

Judicial Independence (2015)

Objective

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

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

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

Respondent's Information

Member State	Council for the Judiciary
Lithuania	Teisėjų Taryba / The Judicial Council

Additional Information

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

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

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

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

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

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

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

	x)	a)	b)	c)	d)	e)	f)	g)	h)
President of a court:									
Special chamber of a court:									
Higher court:									
Supreme Court:									
Council for the Judiciary²:			MA	CA	MA		MA	CA	MA
Judicial inspection body:									
Other independent body (specify): Selection Commission of Candidates to Judicial Office		X				X			
Ministry/Minister of justice:									
Other ministry than min. of justice									
Parliament: with regard to judges (chairpersons) of the Court of Appeal			X	X	X		X	X	X

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

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

Head of state: if applicable- on advice of Judicial Council	X		D	D	OF		OF	D	D
Other (specify): Judicial Court of Honour				X					

Comments:

There were no substantial changes in law; however, we made some changes – to be more precise, especially as regards the distribution of powers between the Judicial Council and the President of the Republic in relation to the appointment, carrier, transfer and dismissal of judges.

The main rule is that according to the law, the Judicial Council must give advice to the President of the Republic as regards the appointment, carrier, transfer and dismissal of judges – if there is no such advice from the Judicial Council, the President cannot adopt the decision.

Moreover, “advice” should not be considered merely as “recommendation”. To be more precise:

As regards the appointment, carrier and transfer of judges: if the Judicial Council gives positive advice to the President, the President is free to adopt the final decision;

If the Judicial Council gives negative advice to the President, then the President must follow this advice when adopting the final decision.

As regards the dismissal of judges: if the President refers to the Judicial Council for the advice to dismiss a particular judge, the Judicial Council checks if there is a ground for dismissal and if it finds that there is a reasonable ground for dismissal, then it must give the advice to the President dismiss the judge and the President must follow such advice when adopting the final decision.

There is a list of candidates to judicial offices (candidate judges) – a person, who meets the criteria for becoming a judge set up in law and passed a special exam (there are also some exceptions when there is no need to pass such an exam) and wants to become a judge

Is included in the list of candidates. When there is judicial vacancy, the Selection Commission evaluates the candidates and prepares provides its opinion on the best candidates to the President of the Republic for consideration and appointment. The Judicial Council gives reasoned advice (MA) to the President regarding the appointment of a particular candidate after the candidate is selected by the President (selection is made from the list) . Therefore, the Judicial Council does not propose candidates on its own initiative, but gives MA to the President as regards the appointment of a particular judge.

When the President refers to the Judicial Council regarding the appointment of particular judge, the Judicial Council shall give its reasoned advice.

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

N/A

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

- ☒ Recruitment through a specific exam or a competition, which includes a specific exam for becoming a judge
- ☒ Recruitment through a vacancy notice without a specific exam
- ☒ Other (specify): Doctors in law or habil. doctors in law, or persons with at least five years of experience as a judge, if not more than five years have passed since they held that position, are exempted from the candidate exam (Article 51, Law on Courts)

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

☐ Yes

☒ No

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

☐ Yes

☒ No

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

☐ Council for the Judiciary

☐ Other independent body (specify): ...

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

☐ Another court / President of another court

☐ Higher court / President of a higher court

☐ Administrative court / President of the Administrative Court

☐ Supreme Court / President of the Supreme Court

☐ Constitutional Court / President of the Constitutional Court

☐ Other (specify): ...

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

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

All requests for appeal/review: ☐:..... / ☒ N/A

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

... : ☐:..... / ☒ N/A

... : ☐:..... / ☒ N/A

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

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

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

- a) proposal of candidates for the appointment as Supreme Court judges
- b) decision on the appointment of a Supreme Court judge
- c) proposal for the dismissal of a Supreme Court judge
- d) decision on the dismissal of a Supreme Court judge

- e) proposal of the candidate(s) for the appointment of the President of the Supreme Court
- f) decision on the appointment of the President of the Supreme Court
- g) proposal for the dismissal of the President of the Supreme Court
- h) decision on the dismissal of the President of the Supreme Court

	a)	b)	c)	d)	e)	f)	g)	h)
President of a court:	MA							
Special chamber of a court:								
Supreme Court:								
Council for the Judiciary:		CA	CA	CA	CA	CA	CA	CA
Judicial inspection body:								
Other independent body (specify): ...								
Ministry/Minister of justice:								
Other ministry than min. of justice (specify): ...								
Parliament:		D	D	D		D		D
Head of state: if applicable- on advice of Judicial Council	x	x	x	x	x	x	x	x
Other (specify) c) 3/5 members of the Seimas (Impeachment procedure according to Article 74 of the Constitution)			x				x	

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

Judges, Chairperson, deputy Chairperson of the *Supreme Administrative Court* are appointed/removed from the office by the President of the Republic. Judges, Chairperson, deputy Chairperson of the *Supreme Court of Lithuania* are appointed/removed from the office by the Seimas on the offer of the President of the Republic.

The advice of the Judicial Council on appointment is needed in both cases.

According to art. 82 of the Law on Courts the Chairperson of the *Supreme Court of Lithuania*, *Court of Appeal of Lithuania* can be removed from the office by impeachment procedure by the Seimas for a gross violation of the Constitution or a breach of oath, also if it becomes known that he has committed a criminal offence.

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

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

In all courts: ☒: 1 / ☐N/A

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

... : ☐:..... / ☒N/A

... : ☐:..... / ☒N/A

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

☒ Yes

☐ No

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

☐ Council for the Judiciary

☐ Other independent body (specify): ...

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

☐ Another court / President of another court

☐ Higher court / President of a higher court

☐ Administrative court / President of the Administrative Court

☐ Supreme Court / President of the Supreme Court

☐ Constitutional Court / President of the Constitutional Court

☒ Other (specify): Vilnius Regional Court (as first instance)

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

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

In all courts: ☒ :.....1..... / ☐ N/A

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

... : ☐ :..... / ☒ N/A

... : ☐ :..... / ☒ N/A

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

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

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

- a) decision on the evaluation of a judge
- b) evaluation of the performance management of courts
- c) decision on the promotion of a judge
- d) adoption of ethical standards
- e) application of ethical standards
- f) proposal for the appointment of a member of the disciplinary body for judges
- g) decision on the appointment of a member of the disciplinary body for judges
- h) proposal for a disciplinary decision regarding a judge
- i) disciplinary decision regarding a judge (all bodies issuing disciplinary decisions)

- j) decision on the follow-up to a complaint against the judiciary/a judge
k) decision on the program/content of training for judges

	a)	b)	c)	d)	e)	f)	g)	h)	i)	j)	k)
President of a court:	x	X			x			X		x	
Special chamber of a court:											
Higher court:	x	x			x			x		x	
Supreme Court:								x	D		
Council for the Judiciary:	x	x	MA		x		D	x		x	x
Judicial inspection body: Internal audit division of the National Courts		x									
Other independent body (specify): Judicial Court of Honour;					x				D		
Ministry/Minister of justice:								X			MA
Other ministry than min. of justice								X			
Parliament:			D				D	X			
Head of state: if applicable- on			D				D	x			
Other (specify): a) Permanent Commission for the Assessment of Activities of Judges; c) Permanent Commission for the Assessment of Activities of Judges and Selection Commission of Candidates to Judicial Office; d) General Meeting of Judges; e) Judicial Ethics and Discipline Commission; f) The Supreme Court, the Court of Appeal, the Supreme Administrative Court, Regional Courts, Regional Administrative Courts, District Courts (art. 122 of the Law on Courts); h) any person; j) Judicial Ethics and Discipline Commission	x		CA	x	x	x		x		x	

Comments (optional):

1.6. Financial resources

1.6.1. Authorities and bodies responsible for financial resources

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country; if relevant, you can additionally insert the following explanations:
"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given]

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

	a)	b)	c)	d)	e)	f)
President of a court:	x	x		x		
Special chamber of a court:						
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:						
Council for the Judiciary:	x	x				x
Judicial inspection body:						
Other independent body (specify): National Courts Administration	x				x	
Ministry/Minister of justice:						
Government	x	x				x
Parliament:			D			
Head of state: if applicable- on advice of ...						
Other (specify): National Audit Office of Lithuania					x	

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

- ☑ amount based on historic and/or realised costs
- ☐ number of incoming cases: specify for which instance: ☐ 1st / ☐ 2nd / ☐ all / ☐ N/A
- ☐ number of resolved cases: specify for which instance: ☐ 1st / ☐ 2nd / ☐ all / ☐ N/A
- ☐ number of resolved cases - based on an evaluation of the cost for courts
- ☑ other (specify): based on different criteria for different types of costs adopted by Council for the Judiciary

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

- ☑ In well-established practice
- ☑ In law
- ☑ Other (specify): Criteria, defined by the Judicial Council

1.7. Governance of the Judiciary

[Please insert an "x" into the box that corresponds to the situation in your country; several answers

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

possible; insert "N/A" when the situation is not applicable in your country;
if relevant, you can additionally insert the following explanations:
"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

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

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

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

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;
if relevant, you can additionally insert the following explanations:
"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

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

f) other human resource management decisions on court staff (e.g. holidays)

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

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

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

1.8.2. Powers of the Councils for the Judiciary

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

Comments:

As it was explained at the beginning (see the first comment): the final decision is adopted by the President, however, the President cannot adopt the decision without an advice of the Judicial Council

The Parliament adopts the decision on the total amount allocated to courts when it considers the State budget in the form of law; based on this decision of total amount allocated to courts, the Judicial Council decides on the allocation of budget to particular courts

2. PROCEDURES AND SANCTIONS FOR PROTECTING JUDICIAL INDEPENDENCE⁴

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

☒ Yes

☐ No

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

☒ A judge who believes his/her independence is threatened

☒ President of a court

☐ Judicial inspection body

☒ Council for the Judiciary

☒ Other independent body (specify): the Judicial Ethics and Discipline Commission

☒ Public Prosecution Service

☐ Minister of justice

☒ Other (specify): every person, who has information about criminal acts can apply to the Prosecution Service of the Republic of Lithuania to start the pre-trial investigation.

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

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

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

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

Complaints from the Council for the Judiciary: ☐:..... / ☒ N/A

Complaints from ...: ☐:..... / ☒ N/A

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

☐ Council for the Judiciary

☐ Other independent body (specify): ...

☐ Judicial inspection body

☐ Court

☐ President of a court

☐ Higher court / President of a higher court

☐ Supreme Court / President of the Supreme Court

☒ Public Prosecution Service

☐ Other (specify): ...

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

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

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

What was the total number of such measures in 2014?

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

- ☐ Notification to other authorities:, from (specify): ...
- ☒ Sanctions (criminal, administrative, at first instance)⁶: 9 criminal cases and 5 administrative offence cases, from (specify): ...
- ☐ Press releases / formal declarations on judicial independence:, from (specify): ...
- ☐ Other (specify):, from (specify): ...
- ☐ N/A

3. IMPARTIALITY – WITHDRAWAL AND RECUSAL⁷

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

- ☒ Yes
- ☐ No

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

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

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

- ☒ Yes (specify; e.g. type of disciplinary measure): censure, reprimand, severe reprimand, (proposal for dismissal) dismissal of the judge from office.
- ☐ No

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

- ☒ The single-judge who is adjudicating in the same case
(when a recusal request is directed against this judge)
- ☒ The panel of judges adjudicating in the same case
(when a recusal request is directed against a member of this panel or against the whole panel)

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

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

- ☒ Another judge at the same court (e.g. selected on seniority or appointed)
- ☐ A special chamber of the same court
- ☒ President of the same court
- ☐ Another court / President of another court
- ☒ Higher court / President of a higher court
- ☐ Supreme Court / President of the Supreme Court
- ☐ Council for the Judiciary
- ☐ Other independent body (specify): ...
- ☐ Ministry of justice / Minister of justice
- ☐ Other (specify): ...

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

Civil and administrative procedure

The decision on the recusal of the judge (judges) is taken by the chairperson of the court, the deputy chairperson, the head of the Civil cases division (in civil procedure) or other judge of the relevant court. In case of the request for the recusal of the chairperson of the court, the judge with largest work standing shall decide on the matter.

If there is not enough number of judges in the court, the request for recusal is decided by relevant higher instance court, in administrative cases – by the chairperson or deputy chairperson of the Supreme administrative court of Lithuania, or the judge appointed by them.

If the case is heard by the panel of judges and the recusal request is delivered not to all of them, the request herein is decided by the judge (judges) to whom the recusal request is not delivered. In administrative case when the repeated recusal request on the same grounds upon which it was rejected, is received, the request is immediately decided by the judge or the panel of judges hearing the case.

Criminal procedure

In Criminal procedure, when the case is heard by the panel of three or seven judges:

- 1) The request for recusal of one judge is decided by other judges;
- 2) The request for recusal of several judges or the whole panel of the judges is decided by the majority of the panel of the judges hearing the case.

If the case is heard by one judge, he decides on the recusal request by himself.

The recusal of the judge shall be approved by the chairperson of the court or the head of the Criminal cases division of that court. If the recusal of the judge is not approved, the judge shall hear the case.

The request for recusal of pre-trial judge is decided by the chairman of the district court.

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

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

In all courts: ☐:..... / ☒N/A

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

... : ☐:..... / ☒N/A

... : ☐:..... / ☒N/A

We have no such statistical data

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

☐ Yes

☒ No

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

☐ Another judge at the same court (e.g. selected on seniority or appointed)

☐ A special chamber of the same court

☐ President of the same court

☐ Another court / President of another court

☐ Higher court / President of a higher court

☐ Supreme Court / President of the Supreme Court

☐ Council for the Judiciary

☐ Other independent body (specify): ...

☐ Minister of justice

☐ Other (specify): ...

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

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

In all courts: ☐:..... / ☒ N/A

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

... : ☐:..... / ☒ N/A

... : ☐:..... / ☒ N/A

4. IRREMOVABILITY - TRANSFER OF JUDGES WITHOUT THEIR CONSENT⁸

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

☒ Yes

☐ No

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

☒ Council for the Judiciary

☐ Other independent body (specify): ...

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

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

civil service court...)

- ☐ President of the same court
- ☐ Another court / President of another court
- ☐ Higher court / President of a higher court
- ☐ Supreme Court / President of the Supreme Court
- ☐ Constitutional Court / President of the Constitutional Court
- ☐ Ministry of justice / Minister of justice
- ☒ Head of state
- ☒ Other (specify): Parliament (with regard to judges of the Court of Appeal and the Supreme Court)

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

- ☐ For disciplinary reasons
- ☒ For organisational reasons (specify; e.g. closure of a court): when there is an urgent need to ensure the proper functioning of the court (temporary): when judge is ill or on maternity leave, the enlarged workload; on permanent basis – when the Judicial Council identifies the essential difference of workload in courts and there is no judge who wishes to be transferred.
- ☐ For other reasons (specify): ...

4.2.1. At what level are these reasons prescribed?

- ☒ In law
- ☐ Other (specify): ...

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

- ☒ Yes
- ☐ No

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

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

In all courts: ☒ :.....**0**..... / ☐ N/A

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

For disciplinary reasons:

For organisational reasons:

For other reasons:

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

... : ☐ :..... / ☒ N/A

... : ☐ :..... / ☒ N/A

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

☐ Yes

☒ No

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

☐ Council for the Judiciary

☐ Other independent body (specify): ...

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

☐ President of the same court

☐ Another court / President of another court

☐ Higher court / President of a higher court

☐ Supreme Court / President of the Supreme Court

☐ Constitutional Court / President of the Constitutional Court

☐ Minister of justice

☐ Head of state

☐ Other (specify): ...

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

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

In all courts: ☐:..... / ☒ N/A

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

For disciplinary reasons:

For organisational reasons:

For other reasons:

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

... : ☐:..... / ☒ N/A

... : ☐:..... / ☒ N/A

5. ALLOCATION OF CASES⁹

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

☒ Yes

☐ No

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

☐ In well-established practice of the court

☒ In an act adopted by the court

☐ In implementing regulations

☒ In law

☒ Other (specify): Resolution of the Judicial Council on Approving the rules for allocation of cases to judges and formation of judicial panels of 2011-03-25 with amendments on 2012-10-26. The Rules for allocation of cases approved by the courts in compliance with the Rules mentioned before.

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

☐ President of the court assigns cases

☐ A member of the court staff assigns cases (e.g. listing officer)

☐ A special chamber of the court assigns cases

☒ The cases are assigned randomly (e.g. through a computerized system)

☐ The cases are assigned according to a pre-defined order (e.g. alphabetic, subject matter)

☐ Other (specify):

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

☒ Yes

☐ No

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

☐ By court staff

☒ By the President of the court

☒ By the Council for the Judiciary

☐ By another independent body (specify): ...

☐ By the Judicial inspection body

☒ Other (specify): subject, performing the external administration: According to the § 1 of the Article 104 of the Law on Courts of Republic of Lithuania (hereinafter Law on Courts), supervision of administrative activities in accordance with The Regulations of administration in courts, approved by the Judicial Council, shall be exercised: 1) of district courts - by the Chairman of the relevant regional court; 2) of regional administrative courts - by the Chairman of the Supreme Administrative Court; 3) of regional courts - by

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

the Chairman of the Court of Appeals; 4) of the Court of Appeals – by the Chairman of the Supreme Court of Lithuania; 5) of all courts - the Judicial Council.

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

☒ Yes

☐ No

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

☒ Changes to the system of allocation of cases

☒ Changes to the practices concerning the allocation of cases

☒ Other (specify): changes of the legal regulation

6. INTERNAL INDEPENDENCE¹⁰

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

☐ Yes

☒ No

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

☐ Division heads at particular courts

☐ Presidents of the courts

☐ Appeal courts / Presidents of appeal courts

☐ Supreme Court / President of the Supreme Court

☐ Other (specify): ...

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

☐ An advisory opinion of general application (for all courts/judges)

☐ An obligatory decision of general application (for all courts/judges)

☐ An advisory opinion of concrete application (to a specific judicial decision)

☐ An obligatory decision of concrete application (to a specific judicial decision)

☐ A practice statement or direction applicable to particular kinds of cases

☐ Other (specify): ...

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

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

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

In all courts: ☐:..... / ☒N/A

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

... : ☐:..... / ☒N/A

... : ☐:..... / ☒N/A