Data CCBE-ENCJ Survey
on the Perception of the Independence of Judges among Lawyers

2017

In co-operation with the CCBE
The Executive Board of the ENCJ asked the CCBE, the Council of Bars and Law Societies of Europe to disseminate a survey among lawyers on the independence of judges. The CCBE sent the survey to its members and asked them to disseminate it on the national level.

The reply rate was good in some countries, but bad to non-existent in many other countries. In this overview replies are shown for countries with a rate above 0,5% of the total number of lawyers (CEPEJ data).

When interpreting the data the reply rate must be taken into account.

**Replies received per country**

<table>
<thead>
<tr>
<th>Country no. replies</th>
<th>CEPEJ 2016 no of lawyers</th>
<th>Reply rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>BE FR 94</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BE NL 693</td>
<td>18134</td>
<td>3,8%</td>
</tr>
<tr>
<td>CZ 163</td>
<td>11842</td>
<td>1,3%</td>
</tr>
<tr>
<td>EE 71</td>
<td>934</td>
<td>7,6%</td>
</tr>
<tr>
<td>EL 236</td>
<td>42052</td>
<td>0,56%</td>
</tr>
<tr>
<td>FI 246</td>
<td>2115</td>
<td>11,6%</td>
</tr>
<tr>
<td>HR 47</td>
<td>4487</td>
<td>1%</td>
</tr>
<tr>
<td>HU 109</td>
<td>13000</td>
<td>0,83%</td>
</tr>
<tr>
<td>IE 128</td>
<td>11588</td>
<td>1,1%</td>
</tr>
<tr>
<td>PL 501</td>
<td>52760</td>
<td>0,94%</td>
</tr>
<tr>
<td>PT 252</td>
<td>29337</td>
<td>0,85%</td>
</tr>
<tr>
<td>SK 179</td>
<td>5827</td>
<td>3%</td>
</tr>
<tr>
<td>SI 132</td>
<td>1628</td>
<td>8%</td>
</tr>
<tr>
<td>UK NI 30</td>
<td>740</td>
<td>4%</td>
</tr>
<tr>
<td>UK SC 80</td>
<td>11181</td>
<td>0,7%</td>
</tr>
</tbody>
</table>

BE FR – Represents the replies from French speaking lawyers in Belgium

BE NL – Represents the replies from the Dutch speaking lawyers in Belgium

In this small report a selection of the questions are presented. The full list of questions can be found in the annex. Due to the limited number of replies no full analysis has been done. The ENCJ and CCBE are planning to repeat the exercise in 2018 simultaneously with the survey among judges on their independence.
1a. During the last three years I believe judges have been under inappropriate pressure to take a decision in a case or part of a case in a specific way

<table>
<thead>
<tr>
<th>Category</th>
<th>Agree-Strongly Agree</th>
<th>Not sure-Not Applicable</th>
<th>Disagree-Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parties and their lawyers</td>
<td>37%</td>
<td>49%</td>
<td>15%</td>
</tr>
<tr>
<td>Government</td>
<td>67%</td>
<td>15%</td>
<td>5%</td>
</tr>
<tr>
<td>Other Judges (including an association of judges)</td>
<td>37%</td>
<td>22%</td>
<td>20%</td>
</tr>
<tr>
<td>Court Management (including a Court President)</td>
<td>37%</td>
<td>24%</td>
<td>15%</td>
</tr>
<tr>
<td>Council for the Judiciary</td>
<td>7%</td>
<td>1%</td>
<td>3%</td>
</tr>
<tr>
<td>Supreme Court</td>
<td>0%</td>
<td>4%</td>
<td>13%</td>
</tr>
<tr>
<td>Constitutional Court</td>
<td>0%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Media</td>
<td>37%</td>
<td>53%</td>
<td>43%</td>
</tr>
<tr>
<td>Social Media</td>
<td>15%</td>
<td>19%</td>
<td>15%</td>
</tr>
</tbody>
</table>

ENCJ-CCBE survey on the perception of the independence of judges among lawyers - 2017
1b. If you agree or strongly agree with 1a, by whom?
Q2a In my country, I believe that during the last three years individual judges have accepted bribes as an inducement to decide case(s) in a specific way.

3. I believe during the last three years cases have been allocated to judges other than in accordance with established rules or procedures in order to influence the outcome of the particular case.
4a. I believe judges in my country have been appointed other than on the basis of ability and experience during the last three years.

4b. I believe judges in my country have been promoted other than on the basis of ability and experience during the last three years.
5. I believe that in my country decisions or actions of individual judges have, during the last three years, been inappropriately influenced by the actual, or anticipated, actions of the media (i.e. press, television or radio).

6. I believe that in my country decisions or actions of individual judges have, during the last three years, been inappropriately influenced by the actual, or anticipated, actions using social media (for example, Facebook, Twitter or LinkedIn).
8. During the last three years the management of the court has exerted pressure on judges to decide individual cases in a particular way.

On a scale of 0 - 10 (where 0 means "not independent at all" and 10 means "the highest possible degree of independence), professional judges in my country are <average score>
10. What would, in your view, contribute most to the improvement of the independence of the judges in your country (tick three boxes)?

<table>
<thead>
<tr>
<th>Country</th>
<th>No 1 answer</th>
<th>No 2 answer</th>
<th>No3 answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>BE</td>
<td>A more objective allocation of cases to judges</td>
<td>Better working conditions regarding case load</td>
<td>Better working conditions regarding pay including pensions and retirement age</td>
</tr>
<tr>
<td>FR</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working conditions regarding case load</td>
<td>Less pressure from social media</td>
</tr>
<tr>
<td>BE</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>A reduction of judicial corruption</td>
<td>A more objective allocation of cases to judges</td>
</tr>
<tr>
<td>NL</td>
<td>Better working conditions regarding case load</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Less pressure from the media</td>
</tr>
<tr>
<td>CZ</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>A more objective allocation of cases to judges</td>
<td>Less pressure from social media</td>
</tr>
<tr>
<td>EE</td>
<td>Better working conditions regarding case load</td>
<td>Better working conditions regarding case load</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
</tr>
<tr>
<td>EL</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working conditions regarding case load</td>
<td>A reduction of judicial corruption</td>
</tr>
<tr>
<td>FI</td>
<td>Better working condition regarding court resources</td>
<td>Better working conditions regarding case load</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
</tr>
<tr>
<td>HR</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>A reduction of judicial corruption</td>
<td>Less pressure from the media</td>
</tr>
<tr>
<td>HU</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>A more objective allocation of cases to judges</td>
<td>Less pressure from court management to decide cases in a particular way</td>
</tr>
<tr>
<td>IE</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working condition regarding court resources</td>
<td>Better working conditions regarding pay including pensions and retirement age / case load</td>
</tr>
<tr>
<td>PL</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working conditions regarding case load</td>
<td>A more objective allocation of cases to judges</td>
</tr>
<tr>
<td>PT</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working conditions regarding case load</td>
<td>Better working condition regarding court resources</td>
</tr>
<tr>
<td>SK</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>A reduction of judicial corruption</td>
<td>Better working conditions regarding case load</td>
</tr>
<tr>
<td>SI</td>
<td>A more objective allocation of cases to judges</td>
<td>Less pressure from court management to decide cases within a particular time</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
</tr>
<tr>
<td>UK</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working condition regarding court resources</td>
<td>Better working conditions regarding case load</td>
</tr>
<tr>
<td>NI</td>
<td>Less pressure from the media</td>
<td>Appointment and promotion of judges strictly on the basis of ability and experience</td>
<td>Better working condition regarding court resources</td>
</tr>
</tbody>
</table>

Annex 1. Survey

ENCJ-CCBE survey on the perception of the independence of judges among lawyers - 2017
Survey among lawyers about the independence of judges

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY

I. THE REFERENCE PERIOD FOR ANSWERING ALL QUESTIONS IS THE LAST TWO YEARS (i.e. since January 2015)

II. UNLESS STATED OTHERWISE, QUESTIONS ARE TO BE ANSWERED:
   - Strongly disagree
   - Disagree
   - Not sure
   - Agree
   - Strongly agree

III. Your individual answers will be anonymous but please let us know the name of the country in which you practise as a lawyer. The survey data will be published on a country-by-country basis.
PLEASE ANSWER ALL OF THE FOLLOWING QUESTIONS:

The country in which I practise as a lawyer ……………………………………

My gender is……………. □ MALE      □ FEMALE      □ I DO NOT WISH TO ANSWER THIS QUESTION

My judicial experience (years of service as a judge) is:
□ 0-5 years
□ 6-10 years
□ 11-15 years
□ 16-20 years
□ 21-25 years
□ 25-30 years
□ Over 30 years

How often does your practice bring you into contact with courts
□ Regularly
□ Occasionally
□ Never

1a. During the last two years I believe judges have been under inappropriate pressure to take a decision in a case or part of a case in a specific way.
□ Strongly disagree
□ Disagree
□ Not sure
□ Agree
□ Strongly agree

1b. If you agree or strongly agree with 1a, by whom? (Multiple answers are possible)
□ Parties and their lawyers
□ Government
☐ Parliament
☐ Other Judges (including an association of judges)
☐ Court Management (including a Court President)
☐ Council for the Judiciary
☐ Supreme Court
☐ Constitutional Court
☐ Media
☐ Social Media

2a. In my country I believe that during the last two years individual judges have accepted bribes as an inducement to decide case(s) in a specific way.

☐ Strongly disagree
☐ Disagree
☐ Not sure
☐ Agree
☐ Strongly agree

2b. If you agree or strongly agree with 2a, did this occur:

☐ On a rare exception
☐ Occasionally
☐ Regularly

3. I believe during the last two years cases have been allocated to judges other than in accordance with established rules or procedures in order to influence the outcome of the particular case.

☐ Strongly disagree
☐ Disagree
☐ Not sure
☐ Agree
☐ Strongly agree

4a. I believe judges in my country have been appointed other than on the basis of ability and experience during the last two years.

☐ Strongly disagree
☐ Disagree
☐ Not sure
☐ Agree
4b. I believe judges in my country have been promoted other than on the basis of ability and experience during the last two years.

- Strongly disagree
- Disagree
- Not sure
- Agree
- Strongly agree

5. I believe that in my country decisions or actions of individual judges have, during the last two years, been inappropriately influenced by the actual, or anticipated, actions of the media (i.e. press, television or radio).

- Strongly disagree
- Disagree
- Not sure
- Agree
- Strongly agree

6. I believe that in my country decisions or actions of individual judges have, during the last two years, been inappropriately influenced by the actual, or anticipated, actions using social media (for example, Facebook, Twitter or LinkedIn).

- Strongly disagree
- Disagree
- Not sure
- Agree
- Strongly agree

7. I believe that in my country the Council for the Judiciary has the appropriate mechanisms and procedures in order to defend judicial independence effectively.

- Strongly disagree
- Disagree
- Not sure
- Agree
- Strongly agree
8. During the last two years the management of the court has exerted pressure on judges to decide individual cases in a particular way.

9. On a scale of 0 - 10 (where 0 means "not independent at all" and 10 means "the highest possible degree of independence).

   The professional judges in my country are:

   
   0 1 2 3 4 5 6 7 8 9 10

   not independent at all completely independent

10. What would, in your view, contribute most to the improvement of the independence of the judges in your country (tick three boxes)?

    □ A reduction of judicial corruption
    □ Less use of (the threat of) disciplinary action by judicial authorities
    □ Less use of (the threat of) claims for personal liability by parties
    □ A more objective allocation of cases to judges
    □ Appointment and promotion of judges strictly on the basis of ability and experience
    □ Less pressure from the media
    □ Less pressure from social media
    □ Less guidelines by judges of my own rank
    □ Less pressure from court management to decide cases in a particular way
    □ Less pressure from court management to decide cases within a particular time
    □ Better working conditions regarding pay including pensions and retirement age
    □ Better working conditions regarding case load

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Better working condition regarding court resources

THANK YOU FOR PARTICIPATING IN OUR SURVEY