithuania are compulsory.

The Netherlands



Norway

It is compulsory.

Poland

Initial training – comprising a one-year (12-month) general training and a two-and-a-half (30-month) judicial and public prosecutor's training – is obligatory in a sense that if a person chooses to reach the profession of a judge through: 1) training (initial training), 2) state examination for the post of a judge or public prosecutor (see information on recruitment of judges in item I), then such a person shall complete the training.

Romania

The initial training is compulsory, the auditors of justice must participate to the 2 years of training within NIM; they must pass the graduation exam in order to become probationer judges/prosecutors.

Scotland

Compulsory

Spain

As already explained (see 2.a) initial training is compulsory for members of the Spanish Judiciary, particularly for those who belong to the second and third ranks of the judicial career (i.e. junior judges and senior judges), since the induction training is one the stages of the selection procedure of judges of those ranks. This means that candidates to be appointed junior judges or senior judges who do not undergo the initial training and selection course or who fail it, according to the marks given by the panel of trainers of the Judicial School, are excluded from the selection process and therefore not proposed for appointment by the CGPJ. However, candidates who fail the induction course for the first time may repeat it in the next call (i.e. the call which follows the next public competitive examination), but if they fail the course again, they are definitively excluded from any expectation of joining the Bench on the basis of the selective examinations or the competition between legal professionals of renowned competence they had initially passed.

Nevertheless, initial training is not compulsory (and has not even been foreseen) as regards candidates proposed by the CGPJ for the positions of senior judges at the Civil and Criminal Divisions of the High Courts and of justices of the Supreme Court, for it is assumed that the candidates proposed for those high judicial offices are



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prominent lawyers and legal professionals of renowned competence with a long professional practice, which makes the compulsory induction training unnecessary.

Sweden

Both the initial and the continuing judicial training for appointed judges is voluntary. However, those who come into question to be appointed as judges have in their former jobs as for instance assistant judges, lawyers or prosecutors experienced compulsory judicial training. Since every judge, in principle, has undertaken this training before they have been members of the Judiciary, you could say that initial judicial training is compulsory.

2.d. Is Continuing Training voluntary or compulsory for Judges?

Is Continuing Training voluntary or compulsory for members of the Judiciary in your legal system?

Austria

The continuous training is a legal obligation for every judge (§ 57 RStDG). The judge has the choice how many and which seminars and courses he/she would like to participate. There is no obligation to take part in specific courses or seminars, only the continuous training itself is compulsory for the members of the Judiciary.

Belgium

Bosnia Herzegovina

A certain amount of continued training is compulsory. Judges and prosecutors must take at least 5 days of training each year. Training may also be compulsory as a remedial measure after a finding of indiscipline against a judge or prosecutor.

Bulgaria

It is voluntary. Usually each judge/prosecutor takes part in 1 to 3 short-time training programmes annually.

Czech Republic

The continuing training is voluntary for the judiciary.

Denmark

The continuing training is voluntary.

England and Wales

Continuing training is mandatory for all salaried judges (except High Court Judges) who are required to attend one national three-day seminar every year. Continuing



training is also mandatory for fee-paid judges who attend less frequently than once a year. Selection of fee-paid judges to attend a seminar depends on the number of authorisations they hold and the date of their last attendance on a seminar.

There is a separate protocol in relation to the training of High Court Judges. They are entitled to have up to five days of JSB training during their first year of appointment and at least two days each year thereafter. High Court Judges may also attend after-court seminars of which there are four to five each year.

Finland

Participation in continuing training is considered to be a part of a judge's work and a moral responsibility, but there are no explicit rules on the quantity of such training or the forms of training. A judge is supposed to improve his or her professional skills by attending courses etc. at his or her choice during working hours.

Germany

By virtue of their oath of office judges are under an obligation to undertake continuing training; however, as a result of their judicial independence they are at liberty to decide in which way they comply with this obligation (participation in continuing training events, independent study, etc.). A willingness to pursue continuing training and evidence that continuing training has been undertaken have already been integrated into the appraisal systems and personnel development schemes of almost all the Länder.

Hungary

Ireland

As stated above, judges in Ireland are appointed from a pool of experienced and respected legal practitioners with vast experience in substantive and procedural matters. As there are no career judges in Ireland, training structures are less formal. The Judicial Studies Institute chaired by the Chief Justice was established in 1996 with a view to providing continuing education for all judges. Under its auspices seminars are organised for members of the judiciary, ranging from seminars on specific areas of law to procedural and practical issues. In addition, the Institute organises conferences, such as the Judges Annual Conference and conferences for each division of the courts, as well as training and study visits for the Judiciary both in Ireland and abroad.



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The Judicial Studies Institute publishes a journal, the Judicial Studies Institute Journal, every six months. The journal contains articles concerned with contemporary legal issues of interest to the judiciary and members of the judiciary have published a number of articles in the journal. For more information, see <http://www.jsijournal.ie>.

Italy

Mandatory: At least once every four years, all serving judges are obliged to participate in one of the courses in judicial training and professional development organized by the School, as stated in School Regulations.

Latvia

Continuing training is on voluntary base in our state.

Lithuania

The Law on Courts provides initial training and obligatory in-service training for judges, i.e. duty to keep training for judges. Accordingly this means that the initial and continuing trainings for members of the Judiciary in the Republic of Lithuania are compulsory.

The Netherlands

Continuing training is compulsory. Every judge has to attend at least 30 hours of training per year (known as "PE 30"). It's the courts' responsibility to monitor their judges' training activities. Recently, the association of court presidents decided that at least 10% ("PE 3") of a judge's training time should be devoted to courses with a European law aspect. Courses can be taken at the SSR, but also at other institutions. In addition, larger courts organize in-company courses. Judges interested in management or training positions have to take special courses.

Norway

It is voluntary.



Poland

A judge has a statutory obligation to continuously raise his or her professional qualifications and participate in trainings and other forms of professional improvement, organised under the Act on the National School of the Judiciary and Public Prosecution.

Continuous training – comprising various forms of supplementing specialist knowledge and professional skills – however, it is not an obligatory condition for promotion to a higher judicial post, yet it is undoubtedly of significance in the appointment competition procedure. Candidates to higher judicial posts shall be subject to assessment also from the perspective of completed trainings, in particular in the form of post-graduate studies (these consist in professional studies organised by the National School of the Judiciary and Public Prosecution, in cooperation with the law departments of universities or the Polish Academy of Sciences, usually lasting one academic year and comprising 180 hours of lectures and seminars, highly valued by judges and proving the most beneficial to them).

Romania

According to art. 35 of the Law no. 303/2004, the continuous training of judges and prosecutors shall be the guarantee of their independence and fairness when exercising the office.

The continuous training of judges and prosecutors is the duty of the National Institute of Magistracy (the centralized continuous training) and of the persons in charge of the courts or prosecutor's offices where they work (decentralized continuous training), as well as of each judge and prosecutor, through individual training.

The continuous training must take into account the dynamics of the legislative process and consists, mainly, in acquiring knowledge of and studying the internal legislation, the European and international documents to which Romania is part of, the case law of courts and jurisprudence of the Constitutional Court, the case law of the European Court of Human Rights and of the European Court of Justice, the comparative law, the deontological provisions, the multidisciplinary approach of new institutions of law, as well as of the knowledge and study of foreign languages and of PC literacy.

Scotland

Continuing training is voluntary, but expected, for members of the judiciary at the Court of Session/High Court and Sheriff Court level. Such judges are expected to attend residential training courses on judicial skills and residential refresher courses approximately every three years. The "Statement of Principles of Judicial Ethics for the Scottish Judiciary" (see below) contains guidance that "judges should take all reasonable steps to maintain and enhance the knowledge and skills necessary for the proper performance of judicial duties, including availing themselves of the training that may be offered them." (There is compulsory training for Justices of the Peace.)



Spain

Article 433 bis of the Law on the Judicial Power is the basic provision of this legal text concerning the issue of continuing training of members of the Spanish Judiciary. Under this provision, “the CGPJ shall ensure that all members of the Judiciary receive continuing, individualised, specialised and high quality training throughout their professional service”. To this end the CGPJ “shall establish a regulatory Continuing Training Plan for the Judicial Service, which shall detail the objectives, content, training priorities and long term annual programming for these activities”. The provision also stipulates that “the Judicial School under the CGPJ shall develop programmes and provide training courses included in the Continuing Training Plan for the Judicial Service, thus enabling training activities to be held in a decentralised manner, within the autonomous or provincial sphere, and through collaboration, if appropriate, with expert institutions and bodies in providing such training” and that “the Continuing Training Plan for the Judicial Service shall include training of judges in the principle of gender equality and the gender perspective” (...) and “annual courses on the jurisdictional protection of equality between men and women and gender violence”.

Nonetheless, neither article 433 bis of the Law on the Judicial Power nor the provisions of the Regulation of the Judicial School adopted by the Plenary Assembly of the CGPJ (Regulation nº 3/1995, of 7th June 1995) governing continuing training of judges establish the principle of mandatory continuing training of Spanish judges, which means that, as a general rule, participation of judges in the training activities included in the Continuing Training Plan approved by the Plenary Assembly of the CGPJ is done on a voluntary basis.

There is, however, an exception to the general principle of voluntary participation in continuing training by Spanish judges, which refers to judges and senior judges who begin judicial practice in specialised courts of a different branch of the jurisdiction and have not undergone the procedure for specialization described above (see 2 b). Since the initial training of junior judges is focused on the common branch of the jurisdiction (i.e. civil and criminal) and junior judges appointed after the completion of the examination process and the initial training and selection course exercise their judicial office in a first instance (civil) and investigating (criminal) court, article 329 of the Law on the Judicial Power stipulates that all non-specialised judges who have successfully applied for a transfer to a court of a different branch of the jurisdiction are “required to participate, prior to taking office at their new court, in specific training activities according to regulations established by the CGPJ for cases of transfer to a different branch of the jurisdiction”. Currently these specific and mandatory continuing training activities are organised by the Judicial School under the CGPJ on an individual basis, taking into account the previous judicial experience and practice of the applicants for a transfer to a different branch of the jurisdiction and consist of two stages with an overall duration of two weeks (a theoretical phase based on a programme of multidisciplinary training focused in the branches of law related to the field of specialization and a practical period of training in specialised courts under the supervision of a mentor



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judge). Compulsory training prior to the transfer to specialised court of a different branch of the jurisdiction currently applies to commercial courts, juvenile courts, gender and family violence courts, administrative courts and labour courts.

Sweden

When it comes to training concerning leadership and skills in that area the training for chief judges is more or less compulsory. However, if someone refuses he or she is not forced to undergo this training. As pointed out under c) continuing judicial training is voluntary.

3) Judicial Ethics

3.a. Code of Judicial Ethics

Has the Council for the Judiciary in your country officially approved or endorsed a code or a set of rules or principles in the field of judicial ethics?

Austria

Since Austria does not have a Council for the Judiciary there exists no officially approved or endorsed code or set of rules or principles in the field of judicial ethics. But the Austrian Association of Judges has published a declaration of principles in the field of judicial ethics. Please, find attached the English and the French version of the so called "Welser Erklärung".

Belgium

The current legal framework.

In Belgium, there is no code setting out the rules of judicial ethics applicable to judges. Article 404 of the Judicial Code sets out the general rule that the judicial ethics/conduct of the magistrate must be confronted. Paragraph 1 of this article has not been changed since 1967: "Those who lack the duties of office, or who by their conduct undermine the dignity of its character, may be subject to disciplinary action specified in this chapter"

Paragraph 2 of this article was amended in 2002: "The disciplinary sanctions under this chapter may also be imposed on those who neglect the duties of their office and thereby adversely affecting the proper functioning of justice or the confidence in the institution".

- ❖ "Missing the duties of his office" (paragraph 1) has the same meaning as "neglecting the duties of their office" (second paragraph).
- ❖ Thus, negligence and breach are likely to be disciplinary repressed when they affect the smooth functioning of justice or the confidence in justice.
- ❖ So in this matter, we must also consider the public interest.

The legislator has thus given a wider purpose to the judicial ethics of the magistrate. However, the legislator continues to emphasize the close link between judicial ethics and discipline and establishes a rule of professional conduct only on a negative way (breaches of duty of care and conduct that undermines the dignity).

The work of the HCJ

In 2007, the HCJ has undertaken an extensive reflection on the concept of positive judicial ethics: to proceed with the adjustment of positive ethical values of the judiciary, and to give them a real consistency to allow magistrates to face new judicial litigation taking account of the evolution of society.



Judicial ethics is the excellence of the profession: how to do a better job ? how to adapt to the legitimate demands of the population.

Today, the HCJ is working on developing a guide to ethical values of judges, based on the following values:

- ❖ The independence and impartiality
- ❖ The legality
- ❖ The Integrity and the honesty
- ❖ The respect
- ❖ The discretion and the reserve
- ❖ The diligence and the efficiency
- ❖ The competence.

Bosnia Herzegovina

Yes, comprehensive codes of ethics for judges and for prosecutors were produced by the HJPC of B&H in 2005. The Law on the HJPC also sets out a thorough but not exhaustive list of conduct that will be deemed to be a “disciplinary offence” for both judges and for prosecutors.

Bulgaria

Yes. The Code of Ethics for Bulgarian Magistrates was approved by the Supreme Judicial Council on 20.05.2009.

Czech Republic

There is no Council for the Judiciary. The Code of Ethics was published by the Union of Judges, but it is recommendation, not binding document, as not all judges have to be members of the Union of Judges.

Denmark

There is no officially approved or endorsed code of judicial ethics in Denmark.

England and Wales

The key guiding principle for the judiciary of England and Wales is judicial independence, in other words that they are, and are seen to be, independent of the legislative and executive arms of government. This is set out in section 3 of the Constitutional Reform Act 2005, which directs this as a responsibility for the Lord



Chancellor, Ministers of the Crown and “all with responsibility for matters relating to the judiciary or otherwise to the administration of justice.” Judges confirm this duty as part of their swearing-in ceremony on the first day of their appointment when they take the judicial oath that they will act “without fear or favour, affection or ill will.”

Judges are required to declare their agreement to “The Terms and Conditions of Appointment” when they accept the offer of judicial appointment. This includes recognition of “the Guide to Judicial Conduct” which was published by the Judges’ Council following the endorsement of principles by the UN Human Rights Commission in April 2003. The Guide sets out to provide assistance to judges rather than to prescribe a detailed code and therefore sets out principles from which judges can make their own decisions as to how to maintain their judicial independence or to conduct both their public and private lives. A copy of this Guide is set out at Annex B.

Judges terms and conditions also include the need to avoid any activities which may pose a conflict of interest to their judicial post.

Finland

There is no Council for the Judiciary yet in Finland and no approved code of judicial ethics. A working group within the Judges’ association is at the moment studying the question whether there is a need for a special national code of ethics or national principles in that field or not.

Germany

Not applicable (Germany does not have a council for the judiciary).

Hungary

Judges:

A Code of Ethics for Judges was drafted by the National Board of the Hungarian Judicial Association in 2005 and was adopted by the National Council of Justice as a directive. The Code is divided in two parts: the first part describes the required judicial conduct in the exercise of their duties (e.g. independence, neutrality) while the second part describes the required behaviour in public and private life (irreproachableness, non-political etc.). The Ethical Committee of the Judge’s Association has the task of determining breaches of the Code and procedural rules. The decisions of the Committee are published in the Court Bulletin of the NCJ.



Prosecutors:

A code of conduct has been adopted by the Association of Public Prosecutors, which provides guidelines for the ethical conduct of its members in the performance of their duties. It is divided into various sections on general ethical principles, professional behaviour, and independence and impartiality. Public prosecutors who intentionally violate this Code may be subject to investigation by the Ethics Committee of the Association, which has exclusive power to inquire into such cases under the terms of its own procedural rules. The decisions of the Association may lead to the following measures being taken: notice, reprimand and or a judgement of indignity towards membership of the Association. The latter sanction will lead to a notification by the Ethics Committee to the President of the Association to convene the appropriate body of the Association for the purposes of appeal and/or invoking further measures.

Ireland

The Constitution of Ireland is the current source of guidance to the Judiciary as to the standards expected of their office, with Articles 34 and 35 of the Constitution governing the administration of justice by the courts as well as the functioning of the Judiciary. Article 35.2, for example, states that “All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law.”[Emphasis added] In addition, several provisions of the Constitution are designed to ensure that judges are not subject to inappropriate or unwarranted interferences. Article 34.5.1 requires all judges to make a declaration on their appointment to duly and faithfully and to the best of their knowledge and power execute their office without fear or favour, affection or ill-will towards any man, and to uphold the Constitution and the law.

The government has indicated that legislation will shortly be enacted to provide for judicial conduct issues. It is contemplated that the Judicial Council Bill 2010 will formalise a Code of Judicial Conduct for the future.

Italy

The National Magistrates' Association (Associazione Nazionale Magistrati, hereinafter: the «A.N.M.»), a private law association of judges and prosecutors voluntarily joined by most of the Italian members of the judiciary, has adopted a Code of professional conduct, thus implementing specific legal provisions in the field of codes of ethics for public agencies and members of the judiciary, in particular.

The Code contains general guidance as to principles, whose infringement has no legal relevance but for the restricted scope of the A.N.M., that is, the provisions contained in the Code of professional conduct are at a different level than the rules on disciplinary breaches, which are now comprehensively organised in Legislative Decree No 109 of 23 February 2006.



The Code collects rules of behaviour inspired by the implementation of those moral values that are considered fundamental by the members of the judiciary.

The High Council for the Judiciary has delivered its opinion by means of a resolution dated 12 July 1994 on the "code of ethics" of the members of the judiciary so as to clarify its scope of application and legal nature.

In particular, the C.S.M. has highlighted that the adoption of a Code of ethics for members of the judiciary is provided for in the last paragraph of Article 58 bis of Legislative Decree No 29 of 3 February 1993. The first three paragraphs of this provision lay down that the Presidency of the Council of Ministers, following prior consultation of the most representative trade union confederations at the national level, shall draft a code of conduct for employees of public authorities that is to be given to each staff member on their hiring and transposed into civil service collective agreements.

The fourth paragraph of this provision lays down that for each body of magistrates and for State's Advocates the "bodies of the professional organisations" shall adopt, within hundred and twenty days of the decree coming into force (i.e. by 13 May 1994) a "code of ethics" that they must submit for "approval to the members of the judiciary concerned" and that "on expiry of this deadline without any action, the code is adopted by the self-governing body".

The A.N.M. has taken action in due time to adopt a code of ethics by securing a wide participation of its members.

Indeed, it consists in guidance as to principles that has no legal effects and that are at a different level than the rules on disciplinary breaches, yet it has the value of rules of conduct that are inspired by fundamental moral values.

The C.S.M. has considered that the adoption of the Code should be entrusted to the A.N.M., an entity that is organized as an association representing the "practitioners". It has also noted that the fact that not all the members of the judiciary belong to the Association (though the overwhelming majority does) does not have any bearing either for purposes of legitimizing the adoption of the Code or for its submission to the members of the judiciary (even to non-members) to obtain their consent. In fact, the A.N.M. is an association representing not only trade union but also cultural interests that inspire members of the judiciary who are called upon to perform the delicate task of exercising judicial functions. Hence, it is entitled to identify rules of professional ethics and to transpose them into an organic text.

Indeed, a code of professional ethics cannot be imposed from the outside but it has to incorporate the rules of conduct that are generally accepted as an expression of those values that are experienced in the jurisdictional activity and are shared by judges and prosecutors as a whole.

Finally, the C.S.M. has emphasised how useless any additional action on its part would be, given that the A.N.M. had adopted a code of ethics in due time.

Latvia

According to the amendments in the Law on Judicial Power adopted on 3 June 2010, the Council for the Judiciary of Latvia was elected on 3 September 2010 for the first time. Therefore no particular activities in the field of judicial ethics have yet been performed by the Council for the Judiciary of Latvia.



Nonetheless, on 20 April 1995 the Conference of Judges (which is a self governing judicial institution that is combined of all the judges of the Republic of Latvia) has adopted the Judicial Code of Ethics. The Code of Ethics contains both general principles as well as detailed provisions for particular aspects of the behavior of judges.

In addition, Commission of Judicial Ethics is a collegial administrative body the main objective of which is to provide opinions for the interpretation and violations of ethical standards, as well as to explain ethical standards of judges (Law on Judicial Power, Section 91.1).

The functions of the Commission of Judicial Ethics shall be the following:

- 1) upon the request of the person, who has the right to initiate a disciplinary matter, as well as upon the request of Judicial Disciplinary Board to provide opinions regarding the interpretation and violations of ethical standards;
- 2) upon its initiative or request of a judge to explain and analyze the standards of judicial ethical rules, as well as to consult judges regarding issues on ethics;
- 3) to compile and prepare for publishing findings and explanations regarding interpretation and application of ethical standards;
- 4) to discuss violations of ethical standards; and
- 5) to develop the standards of judicial ethical rules and submit them for confirmation in a conference of judges (Law on Judicial Power, Section 91.2).

Lithuania

The Judicial Ethics and Discipline Commission is an institution of self-governance of courts deciding the issues of instituting disciplinary actions against judges (the Law on Courts, Article 85, part 1).

The Judicial Ethics and Discipline Commission shall be composed of seven members. Two members of the Commission shall be appointed by the President of the Republic, one candidate to the commission shall be appointed by the Speaker of the Seimas, four candidates – by the Judicial Council. The President of the Republic and the Speaker of the Seimas shall appoint members of the public to members of the Commission. The Judicial Council shall approve the Chairman of the Commission from the appointed members of the Judicial Ethics and Discipline Commission (the Law on Courts, Article 85, part 2).

The Lithuanian Judiciary has adopted a Code of Ethics. This Code of ethics of the judges of the Republic of Lithuania (hereinafter – the Code) (adopted by a General meeting of the Lithuanian judges on June 28, 2006) determines the basic principles of conduct of judges of the Republic of Lithuania. The Code regulates the conduct of judges during the fulfillment of direct as well as indirect duties (The Code, Chapter 1, Article 1).

The objective of the Code – to determine the principles of activities and conduct, which are to be followed by a judge during the fulfillment of duties which are laid down by the law and leisure time from the exercise of the direct duties; to fix that justice and other universal human values in the activities of the courts takes priority; to enhance the trust of public in the courts and judges, to increase their authority (The Code, Chapter 1, Article 2).

This Code is applicable to all judges without reservation.

The Code is prepared in compliance with the Constitution of the Republic of Lithuania, the Law on Courts, the basic principles of judicial impartiality of the



United Nations, the recommendations of the Committee of Ministers of the Council of Europe, the Universal Charter of the Judge, also the European Charter on the statute for judges, other national and international acts which regulate the activities of the courts and judges (The Code, Chapter 1, Article 4).

The Netherlands

There is no code of ethics for judges in The Netherlands. The Dutch Association of Judges (of which many, but by no means all, judges and prosecutors are members) is working on establishing a code of ethical standards, which is meant to serve as an advisory code to the judges. Establishing such a code is not considered the responsibility of the Council for the Judiciary.

Norway

We have a new, officially approved set of principles. It will soon be translated into English and distributed to the group.

Poland

In 2003, the National Council of the Judiciary adopted the Collection of professional ethical principles for judges (attached; also available on the website <http://www.krs.pl/> in the English language version) - [Resolution No 16/2003 of the National Council of the Judiciary of 19 February 2003](#) regarding enactment of the Collection of professional ethical principles for judges.

The collection is of normative nature in a sense that it shall be binding to all judges, and any breach of the provisions included (set forth) therein may constitute grounds for initiating disciplinary proceedings by the disciplinary commissioner of common courts judges, appointed by the National Council of the Judiciary.

Romania

The Superior Council of Magistracy of Romania approved in 2005 the Deontological Code for judges and prosecutors by the Plenum Decision no. 328/24th of August, 2005. The Code establishes the standards for magistrates' conduct, according to the honor and dignity of their profession.

The main duties according to the Deontological code are the following:

The observance of the provisions included in the present deontological code that represent the criteria for evaluation of the efficiency of their activity, as well as for the integrity of judges and prosecutors.

Judges and prosecutors must exercise their profession with objectivity and impartiality, acting only by law, without any attention to exterior pressure and



influence of any kind. Judges and prosecutors may address to the Superior Council of Magistracy for any action that could infringe upon their independence, impartiality or professional reputation.

Magistrates are bound to protect citizens' equality in front of law, to ensure a non-discriminatory juridical treatment, to respect and defend dignity, physical and moral integrity of all persons involved in any quality to judicial procedures.

Judges and prosecutors are bound to fulfill their professional duties with competence and honesty and to respect the administrative obligations mentioned in laws, regulations, and internal orders.

Judges and prosecutors have the duty to restrain from any actions that can compromise their dignity in profession and society. Judges and prosecutors can not perform actions that, by their nature, financing origin or execution, could, in any way, infringe upon the fulfillment of their professional duties, with impartiality, honesty and within legal terms.

Judges and prosecutors can not add to this dignity any public or private function, except didactic functions in superior teaching system.

Scotland

Yes. A "Statement of Principles of Judicial Ethics for the Scottish Judiciary" was produced by the Judicial Council for Scotland and circulated to the judiciary in Scotland on the direction of the Head of the Scottish Judiciary in April 2010. (In that "Statement" importance is attached to the "Bangalore Principles of Judicial Conduct", endorsed at the 59th session of the UN Human Rights Commission at Geneva in April 2003.) It is emphasised in the introduction to the "Statement of Principles of Judicial Ethics for the Scottish Judiciary" that it is not intended to be prescriptive, but rather it is of the nature of guidance and should be seen as such.

Spain

The Spanish CGPJ has not approved officially a code of ethics of a set of rules or principles in the field of judicial ethics which could apply to members of the Spanish Judiciary. However, there is a series of breaches of what is expected from an honest judge, which are corrected via disciplinary action, as explained below.

On the other hand, the Spanish CGPJ has indirectly backed up the Latin American Model Code of Judicial Ethics (*Código Modelo Iberoamericano de Ética Judicial*), a document (set of rules in the field of judicial ethics) which was officially approved by the 13th Summit of Presidents of Supreme Courts of Latin American Countries (which gathers Presidents of Supreme Courts of all Central and South American countries where Spanish and Portuguese are spoken, including also Spain and Portugal) in Santo Domingo in 2006. Indeed, the President of the Spanish Supreme Court and CGPJ was also present at that meeting of the summit and signed the declaration of Santo Domingo by which the Code was officially approved. A non



official English version of the Latin American Model Code of Judicial Ethics is attached to this report.

Finally, the Spanish CGPJ actively participates in the Latin American Committee of Judicial Ethics (*Comisión Iberoamericana de Ética Judicial*), a Committee envisaged in the Latin American Model Code of Judicial Ethics (articles 83 to 95) and created by the Summit of Presidents of Supreme Courts of Latin American Countries which is in charge of implementing the Code. The Committee is composed by nine honorary members with a five years mandate, who are elected by the Summit of Presidents of Supreme Courts of Latin American Countries. Currently, the President of the Civil Division of the Spanish Supreme Court is one of the members of the Committee. The functions of the Committee comprise: a) Issuing non binding opinions on topics and questions related to Judicial Ethics at the request of the Summit of Presidents of Supreme Courts of Latin American Countries or any of its members (i.e. Supreme Courts or Councils for the Judiciary of Latin American countries); b) Promoting the development of judicial ethics and discussions on the subject through training activities, seminars, publication of papers and monographs, etc.; and c) Strengthening the ethical standards and consciousness of judges from Latin American countries.

All the information regarding the composition and activities of the Latin American Committee of Judicial Ethics is available (in Spanish) in the website of the Committee (www.cidej.org).

Sweden

No, but there is an ongoing project addressing these issues. The project is led by Johan Hirschfeldt, former President of Svea Court of Appeal in Stockholm. Its task is to examine whether the Judiciary want to adopt a set of rules concerning judicial ethics and, if so, find out how these rules should be prepared and what areas they should cover.

3.b. Disciplinary measures

Which are the consequences envisaged in case of breach of those rules or principles, as regards, eg, disciplinary measures, including more serious measures in cases of major breaches?

Austria

There are no consequences envisaged by the declaration itself. Consequences in case of a breach of those principles will only be envisaged if they are also an issue of disciplinary measures.

Belgium

The evaluation/assessment of the magistrates

In addition, as part of the evaluation of judges (whose foundation lies in Article 151, § 6 of the Constitution), evaluation criteria and indicators of performance were established by Royal Decree on a proposal the High Council of Justice. For all functions of magistrates, the following evaluation criteria are included:

- ❖ The legal knowledge required for the matters to handle
- ❖ The efficiency and the effectiveness
- ❖ The communication skills and the quality of expression
- ❖ The decisiveness
- ❖ The integrity.

The disciplinary bodies

The president of a court of first instance of the crown prosecutor : overall responsibility for minor sanctions against judges members of his court or prosecutors members of his prosecutor's office
The president of the crown prosecutor of the higher level: for minor sanctions against the president or the crown prosecutor of lower courts
The National Council of discipline (which includes a majority of judges and a minority of non magistrates) is responsible for preliminary notification to major penalty. The Council decides by a majority of 2 / 3.
The court of appeal (on chamber composed of the president and the 4 oldest judges of the court) is competent for :

- ❖ The appeal against the decisions of withdrawal of the mandate of president in first instance
- ❖ The major penalties, on request of the president en after opinion of the national disciplinary council.



The Court of cassation is competent for :

- ❖ The appeal against the decisions of withdrawal of mandate of president
- ❖ The appeal against the major penalties, on request of the president of the higher level
- ❖ The appeal against the minor penalties decided by the president of the court of cassation against the judges of this court and against the members of the prosecutor's office to the court of cassation
- ❖ The major penalties against the judges of the court of cassation

The King is competent for :

- ❖ The major penalties against the members of the prosecutor's offices, on request of the minister of Justice, after opinion of the national disciplinary council.

The procedure

A complaint to the president or the crown prosecutor

The president or the crown prosecutor shall designate a judge/member of the prosecutor's office to conduct an investigation on the matter

Following the investigation, the president or the crown prosecutor officer decides

- ❖ not to prosecute
- ❖ to impose a minor penalty
- ❖ to refer the matter to the competent authority for a major penalty.

NOTE

To be noted also that in the Belgian judicial system, judges enjoy a privilege of jurisdiction, namely that in criminal cases they are tried by the court / court of the higher level.

Bosnia Herzegovina

The Council may impose one or more of the following disciplinary measures:

A written warning which shall not be made public;

Public reprimand;

Reduction in salary up to a maximum of 50% (fifty per cent) for a period of up to one (1) year;

Temporary or permanent reassignment to another court or prosecutor's office;

Demotion of a Court President to an ordinary judge or the Chief Prosecutor or Deputy Chief Prosecutor to an ordinary prosecutor;

Removal from office.

As a separate measure, instead of or in addition to any of the disciplinary measures set out above, the Council may, if appropriate, order that a judge or prosecutor participate in rehabilitation programmes, counselling, or professional training.



Disciplinary measures imposed should be governed by the principle of proportionality. Before pronouncing the measures for a disciplinary offence, the following aspects shall be taken into consideration by the Disciplinary Panels:

- ❖ the number and severity of the disciplinary offence committed and its consequences;
- ❖ the degree of responsibility;
- ❖ the circumstances under which the disciplinary offence was committed;
- ❖ the previous work and behaviour of the offender; and
- ❖ any other circumstances that may affect the decision on the severity and type of disciplinary measure, including the degree of remorse and/or cooperation shown by the judge or prosecutor during the disciplinary proceedings.

The disciplinary measure of dismissal shall only be used in cases where a serious disciplinary offence is found and the severity of the offence makes it clear that the offender is unfit or unworthy to continue to hold his or her office.

The Council may take into account any prior suspension, imposed in the course of the proceedings in question, and may reduce the disciplinary measure accordingly, or may, at its discretion, determine that the prior suspension is itself a sufficient measure for the disciplinary violation or violations found.

Bulgaria

Under the provisions of Judicial System Act, Art.307, par.4, Disciplinary offences shall be:...

/3/ any breach of the Code of Ethics for judges, prosecutors and investigating magistrates,

Under Article 308 of Judicial System Act the disciplinary sanctions for a judge, prosecutor, investigating magistrate, administrative head and a deputy of an administrative head shall be:

1. Reprimand,
2. Censure,
3. Reduction of the basic labour remuneration by 10 to 25 percent for a term of 6 months to two years,
4. Demotion in rank or position at the same judicial system body for a term of one to three years,
5. Dismissal from office as administrative head or deputy of an administrative head,
6. Disciplinary dismissal from office.

Under Article 309 of the Judicial System Act when setting the disciplinary sanction, the gravity of the offence, the form of guilt, the surrounding circumstances and the conduct of the offender shall be taken into consideration.

So, depending on the gravity of breach of the Ethics Code's rules, different type of disciplinary measures could be taken, even dismissal from office.



Czech Republic

Breaches of duties of judges or their misconduct can result in disciplinary proceedings (upon proposal of head of the court or Minister of Justice).

Denmark

There is no officially approved or endorsed code of judicial ethics in Denmark.

England and Wales

The Office for Judicial Complaints supports the Lord Chancellor and Lord Chief Justice's joint responsibility in dealing with complaints on matters relating to the misconduct of judges (such as discrimination, inappropriate behaviour, criminal convictions). The role of the OJC is to carry out an initial investigation into each complaint and, if the complaint is considered to be justified, to submit a report jointly to the Lord Chief Justice and Lord Chancellor. They will then jointly decide what further investigation might be necessary or, in a simpler case, what sanction ought to be imposed. Under section 108 of the Constitutional Reform Act 2005, they have the power to give formal advice, a formal warning or a reprimand or to take informal action. The Lord Chancellor has powers to remove judges from the Circuit Bench and below.

It would be highly unlikely for a judge to be disciplined simply for failing to comply with matters set out in "the Guide to Judicial Conduct". This is because the Guide is not prescriptive but rather sets out broad principles of what may, or may not, be considered appropriate judicial behaviour. However, any disregard of the principles set out in "the Guide to Judicial Conduct" would be noted during the investigation of a complaint as one or many factors ultimately to be taken into account.

Finland

Germany

Not applicable (Germany does not have a council for the judiciary).

Hungary



Ireland

Removal from office; Under Article 35.4.1 of the Constitution, a judge of the Supreme or High Court can be removed as a judge for “stated misbehaviour or incapacity” upon the passing of a resolution of both the Dáil (house of deputies) and the Seanad (senate) calling for his or her removal. By statute an identical procedure exists for removal of judges of the District and Circuit Court. Although there has been no official determination the word ‘incapacity’ suggests medical unfitness for office, in the sense that the judge in question was suffering from a physical or other disability such as a stroke or mental illness.

“Stated misbehaviour” could include both conduct outside a judge’s judicial role, such as a conviction for a serious criminal offence, as well as conduct in the exercise of ones judicial functions.

To date there has been no instance of a judge being formally removed from office under the above provision. There have however been instances of a judge retiring in circumstances where they have lost the confidence of their judicial colleagues on account of behavioural issues.

It is anticipated that legislation presently before the government to incorporate a Judicial Council will formalise guidelines for judicial ethics standards and conduct. In addition formal disciplinary procedures governing the work of the Judiciary will be enshrined in the legislation which will introduce a complaints process and disciplinary procedure.

Statutory sanctions which less drastic than removal also apply in the case of District Court judges. For example, Section 21 of the Courts of Justice (District Court) Act 1946 provides for a judicial enquiry into the conduct or condition of health of a District Judge and section 10(4) of the Courts (Supplemental Provisions) Act 1961 provides that where the Chief Justice is of opinion that the conduct of a justice of the District Court has been such as to bring the administration of justice into disrepute, the Chief Justice may interview the justice privately and inform him of such opinion. Section 36(2)(a) of the Courts (Supplemental Provisions) Act 1961 gives the President of the District Court the power to investigate a judge of that court where it appears that “the conduct of a justice of the District Court is prejudicial to the prompt and efficient discharge of the business of the Court”. There are no corresponding provisions for judges of any of the courts higher than the District Court.

Italy

Indeed, the Code of Ethics adopted by the A.N.M. consists in guidance as to principles that has no legal effects and that are at a different level than the rules on disciplinary breaches, yet it has the value of rules of conduct that are inspired by fundamental moral values.



Latvia

Although the Judicial Code of Ethics does not envisage any liability for the breach of provisions contained therein, the Judicial Disciplinary Liability Law provides that in cases of a serious breach of judicial ethics a judge may be subjected to several measures. According to Article 7 of Judicial Disciplinary Liability Law the Judicial Disciplinary Board may take the following decisions:

- to recommend the removal of the judge from office; or
- to impose one of the following disciplinary sanctions: an annotation; a reprimand; or a reduction of salary for a time period up to one year, withholding up to 20 per cent of the salary.

Lithuania

A disciplinary action may be instituted against a judge immediately after at least one of the violations specified in Article 83, paragraph 2 of the Law on Courts comes to light but not later than within three months from the day when this violation came to the notice of the Judicial Ethics and Discipline Commission which has the right to institute a disciplinary action. Excluded from this time period shall be the time when the judge was absent from work due to ill health or a vacation (the Law on Courts, Article 84, part 1).

A disciplinary action may not be instituted after a lapse of more than three years from the moment of commission of the violation (the Law on Courts, Article 83, part 2).

The instituted disciplinary action shall be transferred to the Judicial Court of Honour (the Law on Courts, Article 83, part 6).

The Judicial Court of Honour is an institution of self-governance of courts hearing disciplinary cases of judges and petitions of judges against defamation (the Statute of the Judicial Court of Honour, app. by Resolution No. 13P-224-(7.1.2) of 5 December 2008 of the Judicial Council)

The Judicial Court of Honour shall be formed for four years and shall consist of nine members. The Supreme Court, the Court of Appeals and the Supreme Administrative Court shall each appoint two members to the Judicial Court of Honour. Three members shall be elected by the Judicial Council to the Judicial Court of Honour from all regional administrative courts, regional courts and district courts. Members of the Judicial Court of Honour shall elect the Chairman and Deputy Chairman of the Judicial Court of Honour (the Statute of the Judicial Court of Honour, Section 3, item 6)

A disciplinary action may be brought against a judge (the Law on Courts, Article 83, part 2):

- 1) for an action demeaning the judicial office;
- 2) for violation of other requirements of the Code of Ethics of the Judges;
- 3) for non-compliance with the limitations on the work and political activities of judges provided by law.

After review of a disciplinary action the Judicial Court of Honour may, by its judgment (the Law on Courts, Article 86, part 1):

- 1) dismiss a disciplinary action because of the absence of grounds for disciplinary liability;
- 2) dismiss a disciplinary action because of lapse of time;



3) limit itself to the review of a disciplinary action;

4) impose a disciplinary sanction.

The Judicial Court of Honour may impose one of the following disciplinary sanctions (the Law on Courts, Article 87, part 1):

1) censure;

2) reprimand;

3) severe reprimand.

The Judicial Court of Honour may, by its judgement (the Law on Courts, Article 86, part 2):

suggest the President of the Republic or the Seimas to dismiss the judge from office according to the procedure established by law;

2) suggest to the President of the Republic to apply to the Seimas to institute impeachment proceedings against the judge.

The Netherlands

Norway

There can be expressed criticism, and – more serious – given a formal warning. Such reactions are being regarded as serious in themselves.

Poland

The collection of professional ethical principle for judges is used by disciplinary courts deciding in disciplinary cases of judges for the purposes of assessing whether conduct of a particular judge may be deemed as disciplinary tort

Romania

Scotland

There are no formal provisions concerning breach of the “Statement of Principles of Judicial Ethics” or about disciplinary measures resulting from such breach. Attention is drawn to what is said above about the character of the Statement as being in the nature of guidance and not being prescriptive. There is no specific reference to the “Statement of Principles of Judicial Ethics” in a new conduct scheme for the Scottish judiciary or in draft rules about complaints about the judiciary. So breach of the stated principles will not per se constitute judicial misconduct which may give rise to disciplinary measures. However, it is possible that regard may be paid to the “Statement of Principles of Judicial Ethics” when there is investigation and consideration of a complaint about judicial conduct under the complaints rules. Such cases may result, where a complaint is found to be



substantiated, in the Head of the Scottish Judiciary giving the judicial office holder formal advice, a formal warning or a reprimand. There is a separate procedure in Scotland for cases of allegations of more serious misconduct involving questions of fitness for office, which may result in removal from office. The “Statement of Principles of Judicial Ethics” does not form part of the relevant procedure or rules, but again it may possibly be referred to in connection with investigation and consideration of such allegations.

Spain

Basic rules or principles in the field of judicial ethics which apply to Spanish judges are mirrored in the Latin American Model Code of Judicial Ethics, whose provisions do not envisage any kind of direct sanctions for the infringement of those rules or principles. The rules regarding disciplinary liability of Spanish judges are included in the relevant provisions of the Spanish Law on the Judiciary (articles 414 to 427), which can only be applied “in the cases and with the guarantees established” (by the Law), that is, where a disciplinary offence specifically envisaged in the relevant provisions has been committed by the judge. Articles 417 to 420 define the disciplinary offences and the applicable sanctions according to the legality principle, and albeit most of the provisions concerning disciplinary offences protect ethical principles against breaches, the sole breach of an ethical rule or principle does not entail a disciplinary sanction unless the breach is previously defined by the relevant disciplinary provision.

The consequences for disciplinary infringements are envisaged in article 420 of the Law on the Judicial Power depending on the seriousness of the disciplinary offence committed by the judge. Pursuant to that provision disciplinary sanctions range from warning to dismissal from judicial service and also comprise (in order of seriousness): fine of up to 6,000 €; compulsory transfer to a Court or Tribunal separated by at least one hundred kilometres from that to which the Judge had been previously assigned; and suspension from judicial service up to three years.

Sweden

As pointed out under a) there are no rules concerning judicial ethics. However, the project mentioned also take into account the question what ought to be the consequences in case of breach of a potential set of rules in this field.

However, there are two Government agencies, the Office of the Chancellor of Justice and the Parliamentary Ombudsmen, which monitor the way judges conduct their work according to law. In case of misconduct they can criticize or, in case of major breaches, ensure that the judge in question gets prosecuted.

3.c. Recommendations of WG on Judicial Ethics

How far have the recommendations and conclusions reflected in the Report 2009-2010 of the ENCJ Working Group on Judicial Ethics been implemented by the Council for the Judiciary in your country?

Austria

No implementation due to the lack of a Council for the Judiciary.

Belgium

Bosnia Herzegovina

While the wording is obviously differently, the spirit of the codes of ethics for judges and prosecutors are broadly similar to that of the ENCJ Working Group on Judicial Ethics Report of 2009-2010. There is scope for several amendments to be made to bring in to further into line with the ENCJ standards.

Bulgaria

The Code for Judicial Ethics reflects to a full extent the principles, values and qualities for professional conduct for judges, prosecutors and investigating magistrates.

There is a permanent commission for Judicial Ethics at the Supreme Judicial Council.

Under the provisions of the Ethics Code Commissions for Judicial Ethics were established in each judicial system body /courts, prosecution offices/. The Supreme Judicial Council organised and carried out a number of training seminars for the members of the Ethical Commissions.

Czech Republic

The Report was distributed with recommendations to the Judicial Department of the Ministry of Justice and to the Union of Judges of the Czech Republic.

Denmark

The Danish Court Administration has not yet had time to process the recommendations and conclusions reflected in the report.



England and Wales

The Report was considered at great length by the Judges' Council of England and Wales at its last meeting on 5th November 2010. However, as "the Guide to Judicial Conduct" is already in existence, and as the matters covered by "the Guide to Judicial Conduct" and by the ENCJ Report are very largely complementary, the ENCJ Report will not be implemented as such in England and Wales.

Finland

Germany

Not applicable (Germany does not have a council for the judiciary).

Hungary

The implementation of the recommendations and conclusions reflected in the Report 2009-2010. of the ENCJ Working Group on Judicial Ethics in Hungary are in progress.

Ireland

Ireland was a member of the working group which prepared the ENCJ report on judicial ethics and the principles, values and qualities enshrined therein are those aspired to and respected by the Irish judiciary.

Italy

Latvia

As already mentioned in the answer to the question 3.a), particularly due to its recent establishment, the Council for the Judiciary of Latvia has not yet performed any actions in the field of judicial ethics. However, corresponding provisions to the recommendations and conclusions reflected in the Report 2009-2010 of the ENCJ Working Group on Judicial Ethics to a large extent have already been included in the Latvian Judicial Code of Ethics.



Lithuania

The Judicial Council for the Judiciary in Lithuania have been implemented the recommendations and conclusions reflected in the Judicial Ethics Report 2009-2010 through the activities of above described The Judicial Ethics and Discipline Commission and The Judicial Court of Honour. In their activities they regard the Code of ethics of the judges of the Republic of Lithuania.

The Netherlands

Norway

We had finished our work with our new rules before there was a report from the ENCJ Working Group. As it might be seen when our principles are translated, we have been inspired by the same thinking.

Poland

The collection of the Polish professional ethical principles for judges from 2003 is not in breach of the recommendations included in the 2009/2010 report of the ENCJ Working Group "Judicial Ethics". Recommendations included in the said report are implemented by the National Council of the Judiciary.

Romania

According to the Declaration of the General Assembly of the ENCJ in London, this year, the Report on Judicial Ethics is to be presented at the national level to all the judges and the prosecutors and also to lawyers and to all the persons interested in this field, such as appellants to justice, civil society etc.

Therefore, the Report of the ENCJ WG on Judicial Ethics for 2009 – 2010, has been posted on the web site of the Superior Council of Magistracy from Romania (www.csm1909.ro), in order to be easily accessed and distributed to the courts and the prosecutors' offices.

Feedbacks on the main aspects presented within the report are expected to be discussed at the local and national level.



Scotland

The Judicial Council for Scotland has not yet discussed the ENCJ guidance, but is likely to do so at its meeting on 3 December 2010.

Spain

The recommendations and conclusions reflected in the Report 2009-2010 of the ENCJ Working Group on Judicial Ethics have not been directly implemented by the Spanish CGPJ so far. However, the International Relations Department of the CGPJ has received the Report of the ENCJ Working Group on Judicial Ethics and it is very likely that in the near future the document will be submitted for discussion and endorsement to the relevant Committees and the Plenary Assembly of the CGPJ. It is also very likely that the document will in the near future be submitted to the Latin American Committee of Judicial Ethics for its consideration.

Sweden

The recommendations and conclusions have not been implemented. However, the Report and its recommendations and conclusions is a part of the basis the above mentioned project use when discussing the need for guidelines or a set of rules concerning judicial ethics with the Judiciary.

4) Additional remarks

Do you have any additional comments or remarks on any of the topics analysed by the working group?

Czech Republic

The Union of Judges published the Principles of Judges' Ethics on their webpages: <http://www.soudci.cz/eticke-zasady.php> in Czech, referring to the Bangalore Principles of Judicial Conduct of 2001-2. Six values make up the core of the Bangalore principles: Independence, Impartiality, Integrity, Courtesy, Equality, Competence and Diligence convey explicitly what any citizen expects of the conduct of a judge to whom he has given his trust.

Ireland

It would be interesting to discuss ongoing (post appointment) judicial training and best practice exchanges in the context of the Working Group on Minimum Standards and/or to develop contacts in other ENCJ member countries for this purpose. Civil and common law exchanges on their approaches to topics especially ongoing (post judicial appointment) training would benefit those of both legal traditions.

Sweden

The efforts of the ENCJ Working Group on Development of Minimum Judicial Standards ultimately aim at strengthen the mutual confidence among judges from the different jurisdictions within the EU as a contribution to the achievement of a common European judicial culture. In order to reach this goal, it seems important not only to examine the more formal aspects of issues concerning appointment of judges, judicial training and judicial ethics, but also the material side of things.