

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
UK England and Wales	Judges' Council of England and Wales

Additional Information

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

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

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

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

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

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

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

Note that in England and Wales, as a result of the Crime and Courts Act 2013, different procedures apply for the appointment of the senior judiciary (High Court Judges and above) and for the appointment of the junior judiciary (Circuit Judges and below). In the case of the latter, the responsibility for approving those selected by the Judicial Appointments Commission rests with the Lord Chief Justice or (in the case of tribunal judiciary) with the Senior President of Tribunals. The above table has been completed on the basis of the procedures as they apply to the senior judiciary.

Notes:

(i) Judicial Appointments Commission following open competition amongst applicants

(ii) In respect of the junior judiciary, disciplinary decisions are taken by the Lord Chancellor and the Lord Chief Justice jointly following an investigation by the Judicial Conduct and Investigations Office: see (a) above. In respect of the senior judiciary, removal additionally requires an Address to be presented to Her Majesty the Queen by both Houses of Parliament on the recommendation of the Lord Chancellor and following an investigation by the Judicial Conduct Investigations Office: see (b) above.

(iii) The Prime Minister is consulted before a recommendation is made to HM The Queen in respect of any appointment either to the Court of Appeal or to the Supreme Court.

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

The Judicial Appointments Commission is under a statutory duty to select candidates either for appointment to, or promotion within, the judiciary.

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): ...

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): The Judicial Appointments and Conduct Ombudsman ...

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 2014/15?

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

All requests for appeal/review: **X THREE**

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

... : **This information is not publicly available...** :

:..... / 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:		CA	X				X	
Special chamber of a court:								
Supreme Court:								
Council for the Judiciary:								
Judicial inspection body:								
Other independent body (specify):	FS(i)				FS(ii)			
Ministry/Minister of justice:		D	X			D	X	
Other ministry than min. of justice (specify): ...		D(iii)				D(iii)		
Parliament:			X	D			X	D
Head of state: if applicable- on advice of ...		OF				OF		

Other (specify): Open competition								
-----------------------------------	--	--	--	--	--	--	--	--

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:

Notes:

- (i) and (ii) Judicial Appointments Commission following open competition amongst applicants.
- (iii) See note (iii) in relation to section 1.1 above

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 ...".]

No full-time judges were dismissed. Only part-time (fee-paid) judges were dismissed, namely one tribunal judge, five court’s judiciary and ten tribunal members (lay members).

In all courts: :16..... / N/A

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

- ... : 5 COURTS’ JUDICIARY (ALL FEE PAID)
- 1 TRIBUNAL JUDGE (FEE PAID)
- 10 TRIBUNAL MEMBERS (i. e. lay judiciary, ALL FEE PAID)

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

Yes but the reconsideration of the facts and determination is exercised by a Disciplinary Panel after the Lord Chancellor and Lord Chief Justice have expressed themselves “minded” to dismiss the judge but before the actual dismissal takes place. Any later appeal would have to be based on an application for a judicial review of the decision to dismiss. In 2014/15 a total of 24 disciplinary panels were convened.

No

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

- Council for the Judiciary
- Other independent body (specify): a Disciplinary Panel organised by the Judicial Complaints Investigations Office although the Lord Chancellor and Lord Chief Justice are not bound by the views expressed by the Disciplinary Panel....
- 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): ...

1.4.2. What was the total number of appeals against dismissals of judges in 2014/15?

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

In all courts: **There were no appeals against a final decision to remove but (see above) 24 Disciplinary Panels were convened in 2014/15.**

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 – NOT APPLICABLE
- b) evaluation of the performance management of courts – NOT APPLICABLE
- 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:			MA	D	D	x	D	X	D	D	CA
Special chamber of a court:											
Higher court:											
Supreme Court:											
Council for the Judiciary:				CA	CA						CA
Judicial inspection body:											
Other independent body:			FS(i)		FS(ii)			FS(ii)		FS(ii)	D
Ministry/Minister of justice:			D	CA		x	D	X	D	D	
Other ministry than min. of justice											
Parliament:											
Head of state: on advice of Minister...			OF								
Other (specify):											

Notes: (i) Judicial Appointments Commission following open competition amongst applicants (ii) Judicial Conduct and Investigations Office.

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:	CA	CA	D			
Special chamber of a court:						
Higher court / President of the Higher court:	CA					
Supreme Court / President of the Supreme Court:						
Council for the Judiciary:		CA				
Judicial inspection body:						
Other independent body (specify): ...						
Ministry/Minister of justice:	D	D	D	X	X	X
Other ministry than min. of justice (specify): ...						
Parliament:						
Head of state: if applicable- on advice of ...						
Other (specify): ...						

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.]

- X amount based on historic and/or realised costs**
- X number of incoming cases: specify for which instance:** all

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.

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

X other (specify): anticipated costs of change projects such as new investment in IT or in the court estate

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

X In well-established practice

In law

Other (specify): ...

1.7. Governance of the Judiciary

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

if relevant, you can additionally insert the following explanations:

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

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

	a)	b)	c)	d)	e)	f)
President of a court:	X	X		CA	CA	CA
Higher court / President of the Higher court:	X					
Supreme Court / President of the Supreme Court:						
Court service governed by the Judiciary:						
Council for the Judiciary:		CA		CA		CA
Judicial inspection body:						
Other independent body (specify): ...						
Court service governed by the Ministry of justice:	D			D		D
Ministry/Minister of justice:					D	
Other ministry than min. of justice (specify): ...						
Other (specify): THE SENIOR PRESIDING JUDGE	X	CA		CA	CA	CA
Judge responsible for media relations						
Press officer at a court		CA	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: (i.e. The Lord Chief Justice)	CA					
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:						
Court service governed by the Judiciary:						
Council for the Judiciary:						
Judicial inspection body:						
Other independent body (specify): ...						
Court service governed by the Ministry of justice:	X	X	X	X	X	X
Ministry/Minister of justice:						
Other ministry than min. of justice (specify): ...						
Other (specify): ...						

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/appointed by the Parliament	Appointed by the Head of State / Prime Minister / Government / Minister of justice	Minister of justice (ex officio)	Appointed/nominated by other bodies/authorities
BE	44			22				22			
BG	25	2		6	5	1		11			
DK	11		6				1				4
IE	18	5		5			2		3		3
ES	21	1	12					8			
FR	22	1		6	6	1	1	4	2		1
HR	11			7				2			2
IT CSM	27	1		12	4	1		8	1		
IT CPGA	15	1		10				4			
LV	15	2		7		1	3	1		1	
LT	23	3		20							
HU	15	1		14							
MT	10	1		4		1	1		2		1
NL	4		2						2		
PL	25	2		15				6	1	1	
PT	17	1		7				7	2		
RO	19	1		9	5	1		2		1	
SI	11			6				5			
SK	18			9				3	6		
UK (EN + WL)	29	9	19								1
UK (NI)	11		11								
UK (SC)	16	4	12								

1.8.2. Powers of the Councils for the Judiciary

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

2. PROCEDURES AND SANCTIONS FOR PROTECTING JUDICIAL INDEPENDENCE⁴

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

Yes. Although there are no formal procedures, if such a question were raised it would be possible to bring proceedings before the court

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): ...

Public Prosecution Service

Minister of justice

Other (specify): ...

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

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

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

Complaints from judges: Believed to be none..... / N/A

However, and whilst it is believed that no judge has had to bring proceedings to vindicate his independence, there have been several occasions of judges making speeches publicly drawing attention to challenges to their independence

Complaints from the Council for the Judiciary: None :..... / 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

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.

Public Prosecution Service (i.e. the Crown Prosecution Service)– if it is considered that the interference with the independence of the judge might constitute a criminal offence

Other (specify): ...

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): ...

X Sanctions (criminal, administrative, at first instance)⁶ are possible but no such proceedings were instituted in 2014. The sanction would be a criminal sanction for contempt of court., from (specify): ...

Press releases / formal declarations on judicial independence:, from (specify): ...

Other (specify):, from (specify): ...

No such proceedings were considered necessary in 2014

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 (the sanction could be anything from a reprimand to dismissal)

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]

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

The single-judge who is adjudicating the particular case (when a recusal request is directed against him / her)

- The panel of judges adjudicating in the same case (when a recusal request is directed against a member of this panel or against the whole panel)
- Another 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:

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: **X Three**

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

... : **Not known**

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: **X Four**

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

... : **Not known**

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, civil service court...)
- President of the same court
- Another court / President of another court
- Higher court / President of a higher court (i.e. THE LORD CHIEF JUSTICE)**
- 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): ...

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

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.)

- For disciplinary reasons
- For organisational reasons (specify; e.g. closure of a court): ...**
- For other reasons (specify): ...

4.2.1. At what level are these reasons prescribed?

- In law
- Other: THERE IS A CONSULTATIVE PROCESS INVOLVING THE JUDGE AND THE SENIOR JUDGES CHARGED WITH "MANAGEMENT" RESPONSIBILITIES**(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: **X NONE**

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, either by application to a court for judicial review, or by requesting a review by senior judges and ultimately the Lord Chief Justice**
- 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: THE SENIOR JUDGES CHARGED WITH “MANAGEMENT” RESPONSIBILITIES, THE SENIOR PRESIDING JUDGE AND ULTIMATELY THE LORD CHIEF JUSTICE

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: **X NONE**

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): ...

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

President of the court assigns cases

A member of the local court staff assigns cases (e.g. listing officer) on the basis of listing (i.e. scheduling) policies decided by the judges of the local court and always subject to the supervision of those local judges, who are able (if they so wish) to overrule any decision otherwise made by the 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): ...

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

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

Yes: see #5.2 above.

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): ...

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): ...

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)

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

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

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

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

In all courts: **X ABOUT TWENTY**

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

... : **Not known**