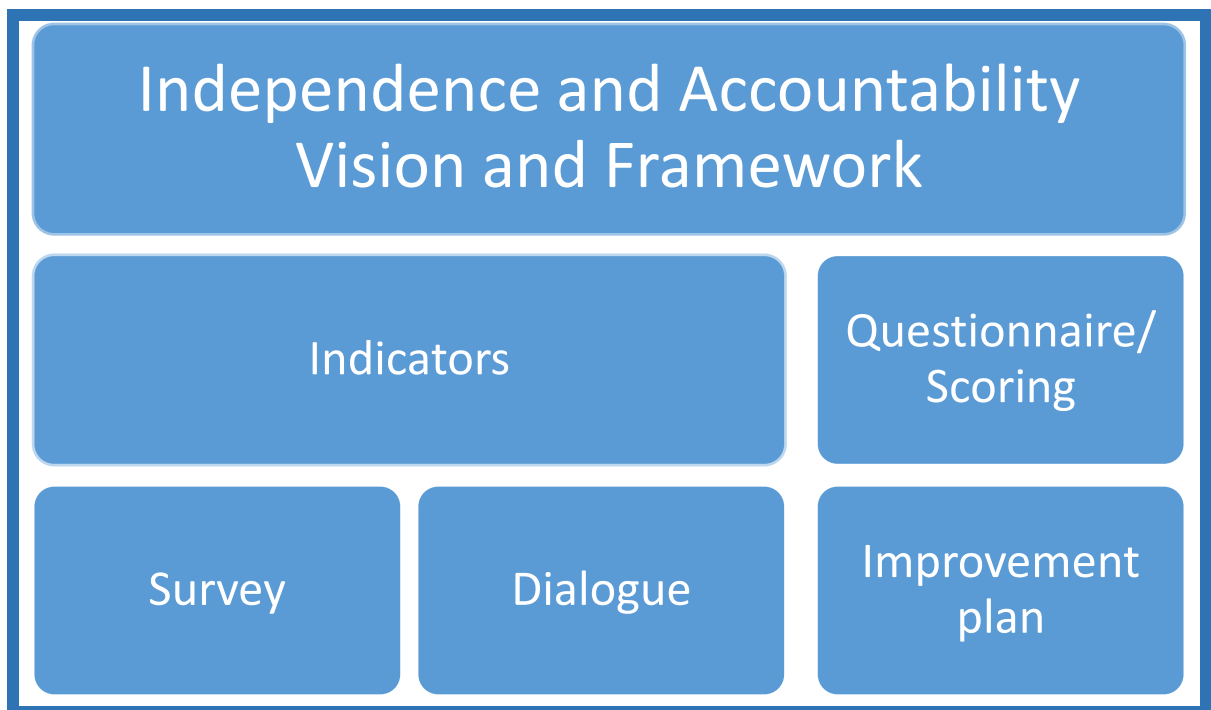




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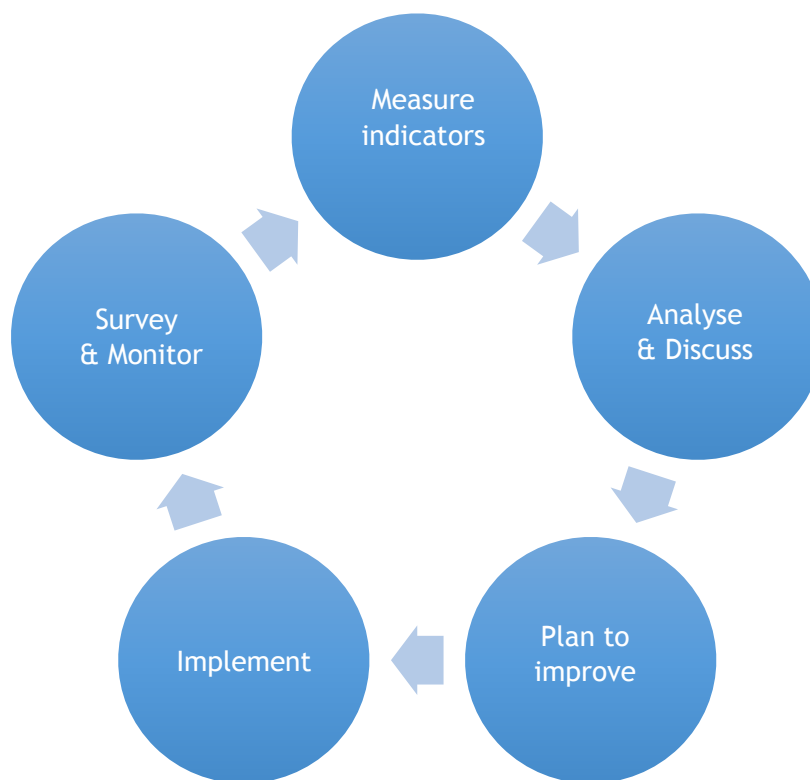
The ENCJ Independence & Accountability of the Judiciary project



The ENCI Independence and Accountability project

- Started in 2013
- With the aim to move beyond debating independence and accountability at a theoretical level to the development of a practical method to analyse the current state of affairs
- By developing and evaluating indicators for the independence and accountability of judicial systems, Judiciaries, and Councils for the Judiciary within the European Union with a view to their improvement
- The project identified all relevant documentation in this field. The ENCI vision and indicators are based on the analysis of all European and International standards for the independence and accountability of the Judiciary.

1. The I&A cycle



The cycle starts with the measurement of the indicators, followed by the analysis and discussion of the outcomes. This provides the input for planning. The implementation of plans is often by far the most time-consuming phase. During implementation progress needs to be monitored. Part of the monitoring are the surveys, in particular, among judges. These surveys provide also input for the measuring of the indicators. And a new cycle starts in which results are discussed and plans are adjusted, if necessary.

I. Measure Indicators - Year 1

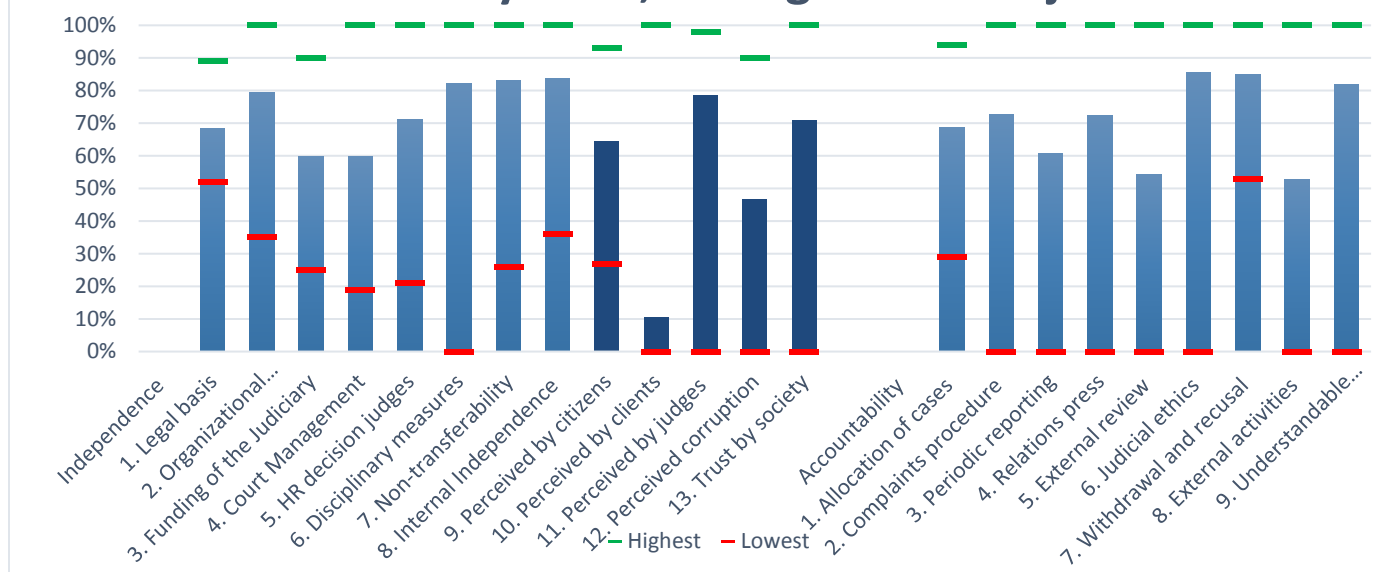
Table 1 Types of indicators

	independence		accountability	
formal	Judiciary as a whole	Individual judge	Judiciary as a whole	Individual judge
perceived	Perceptions by a range of groups		Only perceptions of judges and lawyers	

1. Application of the indicators of independence and accountability of the Judiciary by ENCJ Members and Observers requires a questionnaire. See Annex I for indicators, questionnaire and scoring rules.
2. Validation of the reply by national expert group. Given the need for objectivity and expertise, it stands to reason that members are selected from respected persons from the scientific community with knowledge about the subject and known for their objectivity. It has been suggested that in addition persons from knowledgeable groups such as bar associations, judges associations and/or organizations of prosecutors, could be involved. These groups have in common that they do not belong to the Council or other responsible body but due to their job experience have significant knowledge of the justice system. Selection of members needs to be done in a transparent, objective manner, else the validation group can be easily discredited.
3. Scoring of the replies by the ENCJ expert group comprising 4 people from the ENCJ coming from different legal systems. The expert group will ensure consistency and accuracy of the answers to the questionnaire being provided. The expert group will report its findings to the project group.
4. The initial scores are sent to the Members and Observers for reactions and to seek clarification. Final scores are settled and published.

The outcome is a profile for a judiciary (or an average across judiciaries as in the figure:

Figure 1. Indicators independence and accountability 2017, averages over all judiciaries



II. Analyse and discuss - Dialogue groups - Year 1

Purpose of the dialogue groups

Dialogue groups consist of representatives of four judiciaries. The purpose of the dialogue groups is to discuss the results of the application of the indicators and identifying the problems facing the independence and accountability of the Judiciary in each country and identifying remedies. The remedies will be made concrete by developing specific objectives to be reached and activities to be undertaken to reach the objectives. Objectives and activities are to be included in the yearly plans of the organisations concerned. These plans will be presented at the General Assembly 2021.

Annex II – format dialogue group meetings

III. Plan to improve – Year 2

1. Focus on 2-3 topics: the dialogue meetings aim to identify three top-priorities for each judiciary. It is advisable to stick to these top-priorities, once these have been endorsed by the Councils. Given the complexity of achieving objectives in the area of independence and accountability, focus is essential.
2. Integration in general strategic planning: Councils are advised to decide explicitly about the relationship between the I&A improvement plan and overall strategic planning of the Council. Integration in an overall strategy process, especially if a formal legislative procedure is mandatory to approve plans, may be efficient. This may affect the timeline of the improvement plan, and the ENCJ should be informed about this.

3. Focus on the mandate of the Council (if possible): to achieve results speedily it is advisable to focus on topics that are within the mandate of the Council or, second best, the judiciary. Dependence on the co-operation of actors outside the judiciary can easily lead to delay or worse. However, this will not always be possible, as the top-priorities in this area often require legislation. A balance between topics that require legislation and others that can be achieved internally should be strived at. As to topics that require legislation or otherwise close co-operation with the other state powers, a strategic approach with regard to the interaction with the other powers, aimed at establishing a constructive dialogue, is necessary. This may involve the media as well. Such a strategic approach will require a long term perspective.

4. Use a simple format: in order to facilitate exchange of ideas with other Councils it is recommended to address the following topics in an improvement plan (or in an extract about independence and accountability of a general strategic plan):

(1) main challenges: presented in a few sentences with a concise presentation of the context in which the challenges have arisen;

(2) strategic objective(s) to address the challenge(s): described by linking them to a specific area that is planned to be improved;

(3) methodology (how will the objectives be realised): the informativeness of this part has a significant added value for the implementation of the member's own objective as well as for the dissemination of good practices among ENCJ members;

(4) key stakeholders: identified by linking them to the challenges or the strategic objectives to address the challenges;

(5) risks: identified for each of the strategic objectives;

(6) concrete timelines: even if the selected measures are to be applied in a continuous process of improvement of the judicial system, distinguishing stages encourages the interest in achieving the results and allows self-control;

(7) monitoring mechanism: not only a monitoring process should be determined but also the variables to measure success and the periodicity of measuring for each of the strategic objectives.

IV. Implement – Year 2

Implementation by ENCJ Members and Observers on national level.

V. Monitor and Survey – Year 3

The ENCJ project could monitor the progress made by the Members and Observers. This would not need to be very formal, but can be done during the meetings of the project team.

Members and Observers will also be invited to participate in the survey among judges on their independence.

Survey

One of the ways of monitoring the development of the state of independence and accountability is through the survey among judges.

All Members and Observers of the ENCJ (i.e. Councils for the Judiciary and, where these do not exist, other governing bodies of the judiciary such as ministries of Justice) will be invited to take part in the survey.

The participating governing bodies provide a translation of the survey. For each language a separate survey is created and made available on the ENCJ internet site. The respondents could fill in the survey online anonymously. They are asked to specify the country in which they were working as a judge. Judges can fill out the survey in any language into which the survey had been translated.

The Members and Observers are sent a letter of introduction and a recommendation of the president of the ENCJ to all judges within their jurisdictions. The letter contains a link to the internet site of the ENCJ that hosted the survey.

The survey is designed in such a way that it requires judges to give a general assessment of their independence as they perceive it, to provide the data for the relevant Independence indicator, but also explored different aspects of independence in depth. In addition, data on personal characteristics (gender and experience) and work (type of court and area of law) were gathered. The survey is gradually being extended to include the accountability of the judiciary.

See annex III for the 2019 survey questions among judges

Survey among lawyers (if feasible)

If it is feasible a survey among the lawyers could be held in the same period as the survey among judges. The survey would ask the lawyers to give a general assessment of the independence of the judges in their country and to assess aspects that affect independence, and which they are able to observe as lawyers.

The ENCJ and the CCBE first agree on the content of the survey, taking the judges survey as a starting point. The CCBE then asks all national bar and law societies to translate the survey in their languages. The national organizations subsequently invite the lawyers to participate in the survey and provide them with a link to the CCBE website.

For both surveys assistance is needed from data-analysts to process the data.

Some of the answers will feed into the measurement of the indicators in the next cycle (Cycle 2 – year I).

2. Overview of the I&A reports

Report 2013-2014

- Vision and Framework for Independence and Accountability
- Indicators for Independence and Accountability

Report 2014-2015: Performance Indicators 2015

- Measurement of I&A through application of the Indicators (by means of a questionnaire)
- Results of 1st survey among judges
- Pilot dialogue group

Report 2015-2016: Improving the Performance Indicators

- Improved I&A Indicators and Scoring rules
- Conclusions of dialogue group meetings

Report 2016-2017,: Performance Indicators 2017

- Measurement of I&A through application of the Indicators (questionnaire)
- 2nd survey among judges
- 1st survey among lawyers

Report 2017-2018: Validation of methodology, exploring quality of justice and promoting judicial change

- Validation of the I&A indicators through discussions with EU experts and academics
- Survey among lay-judges
- Format and Conclusions dialogue group meetings

Report 2018-2019: Indicators and Surveys: Leading a process of positive change

- Explanation of I&A cycle
- Improved indicators Independence and Accountability
- Recommendations for improvement plans
- Design of (part of) a court user survey about independence
- 3rd survey among judges
- 2nd survey among lawyers

3. Annexes

Annex I

Indicators, Questionnaire and Scoring

INDICATORS OF THE FORMAL INDEPENDENCE OF THE JUDICIARY AS A WHOLE

1. Legal basis of independence, with the following sub-indicators:

- Formal guarantees of the independence of the judiciary;
 - Formal assurances that judges are bound only by the law;
 - Formal guarantees that judges are appointed permanently until retirement
 - Formal methods for the determination of judges' salaries;
 - Formal mechanisms for the adjustment of judges' salaries;
 - Formal guarantees for involvement of judges in the development of legal and judicial reform.

2. Organisational autonomy of the judiciary, with the following sub-indicators where there is a Council for the Judiciary or equivalent independent body:

- Formal position of the Council for the Judiciary;
- Compliance with ENCJ guidelines; See below for proposed change of sub-indicators
- Responsibilities of the Council.

Sub-indicator when there is no Council for the Judiciary or an equivalent body:

- Influence of judges on decisions.

3. Financial independence, with the following sub-indicators:

- Budgetary arrangements;
- Funding system;
- Resolution of conflicts about budgets.

4 Management of the court system.

- Management responsibility of the courts.

INDICATORS OF THE FORMAL INDEPENDENCE OF THE INDIVIDUAL JUDGE

5. Human resource decisions about judges, with the following sub-indicators:

- Selection, appointment and dismissal of judges and court presidents;
- Selection, appointment and dismissal of Supreme Court judges and the President of the Supreme Court;
- Compliance with ENCJ guidelines about the appointment of judges;
- Evaluation, promotion, disciplinary measures and training of judges;
- Compliance with ENCJ guidelines about the promotion of judges.

6. Disciplinary measures, with the following sub-indicators:

- Disciplinary measures can **never** be initiated against a judge (except in cases where there has been malice or gross negligence) for the following reasons:
 1. interpretation of the law,
 2. assessment of facts
 3. weighing of evidence in determining a case
- Disciplinary measures can **never** be initiated against a judge for speaking out when democracy and fundamental freedoms are in peril.
- Compliance with ENCJ standards about procedure re disciplinary measures against judges
- Competent body to make decisions about disciplinary measures against judges

7. Non-transferability of judges, with the following sub-indicators:

- Formal guarantee of non-transferability of judges;
- Arrangements for the transfer of judges without their consent.

8. Allocation of cases, with the following sub-indicators:

- Existence of a transparent mechanism for the allocation of cases;
Content of the mechanism for the allocation of cases.

9. Internal independence, with the following sub-indicators:

- Influence by higher ranked judges;
- Use and status of guidelines;
- Influence by the management of the courts.

INDICATORS OF THE PERCEIVED INDEPENDENCE OF THE JUDICIARY AND THE INDIVIDUAL JUDGE

10. Independence as perceived by society

- Flash Eurobarometer 474 (2019) 'Perceived independence of the national justice systems in the EU among the general public', Q1 and Flash Eurobarometer 475 (2019) 'Perceived independence of the national justice systems in the EU among companies', Q1.
- WEF, Global Competitiveness Report 2019, 1.07.
- WJP, Rule of Law Index 2019,

11. Independence as perceived by courts users

- National surveys.

12. Independence as perceived by lawyers

- CCBE survey 2019, question 10

13. Independence as perceived by judges

- ENCJ survey 2019, question 16

14. Judicial corruption as perceived by citizens in general

- Special Eurobarometer 470 (2017) 'Corruption', QB7 (to be updated)

15. Trust in justice/legal system, relative to trust in other state powers by citizens

- EC Public Opinion, eu.europa.eu

INDICATORS OF THE FORMAL ACCOUNTABILITY OF THE JUDICIARY AS A WHOLE

Transparency about the functioning of the judiciary

1. Periodic reporting by the judiciary, with the following sub-indicators:

- Availability of annual reports;
- Publishing of the annual report;
- Scope of the annual reports;
- Periodic and public benchmarking of the courts.

2. Relations with the press and outreach activities, with the following sub-indicators:

- Explanation of judicial decisions to the media;
- Availability of press guidelines;
- Broadcasting of court cases.

3. Outreach activities aimed at civil society

- Open door days;
- Educational programmes conducted at schools
- Development of television/radio/social media programme formats to give insight in the work of the judge.

4. External review, with the following sub-indicators:

- Use of external review;
- Responsibility for external review.

INDICATORS OF THE FORMAL ACCOUNTABILITY OF THE JUDICIARY AS A WHOLE

Transparency about the functioning of the judiciary: involvement of civil society in judicial governance

5. Participation of civil society in governance bodies of the judiciary:

- Selection and appointment of judges;
- Disciplinary measures against judges;
- Complaints against judges and the court(s) in general.

INDICATORS OF THE FORMAL ACCOUNTABILITY OF THE INDIVIDUAL JUDGE AND STAFF:

Mechanisms to promote and maintain ethical standards of the judiciary

6. Complaints procedure, with the following sub-indicators:

- Availability of a complaints procedure;
- Scope of the complaints procedure;
- Appeal against a decision on a complaint;

7. Withdrawal and recusal, with the following sub-indicators:

- Voluntary withdrawal;
- Breach of an obligation to withdraw;
- Request for recusal;
- Deciding authority;
- Appeal against a decision on a request for recusal.

8. Admissibility of external functions and disclosure of external functions and financial interests, with the following sub-indicators:

- Policy on admissibility of external functions;
- Authorisation for the exercise of accessory functions;
- Availability of a (public) register of external functions of judges;
- Availability of a (public) register of financial interests of judges.

9. Code of judicial ethics, with the following sub-indicators:

- Availability of a code of judicial ethics.
- Availability of training on judicial ethics;
- Responsible body to provide judges with guidance or advice on ethical issues

INDICATORS OF THE PERCEIVED ACCOUNTABILITY OF THE JUDICIARY AND THE INDIVIDUAL JUDGE

10. Adherence to ethical standards, as perceived by judges

- ENCJ survey 2019, Q19.

11. Adequacy of actions by judicial authorities to address judicial misconduct and corruption, as perceived by judges

- ENCJ survey 2019, Q19 and 20.

12. Adequacy of actions by judicial authorities to address judicial misconduct and corruption, as perceived by lawyers

- CCBE survey 2019, Q11 and 12.



European Network of Councils
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Questionnaire indicators independence and accountability of the Judiciary 2019-2020

Country:

Methodology used for filling out questionnaire ¹	
Who filled out the questionnaire?	
Was a national expert group set up to validate the reply?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Who were the members of the national expert group? (names and positions)	

¹ See paragraph 3.3 page 24 of the IA&Q report 2018-2019

INDEPENDENCE INDICATORS

Formal independence of the Judiciary as a whole

1. Legal basis of the independence of the Judiciary as a whole	
1a. Is the independence of the Judiciary or the judge formally guaranteed?	<input type="checkbox"/> Yes <input type="checkbox"/> No 0
1b. If the answer to 1a. is yes, is this done in/by:	<input type="checkbox"/> Constitution/equivalent text ³ 3 <input type="checkbox"/> Law ⁴ 2 <input type="checkbox"/> Constitutional court 1
1c. Are judges formally bound only by law?	<input type="checkbox"/> Yes <input type="checkbox"/> No 0
1d. If the answer to 1c. is yes, is this done in/by:	<input type="checkbox"/> Constitution/equivalent text 3 <input type="checkbox"/> Law 2 <input type="checkbox"/> Constitutional court 1
1e. Are judges appointed permanently until retirement?	<input type="checkbox"/> Yes <input type="checkbox"/> No 0
1f. If the answer to 1e. is yes, is this guaranteed in/by:	<input type="checkbox"/> Constitution /equivalent text 3 <input type="checkbox"/> Law 2 <input type="checkbox"/> Constitutional court 1
1g. Is the mechanism to fix the salary of judges determined by law?	<input type="checkbox"/> Yes <input type="checkbox"/> No 0
1h. If the answer to 1g is yes, is this guaranteed in:	<input type="checkbox"/> Constitution/ equivalent text 2 <input type="checkbox"/> Law 1
1i. Is there a formal mechanism to adjust the salaries of judges to keep pace with the average development of salaries in the country and/or with inflation?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No
1j. Is the involvement of the Judiciary in law and judicial reform⁵ formally guaranteed?	<input type="checkbox"/> Yes <input type="checkbox"/> No 0

² See question 1b.

³ Equivalence means here specifically that the position of the Judiciary cannot be changed by simple majority.

⁴ That can be changed by simple majority.

⁵ The objective of a judicial reform process should be to improve the quality of justice and the efficacy of the Judiciary, while strengthening and protecting the independence of the Judiciary, accompanied by measures to make more effective its responsibility and accountability. See the ENCJ Report on Judicial Reform 2011-2012.

1k. If the answer to 1j. is yes, is this done in:	<input type="checkbox"/> Constitution /equivalent text 3 <input type="checkbox"/> Law 2 <input type="checkbox"/> Constitutional court 1
1l. If the answer to 1j. is yes, does the Judiciary have:	<input type="checkbox"/> The right to put forward a formal proposal to change a law 2 <input type="checkbox"/> The right to advise on legislative proposals 1
1m. Is the Judiciary involved in the formation and the implementation of judicial reform?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
1n. Has the Judiciary initiated judicial reform?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

2. Organizational autonomy of the Judiciary	
2a. Does your country have a Council for the Judiciary⁶?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
2b. Is the position of the Council for the Judiciary formally guaranteed, and if so where?	<input type="checkbox"/> Constitution/equivalent text 2 <input type="checkbox"/> In the Law 1 <input type="checkbox"/> No 0
2c. Is the Council organized in accordance with ENCJ Guidelines concerning: 6 x 1 for yes	
At least 50% of the members of the Council are judges who are (with the exception of ex-officio members) chosen by their peers ⁷	<input type="checkbox"/> Yes <input type="checkbox"/> No
The judicial members represent the whole judiciary (all tiers of the Judiciary are represented in the Council)	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Former) Members of government are not a member of the Council ⁸	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Former) Members of parliament are not a member of the Council ⁹	<input type="checkbox"/> Yes <input type="checkbox"/> No

⁶ See article 6 ENCJ Statutes. National institute which is independent of the executive and legislature, or which is autonomous and which ensures the final responsibility for the support of the Judiciary in the independent delivery of justice.

⁷ Only in case of a Council representing judges and prosecutors, please read magistrates.

⁸ ENCJ Standards report on non-judicial members in judicial self-governance 2016

⁹ Idem

The Council controls its own finances (including the administrative and human resources) independently of both the legislative and executive branches ¹⁰	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The Council controls its own activities independently of both the legislative and executive branches	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2d. Is the Council responsible¹¹ for the following: 9x1 for yes		
The appointment and promotion of magistrates	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The training of magistrates	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Judicial discipline	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Judicial ethics	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Complaints against the Judiciary	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The performance management of the Judiciary	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The administration of courts	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The financing of the courts	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Proposing legislation concerning the courts and the Judiciary ¹²	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2e. If the answer to question 2a. is no or if the Council is not responsible in the following areas do judges have decisive influence on decisions in the following areas?		
The appointment and promotion of magistrates	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The training of magistrates	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Judicial discipline	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Judicial ethics	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Complaints against the Judiciary	<input type="checkbox"/> Yes	<input type="checkbox"/> No

¹⁰ The finances of the Council for the Judiciary refer to the budget of the Council itself and not to the budget of the Judiciary as a whole.

¹¹ Responsible implies that the Council executes these tasks. But it can also mean that the Council has delegated these tasks to a separate body.

¹² To the Parliament or the Ministry of Justice.

The performance management of the Judiciary	<input type="checkbox"/> Yes <input type="checkbox"/> No
The administration of courts	<input type="checkbox"/> Yes <input type="checkbox"/> No
The financing of the courts	<input type="checkbox"/> Yes <input type="checkbox"/> No
Proposing legislation concerning the courts and the Judiciary ¹³	<input type="checkbox"/> Yes <input type="checkbox"/> No

3. Funding of the Judiciary			
3a. Is the funding of the Judiciary sufficient as to allow the courts: (not part of the formal indicators)	[several answers possible]		
	<input type="checkbox"/> To handle their caseload		
	<input type="checkbox"/> To engage experts/translators/etc. in cases when necessary if fees paid by court		
	<input type="checkbox"/> To keep the knowledge and skills of judges up to date		
	<input type="checkbox"/> To keep the knowledge and skills of court staff up to date		
3b. Who makes the decisions? Please insert an "x" into the box that corresponds to the situation in your country.	Judiciary 2	Executive¹⁴ 0	Legislature 1
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹³ To the Parliament or the Ministry of Justice.

¹⁴ Such as the Minister of Justice

3c. In case the government does not allocate sufficient funds, may the Judiciary address the parliament?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
3d. Is the funding of the Judiciary based upon transparent and objective criteria?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
3e. If the answer to 3d is yes, is the funding based on:	<div>[several answers possible]</div> <input type="checkbox"/> Actual costs ¹⁵ (e.g. number of judges and court staff) 1
	<input type="checkbox"/> Workload of courts ²
	<input type="checkbox"/> Fixed percentage of government expenditure or GDP 3
	<input type="checkbox"/> Other (specify): ...
3f. Where have these criteria been defined	<input type="checkbox"/> In well-established practice 1 <input type="checkbox"/> In law 2 <input type="checkbox"/> Other (specify)

4. Court management¹⁶			
Which authorities can take the following decisions? Please cross the box that corresponds to the situation in your country.	Judiciary 2	Executive 0	Legislature 1
General management of a court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appointment of court staff (other than judges)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Redeployment of judges to address temporary workload issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other human resource management decisions on court staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decisions regarding the implementation and use of Information and Communication Technology in courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decisions regarding court buildings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decisions regarding court security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹⁵ Figure based upon historic or realized costs.

¹⁶ Court management also refers to non-budgetary decisions with impact on the functioning of the courts.

Decisions regarding outreach activities ¹⁷	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Formal independence of the judge

5. Human resource decisions about judges			
5a. Selection, appointment and dismissal of <u>judges</u> and <u>court presidents</u> Which authorities can take the following decisions? Please cross the box that corresponds to the situation in your country.	Judiciary	Executive	Legislature
Proposal of candidates ¹⁸ for the appointment as judges (not supreme court judges)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision ¹⁹ on the appointment of a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposal for the dismissal of a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the dismissal of a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposal of candidates for the appointment as court presidents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the appointment of a court president	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposal for the dismissal of a court president	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the dismissal of a court president	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5b. Selection, appointment and dismissal of Supreme Court judges and the President of the Supreme Court Which authorities can take the following decisions?	Judiciary	Executive	Legislature
Proposal of candidates for the appointment as Supreme Court judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision ²⁰ on the appointment of a Supreme Court judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹⁷ This includes all communication and promotional activities aimed to inform society about the Judiciary.

¹⁸ The final proposal of candidate(s) which is transmitted to the body that appoints/elects them.

¹⁹ In the context of this question a decision includes a binding proposal addressed to the body which formally makes the relevant decision.

²⁰ In the context of this question a decision includes a binding proposal addressed to the body which formally makes the relevant decision.

Proposal for the dismissal of a Supreme Court judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the dismissal of a Supreme Court judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposal of the candidate(s) for the appointment of the President of the Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the appointment of the President of the Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposal for the dismissal of the President of the Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the dismissal of the President of the Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5c. Is the appointment of judges in compliance with the ENCJ guidelines? Yes=1 No=0			
Is the appointment process open to public scrutiny and fully and properly documented?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Is the appointment process undertaken according to published criteria?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Is the appointment of judges solely based on merit?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Is there in place a written policy designed to encourage diversity in the range of persons available for appointment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Does the appointment process provide for an independent complaint procedure?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
5d. Evaluation, promotion²¹ and training of judges. Which authorities can take the following decisions?	Judiciary 2	Executive 0	Legislature 0
Decision ²² on the evaluation of a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evaluation of the performance management of courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the promotion of a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adoption of ethical standards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

²¹ Promotion of judges in the sense of this sub-question and sub-question 5e also covers applications by judges to a new judicial position within the judicial system.

²² In the context of this question 5d) a decision includes a binding proposal addressed to the body which formally makes the relevant decision.

Application of ethical standards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the program/content of training for judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5e. Probationary periods after first appointment²³			
Before permanent appointment do judges serve a probationary period?	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 4		
If yes, is the refusal to confirm the judge in office made according to objective criteria and with the same procedural safeguards as apply when a judge is to be removed from office?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0		
Does the body that decides include a majority of Judges?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0		
Is this body independent from the executive and legislature?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0		
5f. Is the promotion²⁴ of judges in compliance with the ENCJ standards? Yes=1 No=0			
Is the promotion process open to public scrutiny and fully and properly documented?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the promotion process undertaken according to published criteria?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the promotion of judges solely based on merit?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Is there in place a written policy designed to encourage diversity in the range of persons available for promotion?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Does the promotion process provide for an independent complaint procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

6. Disciplinary measures	
6a. Are disciplinary measures against judges in accordance with ENCJ standards, namely Yes=1 No=0	
Is there a list of types of judicial conducts/ethics the breach	<input type="checkbox"/> Yes <input type="checkbox"/> No

²³ Venice Commission 2010 report on the Independence of Judges

²⁴ Promotion of judges in the sense of this sub-question and sub-question 5d also covers applications by judges to new judicial position within the judicial system.

of which would be unacceptable?			
Is there a time limit for the conducting of the investigation, the making of a decision and the imposition of any sanction?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the name of the judge withheld prior to any sanction being imposed?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Does a judge have the right to be legally represented or assisted by a person of her/his choosing?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Is there is a right of appeal by way of judicial review or cassation appeal?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6b. Which is the competent body to make the following decisions in the context of disciplinary procedures against judges:	Judiciary 2	Executive 0	Legislature 1
Proposal for the appointment of a member of the disciplinary body for judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the appointment of a member of the disciplinary body for judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Investigation of a complaint against a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proposal for a disciplinary decision regarding a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disciplinary decision regarding a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision on the follow-up to a complaint against the Judiciary/a judge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6c. Can disciplinary measures be initiated against a judge (except in cases where there has been malice or gross negligence) for the following reasons:			
His/her interpretation of the law	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 1		
His/her assessment of facts	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 1		
His/her weighing of evidence in determining a case	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 1		
For exercising his/her freedom of expression in order to address threats to the independence of the judiciary, threats to judicial integrity, fundamental aspects of the	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 3		

administration of justice²⁵ and when fundamental rights and the Rule of Law are in peril²⁶

7. Non-transferability of judges

7a. Choose one of the following three options:	<input type="checkbox"/> Judges cannot be transferred to another court or location without their consent [go to Q7b] 20
	<input type="checkbox"/> Judges cannot be transferred to another court or location without their consent except for : - a disciplinary sanction, - the lawful alteration of the court system and - a temporary assignment to reinforce a neighbouring court, the maximum duration of such assignment being strictly limited by the statute [go to Q7c] 10
	<input type="checkbox"/> Judges can be transferred to another court or location without their consent also for other reasons [go to Q7c] 0
7b. If transfer without consent is prohibited, is the prohibition guaranteed in: [go to Q7g]	<input type="checkbox"/> Constitution or equivalent text 3 <input type="checkbox"/> Law 2 <input type="checkbox"/> Jurisprudence 1
7c. Which authority or body decides on a (temporary or permanent) transfer of a judge without his/her consent?²⁷	<input type="checkbox"/> The Judiciary 2 <input type="checkbox"/> The executive 0 <input type="checkbox"/> The legislature 0
7d. In case a judge is transferred (temporarily or permanently) without his/her consent is he/she guaranteed an equivalent post (in terms of a position, salary...)?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
7e. Can a judge appeal if he/she is transferred (temporarily or permanently) without his/her consent?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

²⁵ ICJ - <https://www.icj.org/judgesexpression2019/>

²⁶ ENCJ report on Judicial Ethics 2010

²⁷ This relates to the allowed exceptions under 7a and to any other reasons.

7f. If yes, which authority or body decides on such an appeal?	<input type="checkbox"/> The Judiciary 2 <input type="checkbox"/> The executive 1 <input type="checkbox"/> The legislature 0
7g. Can a judge be taken off a case without his/her consent?	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 1
7h. If no, is the prohibition guaranteed in:	<input type="checkbox"/> The Constitution/equivalent text 3 <input type="checkbox"/> Law 2 <input type="checkbox"/> Custom 1

8. Allocation of cases	
8a. Is there a well-defined mechanism for the allocation of cases?	<input type="checkbox"/> Yes <input type="checkbox"/> No 0
8b. If yes, where have these criteria been defined?	<input type="checkbox"/> In well-established practice of the court 1 <input type="checkbox"/> In an act adopted by the court 2 <input type="checkbox"/> In implementing regulations 1 <input type="checkbox"/> In law 3 <input type="checkbox"/> Other 1
8c. What are the criteria for the allocation of cases?	<p>Several replies possible</p> <input type="checkbox"/> Random-based 1 <input type="checkbox"/> Specialization 1 <input type="checkbox"/> Experience 1 <input type="checkbox"/> Workload 1 <input type="checkbox"/> Other (specify): Click or tap here to enter text.
8d. Who assigns the cases to judges at the courts?	<input type="checkbox"/> President of the court assigns cases 0 <input type="checkbox"/> A member of the court staff assigns cases (e.g. listing officer) 2 <input type="checkbox"/> A special chamber of the court assigns cases 3

	<input type="checkbox"/> The cases are assigned randomly (e.g. through a computerized system) 4 <input type="checkbox"/> Other
8e. Is the allocation of cases subject to supervision within the Judiciary?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8f. Is the method of allocation of cases publicly accessible?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8g. Are the parties entitled to be informed about the allocation of the case prior to the start of the hearing of the case?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8h. Is the mechanism of allocation being applied uniformly within the country?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8i. Is the motivation for any derogation recorded?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

9. Internal independence	
9a. In your system, can higher ranked judges change a verdict of a lower ranked judge (outside of an appeal system, the precedent doctrine or a preliminary ruling system)?	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 10
9b. What kind of decisions can higher ranked judges deliver on their own initiative to ensure the uniformity or consistency of judicial decisions (outside of an appeal system or the precedent doctrine)?	<input type="checkbox"/> None 5 <input type="checkbox"/> Non-binding guidelines 2 <input type="checkbox"/> Binding guidelines 0
9c. Can judges at the same level develop guidelines to ensure uniformity or consistency of judicial decisions?	<input type="checkbox"/> None 5 <input type="checkbox"/> Non-binding guidelines 2 <input type="checkbox"/> Binding guidelines 0
9d. Can the management of the court exert pressure in individual cases on the way judges handle their cases with respect to the uniformity/consistency?	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 5
9e. Can the management of the court exert pressure in individual cases on the way judges handle their cases with respect to the timeliness/efficiency of judicial decisions?	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 3

Perceived independence

10. Independence as perceived by society

Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.

10a. Perceived independence according to [Flash Eurobarometer 461 \(2018\)](#) 'Perceived independence of the national justice systems in the EU among the general public' and

[Flash Eurobarometer 462 \(2018\)](#) 'Perceived independence of the national justice systems in the EU among companies'.

Percentage of respondents that rate very good or fairly good.

Score 461:: Click or tap here to enter text.

Score 462: Click or tap here to enter text.

Total Score: Click or tap here to enter text.

10b. Perceived independence according to the [World Economic Forum Competitiveness Report 2018](#), item 1.07. Score on 7-point scale.

Score1.07: Click or tap here to enter text.

10c. Perceived independence according to the [World Justice Rule of Law Index 2017/2018](#), average of Q1.2, Q7.4 and Q8.6.

Q1.2 Score: Click or tap here to enter text.

Q7.4 Score: Click or tap here to enter text.

Q8.6 Score: Click or tap here to enter text.

Total: Click or tap here to enter text.

11. Independence as perceived by the clients of the courts

Are national client satisfaction surveys available of the past three years which contain a question with respect to the perceived independence (impartiality) of the Judiciary?

☐ Yes

☐ No

11b. If yes, please state the percentage of respondents that rate the perceived independence (impartiality) very good or fairly good.

Percentage: Click or tap here to enter text.

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12. Independence as perceived by lawyers

Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.

Perceived independence according to the CCBE survey, question 10
(figure 48 I,A&Q report 2019-2020)

Score: Click or tap here to enter text.

13. Independence as perceived by judges

Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.

Perceived independence according to the ENCJ survey, question 16

Score: Click or tap here to enter text.

14. Perceived Judicial corruption

Please don't answer this question. The data will be filled in by the secretary of the project group for each member and observer.

Perceived Judicial corruption according to Special Eurobarometer 470 (2017) 'Corruption', QB7.
Percentage of respondents that believe corruption is widespread.

Score: Click or tap here to enter text.

14b. Perceived Judicial corruption according to WJP, Q2.2.

Score: Click or tap here to enter text.

15. Trust in Judiciary

Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.

Trust in judiciary, relative to trust in other state powers by citizens, according to EC Public Opinion, eu.europa.eu
Percentage that trusts the justice system vs percentages that trust national parliament and national government.

Score: Click or tap here to enter text.

ACCOUNTABILITY INDICATORS

Formal accountability of the Judiciary as a whole Transparency about the functioning of the Judiciary

1. Periodic reporting on the Judiciary	
1a. Is an annual report published on how the Judiciary has discharged its functions?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
1b. If the answer to 1a is yes, who publishes the report?	<input type="checkbox"/> Judiciary 2 <input type="checkbox"/> Executive 1
1c. If the answer on 1a is yes, does this report include data on:	[several answers possible] <input type="checkbox"/> The number of completed cases? 1 <input type="checkbox"/> Duration of cases? 1 <input type="checkbox"/> Disciplinary measures 1 <input type="checkbox"/> (Successful) complaints 1 <input type="checkbox"/> (Successful) requests for recusal 1
1d. Are the courts periodically and publicly benchmarked with respect to their performance, e.g. timeliness?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

2. Relations with the press	
2a. Do officials (communication officers or press judges) of the courts explain judicial decisions to the media?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
2b. Has the Judiciary established press guidelines?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
2c. Does the Judiciary give authorization to broadcast court cases that draw particular public interest on television?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

3. Outreach activities aimed at civil society	
3a. Do Open Door days take place in the Courts	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

3b. Are educational programmes conducted at schools	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
3c. Have television/radio/social media programme formats been developed with the relevant broadcast companies to provide insight in the work of the judge?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

4. External review	
4a. Is the performance of the courts regularly reviewed or evaluated by external bodies?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
4b. Who can commission an external review of the Judiciary?	[several answers possible] <input type="checkbox"/> The Judiciary 2 <input type="checkbox"/> The executive 1 <input type="checkbox"/> The legislature 1

Formal accountability of the Judiciary as a whole
Involvement of civil society in judicial governance

5. Participation of civil society in governance bodies of the judiciary Please fill in the table			
Governing body which is responsible for:	Are persons with a non-judicial background members?²⁸	How many non-judicial persons are member of the governing body?	Are the non-judicial members appointed through a transparent procedure, based on merit?
Selection & Appointment of judges	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0	<input type="checkbox"/> less than half 2 <input type="checkbox"/> half 1 <input type="checkbox"/> more than half 0	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
Disciplinary measures against judges	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0	<input type="checkbox"/> less than half 2 <input type="checkbox"/> half 1 <input type="checkbox"/> more than half 0	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
Complaints about judges and the court(s) in general	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0	<input type="checkbox"/> less than half 2 <input type="checkbox"/> half 1 <input type="checkbox"/> more than half 0	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

²⁸ Not being ex officio members, Minister of Justice or members of parliament.

Formal accountability of the judge and staff
Mechanisms to promote and maintain ethical standards of the judiciary

6. Complaints procedure	
6a. Does the Judiciary or do the individual courts have a complaint procedure?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
6b. Is it admissible to complain about:	<p style="color: red;">[several answers possible]</p> <input type="checkbox"/> Behaviour of judges 1 <input type="checkbox"/> Timeliness 1 <input type="checkbox"/> Administrative mistakes 1 <input type="checkbox"/> Other 1
6c. Is an appeal against a decision on a complaint possible?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

7. Withdrawal and recusal	
7a. 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?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
7b. If yes, what is the source of the obligation to withdraw from adjudicating a case?	<p style="color: red;">[one answer only]</p> <input type="checkbox"/> Well-established practice of judges 2 <input type="checkbox"/> Set in an act adopted by a court 3 <input type="checkbox"/> Set in an act adopted by the Council for the Judiciary 4 <input type="checkbox"/> Set in an act adopted by the Minister of justice 1 <input type="checkbox"/> Set in law 5 <input type="checkbox"/> Other (specify):
7c. If a judge disrespects the obligation to withdraw from adjudicating a case, which sanctions could the judge be subjected to?	<p style="color: red;">[several answers possible]</p> <input type="checkbox"/> Oral warning 1 <input type="checkbox"/> Written warning 1 <input type="checkbox"/> Suspension 1

	<input type="checkbox"/> Disciplinary dismissal 1 <input type="checkbox"/> None 0
7d. Which authority or body takes the first decision on a request for recusal by a party who considers that a judge is partial / biased?	<input type="checkbox"/> The Judiciary 2 <input type="checkbox"/> The executive 0 <input type="checkbox"/> Other (specify):
7e. Is an appeal against a decision on a request for recusal possible?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7f. If yes, which authority or body decides on such an appeal?	<input type="checkbox"/> The Judiciary 3 <input type="checkbox"/> The executive 1 <input type="checkbox"/> Other (specify):

8. Admissibility of accessory functions and disclosure of interests	
8a. Are judges allowed to have other functions?	<input type="checkbox"/> Yes 0 <input type="checkbox"/> No 10 [if no go directly to Q8f]
8b. Is an authorisation for the exercise of accessory functions by judges necessary?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8c. If the answer to 8b. is yes, who gives authorisation?	<input type="checkbox"/> The Judiciary 3 <input type="checkbox"/> The Executive 1 <input type="checkbox"/> The Legislature 2
8d. If 8a is yes, is there a register of the other jobs and/or functions judges have?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8e. If the answer to 8d is yes is this register public?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
8f. Is there a register which discloses financial interests judges may have?	<input type="checkbox"/> Yes, please specify the minimum amount which needs to be disclosed: Click or tap here to enter text. 1 <input type="checkbox"/> No 0
8g. If the answer to 8f is yes, is this register public?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

9. Code or guidelines of judicial ethics	
9a. Does the Judiciary have a code or guidelines of judicial ethics?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
9b. If the answer to 9a. is yes, is it available to the public?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
9c. Is judicial training on judicial ethics available?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0
9d. Is there a body with responsibility to provide judges with guidance or advice on ethical issues?	<input type="checkbox"/> Yes 1 <input type="checkbox"/> No 0

Perceived accountability of the Judiciary and individual judge

10. Adherence of judges to ethical standards, as perceived by judges	
<i>* Please don't answer this question. The data will be filled in by the secretary of the project group for each member and observer.</i>	
ENCJ survey, Q19	Score: Click or tap here to enter text.

11. Adequacy of actions by judicial authorities to address judicial misconduct and corruption, as perceived by judges	
<i>* Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.</i>	
ENCJ survey, average of Q20 and Q21.	Score: Click or tap here to enter text.

12. Adequacy of actions by judicial authorities to address judicial misconduct and corruption, as perceived by lawyers	
<i>* Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.</i>	
CCBE survey, average of Q11 and Q12.	Score: Click or tap here to enter text.

Annex II

Format Dialogue group meetings

Purpose of the dialogue groups

The purpose of the dialogue groups is to discuss the results of the application of the indicators and identifying the problems facing the independence and accountability of the Judiciary in each country and identifying remedies. The remedies will be made concrete by developing specific objectives to be reached and activities to be undertaken to reach the objectives. Objectives and activities are to be included in the yearly plans of the organisations concerned. These plans will be presented at the General Assembly 2018.

Programme

Depending on the eagerness to participate of the Members and Observers, there will be 4-6 different dialogue groups consisting of four countries per group. The dialogue group will meet one whole day. A dinner will be organised on the evening before the meeting to get acquainted with each other. Meetings will start at 9:00 and will end at 17:00hrs.

Participants

Participation for Members will be confined to the (vice) president and the ENCJ liaison of the Council for the Judiciary. In the case of the observers, a representative at decision level of the actual governing organisation and the ENCJ liaison of the country concerned. Each dialogue group will consist, in principle, of 4 Members/Observers and will be chaired by a moderator from a different country than the ones participating in the dialogue.

Materials

The outcomes of the questionnaire (scorecards), the survey among judges and the overall report presented at the previous General Assembly will serve as the basis for the discussion. Also the filled-in questionnaires of the countries involved will be shared among the participants to provide deeper insight into the institutional arrangements. A format for the action plans will be shared in advance.

Process

Preparations

- 6 weeks before the dialogue meeting the materials (scorecard, questionnaires, survey results and the 2016/2017 I&A report) are distributed to the participating Members/Observers by the ENCJ office.
- 4 weeks prior to the meeting each of the participating institutions sends a note to the moderator (through the ENCJ office) indicating which of the three focus issues they want to discuss in particular, and whether in addition they would like to address a country specific issue. If possible, for each issue a clear indication should be given of the dilemma's and remedies they would like to discuss. Furthermore, participating Members and Observers should confirm who will participate in the dialogue group meetings. If necessary, adjustments to the group composition will be made and will be communicated

- 2 week prior to the meeting the notes among the dialogue groups will be shared with the 4 participants of the dialogue groups and the participants will be asked to study them.

The dialogue group meetings

- Determine the issues to be discussed during the meeting.
- Address each issue in the following steps:
 - Problem analysis
 - Remedies
 - Select best remedy/remedies, and develop objectives and activities per remedy
 - Discuss follow-up, including (share) commitment
- Draw conclusions and a message to the project team/ENCJ board

Report of the meeting

The report of the meeting will consist of the identified problems per country and the identified, most effective remedies. The chair country of each dialogue group will make the report.

Confidentiality

The discussions in the dialogue groups will be confidential, except for the report as such. All other information about the discussions regarding a country can only be made public by the participants of that country.

Annex III



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Survey among professional judges about their independence

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY

- I. The reference period for answering all questions is the last two years (i.e. since January 2017), unless indicated otherwise.
- II. Unless states otherwise, questions are to be answered:
Strongly disagree
Disagree
Not sure
Agree
Strongly agree
- III. Please be assured that your identity and personal data will not be collected, you will stay anonymous.
- IV. Please let us know the name of the country in which you sit as a judge. The survey data will be published on a country-by-country basis.
- V. Please note that the questionnaire is addressed to and is about the full-time and part-time professional judges in your country. All questions should therefore be answered only with the professional judges in mind.

PLEASE ANSWER ALL OF THE FOLLOWING QUESTIONS:

The country in which I sit as a judge is

My gender is..... ☐ Male ☐ Female ☐ I do not wish to answer the 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
- ☐ Over 25 years

I work primarily at: **(one reply only)**

- ☐ Court of first instance
- ☐ Appeal court
- ☐ Supreme Court/ Cassation

I adjudicate primarily: *** (one reply only)**

- ☐ criminal cases
- ☐ administrative cases
- ☐ civil (including family) cases
- ☐ all of these in equal measure

1a. During the last two years I have been under inappropriate pressure to take a decision in a case or part of a case in a specific way.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**

- 4. Agree
- 5. Strongly agree

1b. If you have been subject to inappropriate pressure, which was the frequency of such pressure? (1b only when agree/strongly agree)

- ☐ Very rarely
- ☐ Occasionally
- ☐ Regularly

1c By whom? (Multiple answers are possible)

- ☐ Constitutional Court
- ☐ Council for the Judiciary
- ☐ Court Management
- ☐ Government
- ☐ Media
- ☐ Other judges (including an association of judges)
- ☐ Parliament
- ☐ Parties and their lawyers
- ☐ Prosecution
- ☐ Social Media
- ☐ Supreme Court

2a. In my country I believe that during the last two years individual judges have accepted bribes (receiving money) or have engaged in other forms of corruption (accepted non-monetary gifts or favours) as an inducement to decide case(s) in a specific way.

- 1. Strongly disagree
- 2. Disagree
- 3. Not sure
- 4. Agree
- 5. Strongly agree

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

- ☐ Very rarely
- ☐ Occasionally
- ☐ Regularly

3a. During the last two years I have been affected by a threat of, or actual, disciplinary or other official action because of how I have decided a case.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

3b. During the last two years my decisions or actions have been directly affected by a claim, or a threat of a claim, for personal liability.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

4. 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.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

5a. I believe judges in my country have entered the judiciary on first appointment other than solely on the basis of ability and experience during the last two years.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

5b. I believe judges in my country have been appointed to the Supreme Court/Cassation other than solely on the basis of ability and experience during the last two years.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

5c. I believe judges in my country in first instance and appeal courts have been promoted /appointed to another position other than on the basis of ability and experience during the last two years. (Note experience may include seniority)

1. **Strongly disagree**
2. **Disagree**
3. **Not sure**
4. **Agree**
5. **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 of the media (i. e. press, television or radio).

1. **Strongly disagree**
2. **Disagree**
3. **Not sure**
4. **Agree**
5. **Strongly agree**

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

1. **Strongly disagree**
2. **Disagree**
3. **Not sure**
4. **Agree**
5. **Strongly agree**

8. During the last two years I believe that my independence as a judge has been respected by :

	1. Strongly Disagree	2. Disagree	3. Not sure	4. Agree	5. Strongly Agree	6. Does not exist
Association of Judges						
Constitutional Court						
Council for the Judiciary						
Court Management incl Court President						
Government						
Lawyers						
Media (i.e. press,						

television or radio)						
Parliament						
Parties						
Prosecution						
Social Media (for example Facebook, Twitter or LinkedIn)						
Supreme Court						

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

1. Strongly disagree
2. Disagree
3. Not sure
4. Agree
5. Strongly agree
6. Not applicable

10. During the last two years changes occurred in my working conditions that negatively influenced my independence. Please indicate per category:

	1.Strongly Disagree	2.Disagree	3.Not sure	4.Agree	5.Strongly Agree	6.Not applicable
Pay						
Pensions						
Retirement Age						
Caseload						
Court Resources						

11. During the last two years I was moved to another function, section or court against my wishes.

1. Strongly disagree
2. Disagree
3. Not sure
4. Agree
5. Strongly agree

12. During the last two years I have had to take decisions in accordance with guidelines developed by judges contrary to my professional opinion (optional - guidelines do not include the obligation to follow precedent).

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

13. During the last two years the management of my court has exerted pressure on me to decide individual cases in a particular way.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

14. During the last two years the management of my court has exerted inappropriate pressure on me to decide individual cases within a particular time.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

15. In the last two years, I believe judgements that went against the interests of the government were usually implemented/enforced in my country

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

16. 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

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

As a judge I

0 1 2 3 4 5 6 7 8 9 10

do not feel independent at all

feel completely independent

18. Since I started to serve as a judge my independence has:

- Improved much
- Improved a little
- Stayed the same
- Deteriorated a little
- Deteriorated much

19. In my country, I believe that judges sufficiently adhere to ethical standards.

1. Strongly disagree
2. Disagree
3. Not sure
4. Agree
5. Strongly agree

20. In my country, I believe that judicial misconduct is appropriately addressed by the judicial authorities.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**

21. In my country judicial corruption is effectively addressed by the judicial authorities.

- 1. Strongly disagree**
- 2. Disagree**
- 3. Not sure**
- 4. Agree**
- 5. Strongly agree**