

## Questionnaire of the Special Rapporteur on the independence of judges and lawyers

**1. Please indicate whether there is a national body or mechanism in charge of selecting, appointing, promoting, transferring, suspending or removing judges in your country. What is the exact denomination of this body or mechanism? What are the legal basis for its establishment (e.g. constitutional provisions, ordinary law or other)?**

The State Judicial Council is a national body in charge of selecting, appointing, promoting, transferring, suspending or removing judges.  
Establishing of the State Judicial Council is prescribed by Article 124 of the Constitution of the Republic of Croatia.

**2. Please provide information on the composition of the body or mechanism (number and qualifications of members), the procedure of appointment of its members and duration of their term of office. Please also provide information on the human and financial resources of this body or mechanism (e.g. number of employees and their qualifications; annual budget).**

The State Judicial Council has 11 members, of which 7 are judges, elected by judges themselves, two university professors of law, elected by university professors of law from all Faculties of law in the Republic of Croatia and 2 members of Croatian Parliament (one from the opposition), appointed by the Parliament.

Members of the State Judicial Council are elected for the period of 4 years.

The State Judicial Council currently has 6 employees, 3 of which graduated from Faculty of Law, and 3 are administrative staff. All State Judicial Council employees are civil servants.

The State Judicial Council is financed from the State Budget. The annual budget of the Council for 2018 is 1.987.000,00 HRK.

**3. Please provide detailed information on the legislation and practice existing in your country in relation to:**

**(a) the selection and appointment of candidates for judicial offices and the criteria used for their selection and appointment (e.g. qualifications, integrity, ability and efficiency);**

Judges are appointed for the first time at municipal, misdemeanour, commercial and administrative courts, strictly from the ranks of candidates who have, after graduating from the Faculty of law, completed the State School for Judicial Officials. The aim of the State School is to provide the necessary knowledge and skills for autonomous, responsible, independent and impartial performance of judicial duties.

When the State Judicial Council appoints a judge out of the candidates who have completed the State School for Judicial Officials, the selection must be based on final assessment of the candidates after the State School. These candidates undergo psychology test and security clearance before appointment.

A person who has worked as a judicial official for at least eight years can be appointed as a judge at a county court, the High Misdemeanour Court of the Republic of Croatia, the High Commercial Court of the Republic of Croatia and the High Administrative Court of the Republic of Croatia (second instance courts).

A person who has worked at least 15 years as a judicial official, has been a lawyer, notary public for that many years, professor of law who has passed the bar exam and has at least 15 years of work experience after passing the bar exam, and a prominent lawyer who passed the



bar exam and has a minimum of 20 years' experience with proven expertise in a particular legal area, as well as in professional and scientific papers, can be appointed as a judge at the Supreme Court of the Republic of Croatia.

A candidate for the judge of the Supreme Court who is not a judicial official and a candidate who submits an application to announcement of vacancy of the office of second instance court, and who qualifies, i.e. has at least 8 years of service as a judicial official but is not a judge (State Attorney/Deputy State Attorney) takes a test before the Council, which consists of drawing up one or more written papers.

For candidates who submit an application to announcement of vacancy of the office of second instance court, meet the requirements of service and who are judges, the Council will request the evaluation of the performance of judicial duties from a competent judicial council.

The candidates who are not judicial officials undergo psychology test and security clearance before appointment.

Once the competent judicial council submits the final evaluation of the performance of judicial duties of the judge, or after knowledge exam, the Council conducts interviews with the candidates.

After the interview, a ranking list of candidates is compiled and a decision on the appointment of judges made.

#### **(b) conditions of service and security of tenure of judges;**

According to the Constitution of the Republic of Croatia, judges are appointed for an undetermined period, but when they turn 70 their judicial office ceases ex lege and the State Judicial Council relieves a judge of his judicial duties.

Judicial duties of a judge may finish even before he is 70 years old at a court in which he is appointed by operation of law when he/she assumes office at another court or judiciary or state body or by death – the decision is adopted by the Council.

The judicial duty may be terminated if the Council relieves him/her of his/her duty in accordance with the Constitution of the Republic of Croatia and the Act on the State Judicial Council, if he/she personally requests so, if he/she becomes incapacitated for performing judicial duties, if sentenced for a criminal offence which makes him/her unworthy of the judicial office, if, in conformity with the law, so decides the State Judicial Council due to the commitment of an act of serious infringement of discipline.

#### **(c) promotion of judges;**

There is only promotion of judges to a higher instance courts.

A person working as a judicial official for at least 8 years may be appointed for a county court judge, a judge of the High Commercial Court of the Republic of Croatia, a judge of the High Administrative Court of the Republic of Croatia and a judge of the High Misdemeanour Court of the Republic of Croatia (second instance courts), while a person working as a judicial official for at least 15 years, or a person who is not a judicial official, but meets other criteria prescribed by the law, may be appointed for a judge of the Supreme Court of the Republic of Croatia.

Prior to the decision of the promotion, the Council shall request from the competent judicial council the evaluation of the performance of judicial duties of the judge and conduct interviews with the candidates.

After the interview, a ranking list of candidates is compiled and a decision on the promotion of judge is made.



According to the Courts Act, the judicial council assesses the work of the judge, according to objective, legally prescribed criteria. Those are the number of decisions rendered by the judge in relation to the number of decisions he should have issued based on the Framework Criteria for the Work of Judges, the results of his work based on the types of cases in absolute numbers and percentage, meeting deadlines for the decisions, the quality of the decisions in regard to legal remedies (upheld, remand for retrial or reversed in absolute numbers and percentage in relation to the total number of decisions, in relation to the number of decisions in cases with lodged remedies and the number of decisions in regard to remanding the case for retrial on grounds of essential violations of the procedure) and other activities of the judge. The methodology for evaluating judges is adopted by the Council and it prescribes the number of points for each of the above criteria taken into account when evaluating the judges. Furthermore, the Council, when scoring interviews of candidates for promotion of judges, examines and evaluates the candidate's ability to render decisions, his sense of justice, appropriate and responsible performance of duties, motivation of the candidate for work in judiciary and the work up to that point, as well as activities important for successful performance of judicial duty for the position for which the candidate applied.

**(d) transfer of judges;**

A judge can be transferred to another court of the same instance without his/her consent only for organisational reasons (when the court is merged with another court or abolished).

A judge can be temporarily transferred to another court (regardless of the instance of the court) with his/her consent for up to 2 years (this period of time can be prolonged for another 2 years).

A judge can also be permanently transferred to another court with his/her consent.

**(e) disciplinary proceedings against judges;**

The disciplinary offences of judges are as follows:

1. careless performance of judicial office;
2. failure to comply with a decision rendered in the procedure for the protection of the right to trial within a reasonable time;
3. performance of any service, tasks or activities incongruent with judicial office;
4. causing of disruptions in the work of a court which have a significant impact on the exercise of judicial power;
5. disclosure of an official secret concerning the performance of judicial office;
6. damaging of the reputation of the court or of judicial office in any other way;
7. failure to submit a declaration of assets or the untruthful presentation of data in the declaration of assets;
8. not to be subjected to the judgment of physical and mental characteristics to assess the ability for the performance of the judicial office.

Disciplinary proceedings for the disciplinary offence of careless performance of the judicial office shall be initiated particularly if:

1. the judge, without a justified reason, fails to draft and dispatch court decisions;
2. the judge's performance has been negatively evaluated by the council of judges;



3. without a justified reason, the number of decisions that the judge has rendered within a period of one year is significantly below the average number of decisions determined by the Framework Criteria for the Work of Judges;

4. if the judge, without a justified reason, in solving the case significantly deviates from the order of their receipt at the court, or s/he does not take care of their urgency.

If the disciplinary proceedings have been initiated against the judge for the disciplinary offence of failure to comply with a decision rendered in the procedure for the protection of the right to trial within a reasonable time, the State Judicial Council is required to inform the State Attorney's Office about it.

Disciplinary proceedings shall be initiated by the President of the court in which the judge performs the judicial office, and it may be initiated also by the President of the immediately higher court, the President of the Supreme Court of the Republic of Croatia, the Judicial Council and the Minister of Justice.

The disciplinary proceedings against judges shall be conducted by the State Judicial Council, and the judge has the right to appeal against the decision of the State Judicial Council to the Constitutional Court.

The disciplinary sanctions for the established disciplinary liability of the judge may be:

1. reprimand;
2. fine of up to one third of the salary received in the previous month, for a period of one to three months;
3. fine of up to one third of the salary received in the previous month, for a period of four to six months;
4. fine of up to one third of the salary received in the previous month, for a period of seven to twelve months;
5. removal from office.

**What is the role played by the national organ or mechanism with regard to the issue referred above?**

The State Judicial Council is a national body in charge of selecting, appointing, promoting, transferring, suspending or removing judges.

