
Assessment of current situation and practices of selection, evaluation, and promotion of judges in Albania, Czech Republic and Lithuania

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I. Albania

1. Assessment of current situation and practices of selection, evaluation, and promotion of judges in Albania

Since 2016, Albania is implementing one of the most comprehensive and transformative reforms in the history of the justice system. This reform aims to guarantee an independent, efficient and professional judicial system in order to increase public confidence in the latter. The constitutional changes that initiated the justice reform brought radical changes creating a new mosaic of justice institutions, including the creation of a self-governing body for the judicial system - the High Judicial Council. The HJC was established in December 2018 as a collegial body with mixed composition and full-time membership. HJC consists of 11 members, 6 coming from the judiciary and 5 members representatives of civil society, the legal profession and the academic field, narrowing the gap between judges and non-judge members. Political exponents such as the President of the Republic and the Minister of Justice have been excluded from the composition of the HJC, as a practical instrument towards the clear separation of executive power from the judiciary and de-politicization of the Council. The legal framework in force has attributed to the Council broader powers than its predecessor in relation to all issues related to: status of judges (appointment, transfer, promotion, retirement) their ethical and professional evaluation, the administration and budget of the courts, management and formation of the judicial administration.

Another innovation brought about by the reform in justice had to do with the division of competences: verification of cases, initiation of investigation and initiation of disciplinary proceedings against judges (which is the responsibility of the High Inspector of Justice) from review of disciplinary proceedings and taking of concrete disciplinary measures (which are under the jurisdiction of the HJC).

As regarding the system of selection and appointment of judges, the latter foresees the School of Magistrates (SoM) as the only entering point in the system. Thus, according to the Albanian Constitution in order to become a magistrate/judge, each person shall enter the SoM and successfully accomplish the three-year education program. While the School is mostly tasked with operational activities related to implementation of a long-term training program the HJC responsibilities are more of a policy and decision making nature. Thus, it is the HJC, which at the end of the SoM educational program and

based on the (candidates) magistrate’s results, will appoint him/her as a judge and assign the latter to a specific court (ex. Tirana’s Court).

As regarding the system of ethical and professional evaluation of judges, the latter is based on the CEPEJ standards and methodology. It foresees different times for evaluation based on the judge’s professional experience. Magistrates with less than 15 years of professional experience, are evaluated once every three years and those with more than 15 years of experience once every five years. A detailed scoring methodology is adopted and applicable during the evaluation process conducted by the Ethical and Professional Evaluation Committee of the HJC. Points are assigned, 100 for every criterion - *inter alia: professional, organizational, personal skills and professional commitment* - up to 400 in total, which allows to compare results, especially when they are used for promotion reasons.

As regarding the Promotion system, the latter is based on vacancy announcement and a verification procedure, including *formal and legal criteria, background and asset checks*, conducted by the HJC upon a judge’s candidate request for promotion. A detailed promotion regulation is adopted and applicable during the promotion process conducted by the Career Development Committee of the HJC. A particularity of the Albanian system of promotion is that each candidate before its promotion to a higher court or to a leadership position should have successfully passed the vetting process (an extraordinary procedure) as well as have been twice professionally evaluated. (2 reports adopted).

It is worth mentioning, that during the entire process of selection, evaluation and promotion, the judge or the candidate judge has the opportunity to get involved by sending comments, objections or additional information regarding his/her application or evaluation, be heard by the HJC and also appeal its decision for serious procedural violations. All safeguards have been assured in order for the judge to have a merit-based decision of selection, appointment or promotion aiming at identifying the best candidate to become a judge or the best one for promotion.

Given that the Albanian judicial system, *including selection, evaluation and promotion*, is quite a new and is being implemented only for a couple of years it is quite difficult to assess its long-term impact and the relevant needs for changes and improvements. Additionally, and based on the fact that during the designation phase of this new judicial system all the best European practices and standards were taken into consideration, only and mainly few technical adjustments involving procedural aspects of the implementation of the new system can be identified and recommended to Albanian authorities. In this context, the HJC, has already submitted a request for legal changes and amendments in the Albanian Parliament this

year. The outcome of the consultation process which is being organized by the Legal Committee of the National Assembly is expected to be finalized by the end of 2022 or beginning of 2023.

2. Selection, evaluation, and promotion of judges in Albania – SWOT analysis

Area	Strengths	Weaknesses
<p>Judicial Independence</p> <p><i>Are there sufficient safeguards (composition of bodies, participating in selection procedures, etc.), ensuring judicial independence in selection procedures and appointment</i></p>	<ul style="list-style-type: none"> • Proper / Mixed constitution of Judicial Council (HJC) with majority of judges (6 members are judges selected by their peers, 5 lay members). • Effectively independent from legislative and executive. <p>Selection & Appointment:</p> <ul style="list-style-type: none"> • Judicial Council has a power to appoint judges & assign judges in a specific court, at the entry level including judges of the High court (1/4th). • The School of Magistrates (SoM) in cooperation with HJC plays a significant role in the appointment procedure of the new magistrates “judge profile”. • The President of the Republic has only an honorific role while Judges of the High Court are appointed. He has no role in judges of 1st and appeal level. <p>Evaluation:</p> <ul style="list-style-type: none"> • Professional - Ethical Evaluation Committee is one of the 4 standing committees of the HJC dealing with professional evaluation of judges. 	<p>Selection:</p> <ul style="list-style-type: none"> • Length of the selection procedures (lack of judges in the judicial system, which impacts a workload of judges) due to complex procedures (such as twice integrity and background checks). • No opportunity for those finishing the SoM as legal advisers to become judges after a certain period of time working in courts. • No real opportunities for the system to attract experienced lawyers to enter in the system without passing from the SoM. (except High court – for 1/5th of its composition). <p>Evaluation:</p> <ul style="list-style-type: none"> • Evaluation committee is overloaded with work (especially with those judges who have applied for promotion) due to a limited number of evaluation procedures conducted in the past by judicial inspectorate. <p>Promotion:</p> <ul style="list-style-type: none"> • Length of the procedures (and long periods of pending vacancies, which impacts a workload of judges) due to complex procedures.

<p>Regulation</p> <p><i>General remarks on the sufficiency of the regulation. In the part of weaknesses short comments on particular gaps in regulation should be mentioned</i></p>	<ul style="list-style-type: none"> • Evaluated judge can appeal the decision of the HJC in relation to his/her evaluation report and grade only for serious procedural violations. • The evaluation of a judge is performed with his/her presence and he/she presents his/her position, remarks, objections or arguments. <p>Promotion:</p> <ul style="list-style-type: none"> • Judicial Council has a power to promote judges at the appeal level including judges of the High court (4/5th coming from the judicial system). • The Career Development Committee (CDC), one of 4 standing committees of the HJC, deals with verification of criteria and judges promotion procedures. 	<p>Selection:</p> <ul style="list-style-type: none"> • Too detailed and complex regulations cause a difficulty in implementation (to many actor/institutions involved during the checking process) prolong procedures (especially at the entry point). <p>Evaluation:</p> <ul style="list-style-type: none"> • There few are issues left not regulated (regulation for court president evaluation is under preparation). <p>Promotion:</p> <ul style="list-style-type: none"> • Too detailed and complex regulations cause a difficult and long procedures as well as lack of flexibility in its implementation from the CD Committee or the HJC.
	<ul style="list-style-type: none"> • Level of regulation (Constitution, law, sublegal acts) – all aspects in relation of selection, appointment, evaluation & promotion are regulated including at the “higher” level. • Regulation is detailed sufficiently, including competence model, criteria, methods of assessment. • Procedures, timeframes and participating/deciding actors are clear from the regulation. <p>Selection</p> <ul style="list-style-type: none"> • Level of regulation and division of roles and duties is assured, both at the level of School of Magistrates and the HJC. • Regulation is sufficient with SoM as the only entry point in the Albanian Judicial System. <p>Evaluation & Promotion:</p>	

<p>Criteria</p> <p><i>Assessment of criteria's sufficiency, clarity and correspondence with the main sets of competences expected from a judge (professional, social, personal)</i></p>	<ul style="list-style-type: none"> • Regulation is sufficient. Main principles and rules established by the law; detailed regulation adopted by the Judicial Council including a scoring methodology for the evaluation. • Goals of the judicial evaluation, established by the Law, correlate with the recommendations of international bodies working on judicial independence (CEPEJ, CCJE): improvement of the judicial activities, training needs, promotion. <hr/> <ul style="list-style-type: none"> • Comprehensive description of the model of competences for all processes: selection, evaluation and promotion. • Criteria clearly set out. <p>Selection:</p> <ul style="list-style-type: none"> • Formal and objective criteria for entering in the SoM /selection process & appointment as judge; • A combination of professional (experience) and personal skills to successfully complete the selection process (to entry to the SoM). <p>Evaluation:</p> <ul style="list-style-type: none"> • Combination of quantitative and qualitative criteria. Balance of qualitative and quantitative indicators is relevant (50/50). • Professional, organizational, personal skills and professional commitment are evaluated. • When evaluating quantitative indicators (e.g., term of solving the case and comparing it to the average term), the workload and other aspects, which may impact those indicators, are taken into account. 	<p>Selection:</p> <ul style="list-style-type: none"> • Entry exam in the SoM is focused on memorization, not on an intellectual capacities or professional skills. • Twice (assets and background) verifications procedures at the entry and exit of the SoM and at the appointment level which prolong verification procedures. <p>Evaluation:</p> <ul style="list-style-type: none"> • When assessing professional activities, statistics is sometimes an issue – especially if statistics are kept manually and court staff is not trained how to properly collect them. <p>Promotion:</p> <ul style="list-style-type: none"> • The process of assessment of promotion criteria involve data gathering and information from other actors/ committees / institutions usually requiring a lot of efforts in coordination and which end up prolonging the promotion process.
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<p>Methods</p> <p><i>Efficiency of methods, enabling to comprehensively assess indicators of candidates' competences</i></p>	<ul style="list-style-type: none"> • Particular attention is given to the quality of the reasoning of the judgments (on the basis of the recommended standards of judgments). • However, the reversal of judgments is neither included as indicator nor assessed by the Albanian Evaluation committee, in line with CEPEJ standards. <p>Promotion:</p> <ul style="list-style-type: none"> • Formal and objective criteria for promotion, including 2 evaluations report issued for each judges candidate to promotion (Plus judges vetted with a final decision). • A combination of professional, personal (including ethics and integrity) and managerial skills are evaluated for in the procedure of promotion. • Special additional personal / managerial competences are required for those going to leadership positions (court presidents); • Leadership (management) as a competence is given a substantive role, which reflects modern trends in career planning. 	<p>Selection:</p> <ul style="list-style-type: none"> • Psychological test carried out at the entry level is mere a formality. • Quiz test method of evaluation raises doubts about its relevance and assessment results. • Relevance of a 2nd verification process (assets and background) after the termination of a 3 years of Magistrate School.
	<p>Selection:</p> <ul style="list-style-type: none"> • A combination of methods (including multiple choice quiz, professional and psychological testing) allows to get the best candidates to enter to a 3 year initial training in the SoM. • Verification procedures (background & integrity) as well as institutions involved (SoM & SoM) 	

	<p>makes the selection and recruitment procedure more objective and based on meritocracy.</p> <p>Evaluation:</p> <ul style="list-style-type: none"> • A detailed scoring methodology is adopted and implemented. Points are assigned (100 for every criterion: <i>professional, organizational, personal skills and professional commitment</i>), up to 400 points, which allows to compare results, especially when they are used for promotion reasons. • Mixed method: objective method of statistics, opinion of the judges under evaluation, opinion of court president and hearing of the judges or any interested party. <p>Promotion:</p> <ul style="list-style-type: none"> • A combination of formal and informal methods throughout the procedure. • Promotion procedure is based on a comprehensive information on Ethics and professional performance prepared by the Evaluation Commission as well as information received by other state institutions (integrity & background) assessed by the Career Development Committee and the HJC. • There is no psychological assessment in relation to judges' candidates applying for promotion or leadership positions. 	<p>Evaluation:</p> <ul style="list-style-type: none"> • Opinion of the President of the court – difficult to compare – there is a risk that such opinion is formality. <p>Promotion:</p> <ul style="list-style-type: none"> • Lack of a finalized vetting process or lack of 2 evaluation reports for judges candidates to get promoted prolong the process.
Area	Opportunities	Threats

<p>Judicial Independence</p> <p><i>External factors, that may impact the judicial independence during the selection and appointment procedures (political influence, practical issues of the procedures, etc.)</i></p>	<ul style="list-style-type: none"> • Having a constitutional body (guarantees ensure) properly composed and effectively independent judicial body allows to select, appoint and promote the candidates that judiciary sees as the most suitable; <p>Selection:</p> <ul style="list-style-type: none"> • A selection procedure assured by the School of Magistrates followed by a 3 year initial training process guarantees a high level of professional preparation. • Significant/fundamental role in selection process allows to ensure impartiality (from legislative and executive branch <p>Evaluation:</p> <ul style="list-style-type: none"> • Regular but differentiated (every 3 and 5 years) evaluation allows to strengthen judicial performance, identify vulnerabilities and training needs and ensure the accountability of the judiciary. • Allows for more objective promotion, which may potentially attract the best judges to apply for promotion or leadership positions. • A mixed composition (of judicial and non-judicial members) of the Evaluation Committee allows to ensure the credibility of the procedure and to avoid the corporatism. <p>Promotion:</p> <ul style="list-style-type: none"> • Having a properly composed and effectively independent judicial body (including standing committees) allows to choose the most suitable judges to be promoted. 	<p>Selection:</p> <ul style="list-style-type: none"> • A School of Magistrates with limited capacities may compromise the outcome of new magistrates especially while the judicial system is in shortage of human resources (judges) mainly due to the implementation of an on-going vetting process. <p>Evaluation & Promotion:</p> <ul style="list-style-type: none"> • Both processes are jeopardized until the vetting process of all judges is finalized. Almost 50% of judges have been discharged of duty.
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<p>Regulation</p> <p><i>General remarks on the aspects of the regulation, ensuring transparent and objective selection procedures. Particular attention should be given to the gaps in the regulation, that can cause threats to the credibility of the procedure.</i></p>	<p>Selection:</p> <ul style="list-style-type: none"> • Regulated in a manner where almost all issues would be on the statutory level (and the rest of them regulation in bylaws) allows for both – stability of the procedures on one hand and limiting the discretionary power of the institutions involved in the selection and appointment process on the other. • Clearly setting out procedures, timeliness and participating/deciding actors spurs confidence and trust of prospective candidates in the selection process and likewise gives credibility to the procedure and attracts mainly a young generation of lawyers which is willing to go through the SoM process. • The transparency and objectiveness of a very detailed procedure described in the law increases and ensures the credibility of it as a whole. <p>Evaluation:</p> <ul style="list-style-type: none"> • Law establishes the framework and clearly sets all the aspects, that have to be regulated by the Judicial Council regarding evaluation procedures, which helps not to leave gaps in by-laws. • Clear indication of the goals of the evaluation at the Law allows to improve the system of needs-based trainings and performance-based promotion. • The transparency and objectiveness of a very detailed procedure described in the law increases and ensures the credibility of it as a whole. <p>Promotion:</p> <ul style="list-style-type: none"> • Regulating in a manner where almost all issues would be on the statutory level (and the rest of 	<p>Selection:</p> <ul style="list-style-type: none"> • Too detailed and complex regulation may “leave out”/discourage certain candidates from applying, especially lawyers with vast experience in the legal sector who have limited chances to join the judicial system (only becoming member of the High Court – 1/5th comes from outside the judiciary). <p>Evaluation:</p> <ul style="list-style-type: none"> • Too detailed and complex regulations cause a difficulty in implementation and prolong procedures <p>Promotion:</p> <ul style="list-style-type: none"> • Too detailed and complex regulation may “leave out”/discourage certain judges from applying for promotion. • Lack of flexibility due to detailed and complex regulations.
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<p>Criteria</p> <p><i>The balance of formal and informal criteria, level of criteria, that may affect the quality of candidates selected (if for example, too low standards for entry) or may affect the size of the pool of candidates (if standards are too high)</i></p>	<p>them regulation in bylaws) allows for both – stability of the procedures on one hand and limiting the discretionary power of the Career development Committee / institutions involved in the promotion process on the other;</p> <ul style="list-style-type: none"> • Clearly setting out procedures, timeliness and participating/deciding actors spurs confidence and trust of prospective candidates in the promotion process and likewise gives credibility to the procedure. • The transparency and objectiveness of a very detailed procedure described in the law and in its sublegal acts increases and ensures the credibility of it as a whole. 	<p>Selection:</p> <ul style="list-style-type: none"> • Too high criteria for entry to the selection process may curtail the pool of prospective candidates especially those with mid or vast professional experience; • The verification process is long and sometimes candidates to enter in the SoM have to wait few months before they start the School (meanwhile the academic year is in progress). <p>Evaluation:</p> <ul style="list-style-type: none"> • Too detailed criteria cause a difficulty in implementation and do not allow for flexibility. <p>Promotion:</p> <ul style="list-style-type: none"> • High level of criteria to be fulfill, which currently is difficult due to lack of judges in the system. • For Specialized courts against corruption and organized crime, criteria and obligation of waving of privacy for
	<p>Selection:</p> <ul style="list-style-type: none"> • Requirement to comply with all formal “requirements” for entry to the selection procedures allows to attract from the start candidates with some practical legal knowledge and experience including high moral values and integrity and ensure better selection opportunities. • A combination of legal-formal criteria as well as background and integrity ones for verification throughout the selection process allows to get a full “overview” of a candidate, including his/her knowledge and personality (moral values) traits. <p>Evaluation:</p> <ul style="list-style-type: none"> • A combination of quantitative and qualitative criteria allows to get a full “picture” of judge’s performance, including his/her professional skills and behavior (integrity, ethics, impartiality, dedication to work, communication etc.). 	

<p>Methods</p> <p><i>Methodological factors that can impact the perception of the procedure as transparent, objective and allowing to choose the best candidates</i></p>	<p>Promotion:</p> <ul style="list-style-type: none"> • Requirement to comply with all formal, ethical and background “requirements” for promotion procedures allows to attract from the start candidates with strong legal knowledge and experience including high moral values and integrity and ensure better promotion opportunities. • A combination of all different criteria (professional, integrity and background) throughout the promotion allows to get a full ‘overview’ of a judge, including his/her skills and personality traits. 	<p>judges and their family members discourages applications for promotion.</p>
	<p>Selection:</p> <ul style="list-style-type: none"> • A combination of methods (including multiple choice quiz, professional and psychological testing) coupled with a 3 year initial training in the SoM, allows to get the best overview of candidate to enter in the judicial system as a judge. • A long formation cycle (ensuring professional knowledge) coupled with strict verification procedures (background & integrity) makes the procedure in line with modern trends of recruitment of high level professionals with integrity and high moral values. <p>Evaluation:</p> <ul style="list-style-type: none"> • The scoring methodology aims, (to determine a judge’s evaluation grade for each criterion and the respective legal indicators), on the merits of the judge, qualification, integrity, skills and efficiency, while abiding to the principle of the independence of the judge. 	<p>Selection:</p> <ul style="list-style-type: none"> • Multiple choice quiz and psychological assessment, if not conducted correctly, have a risk of lowering the level of candidates (or not capable to perform judges profession) entering in the SoM. • A complex methodology may lead to long procedures and high workload of both SoM staff and HJC committee dedicated (conduct the verification of candidate magistrates) to the selection / appointment process. <p>Evaluation:</p> <ul style="list-style-type: none"> • A complex methodology may lead to long procedures and high workload of HJC committee dedicated to professional evaluation of judges. <p>Promotion:</p> <ul style="list-style-type: none"> • A complex methodology may lead to long procedures and high workload of both CDC/ committee dedicated (conduct the verification of judges candidates for promotion) and the HJC itself.

	<ul style="list-style-type: none"> • A combination of methods (statistics, self-assessment, opinions of the President, screening of 5 random judge’s decisions, hearing etc.) allows to get a comprehensive overview of a judge’s professional performance and integrity. <p>Promotion:</p> <ul style="list-style-type: none"> • A combination of methods (application folder, professional evaluation & interview) allows to get the best overview of a judge to be promoted. 	<ul style="list-style-type: none"> • The vetting process as well as the lack of 2 proficiency reports causes delays in promotion of judges.
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3. Recommendations

- To explore opportunities of introducing **a system of psychological assessment, as it exists in the selection process, also during the promotion process.**
- To **discuss and adopt amendments proposed by the HJC in relation to selection, evaluation and promotion process** such as:
 - Avoid that the HJC responsible committee to conduct twice a process of assets and background assessment for the candidate’s magistrates applying to entre in the SOM and after the successful termination of the 3-year formation program of the school.
 - Review and revise the very short deadline (of only 15 days) for the SoM to carry out the criteria verifications, while this is the only verification conducted before the candidate magistrate is admitted to the school.
 - Review and revise accordingly the annual reward/ additional remuneration granted to judges due to high professional ethical evaluation which is conducted only every 3 or 5 years.
 - To revise the selection process, in order that candidate magistrates start the internship in the court since the 2nd year of the SoM and which is currently been carried out during the 3rd year.
 - To revise the criteria foreseen by the law while a judge is being promoted in a leadership position in the court (Court President) with more focus on identification of leadership and managerial skills than rather in skills as a prominent judge.

- To revise the system of promotion of judges – members of the HJC which currently foresees a ban of 3 years’ time for these members are promoted, to a more reasonable deadline.

II. Czech Republic

1. Assessment of current situations and practices of selection, evaluation, and promotion of judges in Czech Republic

The current Czech model of justice is a model of state administration of courts completed by the Ministry of Justice. The Czech Republic generally tends towards the career model of judges, which is usual in continental law. Most candidates for the post of judge do not have any other legal practice. However, the preparatory service does not seem to be able to replace certain professional knowledge, but especially the practical experience of other legal disciplines and professions that a future judge should acquire in order to be able to make better and more objective decisions in his judicial practice.

The legislation on the judicial selection system has undergone partial changes, effective from January 2022. The purpose of these changes was primarily to unify the previously fragmentary processes of selecting judges. Although the presidents of regional courts still play a large role in the selection of new colleagues, the system is more transparent, albeit quite complicated. The position of "judge waiters" has been abolished, which is mostly replaced by the position of assistant judge. The amendment introduces a completely new position of "judicial candidate". The new system also tries to make justice accessible to those interested in the legal profession or the public prosecutor's office and bailiff who, according to the new legislation, do not have to go through the position of judicial candidate after five years of experience in the field. On the other hand, for those interested in other legal professions (academia, in-house lawyer, etc.), the judicial area is very difficult to access. Relevant information on the practical application of the new judicial selection system is not yet available.

As far as the assessment of ordinary courts is concerned, the legislation here is only very fragmentary. Under the conditions of judicial organization in the Czech Republic, there is no body that could independently evaluate judges (of the Supreme Judicial Council type). This was also stated by the Constitutional Court in its judgment of 18.6.2002, file no. Zn. Pl. ÚS 7/02, which repealed the part of the Act on Courts and Judges, enshrining the evaluation of judges and arguing that the condition that in the matter of the evaluation of judges the final decision must be entrusted to a body that is independent and not associated with executive power, contains several international documents and is based on the legal regulations of the evaluation of judges in other states.

The only evaluation newly established by the legislation is (apart from the various levels of evaluation of candidates for the position of judge) the evaluation of a judge in the selection procedure for court officials. In addition to the statistical summary of his activities, the judge's discharge is aimed in particular at assessing the decision-making activity, fluency and dignity of the conduct of court proceedings, taking into account factually complex cases and the opinions of the courts of appeal and the court of appeal. The evaluation also includes an assessment of the applicant's expertise, organizational and communication skills, personality prerequisites, an overview of the applicant's internships at higher courts and information on disciplinary proceedings against him/her.

From the point of view of the promotion of judges, the legislation (newly) regulates selection procedures for court officials. As far as the promotion of judges to higher courts is concerned, this is not formally addressed by the legislation and in practice promotion to a higher court usually takes place after a particular judge's previous professional internship at a higher court on the basis of an agreement (consensus) between the presidents of both courts (lower and higher instance) and the judge. The informal advisory body of the president of the court (judicial council) may also play a role here.

2. Selection, evaluation, and promotion of judges in Czech Republic – SWOT analysis

Area	Strengths	Weaknesses
<p>Judicial Independence</p> <p><i>Are there sufficient safeguards (composition of bodies, participating in selection procedures, etc.), ensuring judicial independence in</i></p>	<p>Selection:</p> <ul style="list-style-type: none"> • The new legislation on the selection of judges (from 1/2022) strengthens judicial independence by unifying the process of selecting judges. • Demanding requirements for the person of the judge in terms of his legal knowledge. • In practice, the judiciary and its independence are often not affected. • Judges are in the majority of selection committees, as well as representatives of the executive. 	<p>Selection:</p> <ul style="list-style-type: none"> • The new legislation weakens the influence of psychological tests – which may result in the selection of people with less resistance to environmental influences threatening the independence of their judgment. • In general, a small role is played by the psychological setting of the judge's personality and his ability to resist environmental influences, corrupt conduct, etc. • Potential influence of the Ministry of Justice (but in practice the influence of the Ministry is weak). <p>Evaluation:</p>

<p><i>selection procedures and appointment</i></p>	<ul style="list-style-type: none"> • Selection of court presidents on the basis of competitions. • The presidents and vice-presidents of the courts are to be newly appointed by commissions, in which the judiciary will have three votes and the Ministry of Justice will have two votes. <p>Promotion:</p> <ul style="list-style-type: none"> • Recommendation of the Judicial Councils for the promotion of judges (non-formal). 	<ul style="list-style-type: none"> • Within the organization of justice in the Czech Republic, there is no entity that could evaluate judges independently of the executive. • The evaluation of judges is regulated only in connection with selection procedures for court officials.
<p>Regulation <i>General remarks on the sufficiency of the regulation.</i></p>	<p>Selection:</p> <ul style="list-style-type: none"> • As of 1/2022, the new legislation unifies the process of selecting judges for the entire territory of the Czech Republic and thus solves the problem of previous fragmentation and diversity of selection procedures within the districts of individual regional courts (in previous years, presidents of regional courts had a very large influence). • It allows other professions to enter the judiciary (even if the setting of conditions is not optimal) • The new position of "judicial candidate" allows the candidate to penetrate the judiciary and vice versa to allow the judiciary to verify the candidate's abilities. <p>Evaluation:</p> <ul style="list-style-type: none"> • The legislation newly stipulates the evaluation of judges in the selection procedure for court officials. 	<p>Selection:</p> <ul style="list-style-type: none"> • The new practice of selecting judges under the legislation from 1/2022 is not yet fully established. • After meeting the conditions (5 years of experience), a lawyer (public prosecutor, notary, executor) may enter the judiciary without any previous experience in court. • The possibility of entering the judiciary and crediting experience in other legal professions (e.g. academic staff, in-house lawyer) is not explicitly regulated. • The law does not necessarily require any experience outside the judiciary (it can lead to closure – encapsulation of justice). • The selection procedure for the position of judicial candidate and judge is almost duplicated. <p>Evaluation:</p> <p>There is no legislation directly addressing the system of control and evaluation of judges.</p> <ul style="list-style-type: none"> • The rules on selection procedures for judges at the Supreme Court or the Supreme Administrative Court (procedure for selecting candidates and how to

	<ul style="list-style-type: none"> • Otherwise, the legislation provides (only) for the process of disciplinary proceedings with the person of a judge. • The Constitutional Court of the Czech Republic in its judgment of 18.6.2002, file no. Zn. Pl. ÚS 7/02 abolished part of the amendment to the Act on Courts and Judges, enshrining the evaluation of judges for the absence of an independent evaluation body. <p>Promotion:</p> <ul style="list-style-type: none"> • Existing rules for promotion to the Supreme Court, respectively. Supreme Administrative Court. • Existing rules for the appointment of officials of district, regional and high courts. 	<p>evaluate candidates) are not general, but are published by the president of the court on the website of the relevant court on an ad hoc basis.</p> <p>Promotion:</p> <ul style="list-style-type: none"> • The regulation of the ongoing evaluation and promotion of judges to higher courts is not sufficient.
<p>Criteria</p> <p><i>Assessment of criteria's sufficiency, clarity and correspondence with the main sets of competences expected from a judge (professional, social, personal)</i></p>	<p>Selection:</p> <ul style="list-style-type: none"> • Selection procedures and examinations in the process of selecting a judge also include candidates' ability to assess more complex cases – i.e. partly analytical thinking and the ability to formulate and express ideas. • The selection procedure for court officials assesses the prerequisites for performing the office of the president of the court, the candidate's intentions related to the performance of the office, the objectives he or she wants to achieve in the office and the specific measures he or she proposes to achieve them. • It will also evaluate the judge's decision-making activities to date, communication and organizational skills, and will take into account 	<p>Selection</p> <ul style="list-style-type: none"> • The selection procedure hardly examines the psychological personality aspects of the candidate (psychological assessment has little influence on the outcome of the selection procedure) . • Very strong emphasis only on legal knowledge, the judicial examination is very demanding and tests the ability to memorize more than other suitable competencies for performing the function of a judge. • The system is complex – the standard procedure contains 4 levels of tests of varying difficulty. • For "outside" applicants, there is little transparency in the whole system of selecting judges and the method of evaluation within each instance. <p>Evaluation:</p>

	<p>internships at higher courts and any disciplinary proceedings that may have taken place.</p> <ul style="list-style-type: none"> • As part of the evaluation of a judge for the purposes of the selection procedure for court officials, a statistical summary of his or her activities also plays a role, as well as his decision-making activity, taking into account factually complex cases and opinions of the court of appeal and the court of appeal. • For the purposes of the selection procedure, the continuity and dignity of the conduct of the court procedure is also assessed. • The evaluation for the purposes of the selection procedure also includes an assessment of the applicant's expertise, organizational and communication skills, personality prerequisites, an overview of the applicant's internships at higher courts and information on disciplinary proceedings against him. 	<ul style="list-style-type: none"> • Absence of predetermined evaluation criteria for judges – for their continuous evaluation. <p>Promotion:</p> <ul style="list-style-type: none"> • The criteria for the promotion of judges to higher courts are not sufficiently and clearly established, either formally or informally.
<p>Methods</p> <p><i>Efficiency of methods, enabling to comprehensively assess indicators of candidates' competences</i></p>	<ul style="list-style-type: none"> • The position of "assistant judge" allows the candidate to familiarize himself in detail with the operation of the court and decision-making practice. • The position of "judicial candidate" makes it possible for colleagues from the court and the president of the court to get to know the personality of the candidate for the position of judge (the president evaluates). • The position of judicial candidate makes it possible to attend a number of trainings organized by the Judicial Academy. 	<ul style="list-style-type: none"> • In practice, personal ties and relationships (e.g. in a judicial examination) may also play a significant role. • Social skills are not examined. • Candidates do not undergo intelligence tests and thorough psychological analysis. • The weak role of psychological assessment, the absence of thorough psychological tests and assessment of candidates for the position of judge. • Lack of a comprehensive methodology for the ongoing evaluation of judges. • Promotion is based primarily on personal consensus.

	<ul style="list-style-type: none"> • The method of evaluation of selection boards - within the selection procedures for the position of judge is laid down in the legislation. • For the purposes of the selection procedure for the post of president of the court, (a) the president of the court or the vice-president designated by him or her draws up an evaluation of the judge and an annual statistical statement of his or her activities, (b) the judicial council of the court to which the candidate is assigned, an opinion, and (c) the judicial council of the court in which the post is filled, an opinion. • The required evaluation of a judge for the purposes of the selection procedure for the appointment of court officials is prepared by the president of the court or a vice-president designated by him/her. 	<ul style="list-style-type: none"> • A very subjective process when it comes to promotion to higher courts. • In practice, it depends on the consent of the presidents of both courts and the judge to be transferred to a higher court.
Area	Opportunities	Threats
<p>Judicial Independence</p> <p><i>External factors, that may impact the judicial independence during the selection and appointment procedures (political influence, practical issues of the procedures, etc.)</i></p>	<ul style="list-style-type: none"> • The new legislation represents an opportunity to increase the transparency of the entire process. • In terms of political influences influencing the judiciary, there is little risk in the selection of judges in practice (although the Ministry of Justice plays an important role in the organization of the selection of judges, the methodology for preparing examinations). • Suppression of subjectivity of selection. • Creation of an independent body that would play a key role in the selection, evaluation and promotion of courts (Supreme Councils of the Judiciary independent of the executive). 	<ul style="list-style-type: none"> • In practice, personal ties and relationships can also play a significant role, which can negatively affect the independence and impartiality of the selection procedure. • Psychological prerequisites for the function of judge may be taken into account. • Space for the executive power, including the President of the Republic, to intervene in the appointment process. • Strengthening political influence on the process of evaluating judges, including the involvement of the Minister of Justice, in particular when appointing presidents and vice-presidents of supreme courts.

		<p align="center">Personal (family) ties within the judiciary can play a major role.</p>
<p>Regulation</p> <p><i>General remarks on the aspects of the regulation, ensuring transparent and objective selection procedures. Particular attention should be given to the gaps in the regulation, that can cause threats to the credibility of the procedure.</i></p>	<ul style="list-style-type: none"> • The legislation could provide for the obligation to complete a year's performance as a "judicial candidate" for all candidates for the position of judge without exceptions (including lawyers, etc.). • The legislation should stipulate the obligation for each candidate to complete a minimum of 2 years of legal experience outside the judiciary . • The length of previous legal experience could be taken into account in the selection procedure and the length of the different phases. • Creation of a comprehensive special legal regulation and methodology for promoting judges to higher courts. • Establishment of legislation ensuring transparent and objective procedures for the ongoing evaluation of judges. 	<ul style="list-style-type: none"> • In general, the Czech Republic basically belongs to the career model of judges - most candidates for the position of judge do not go through any other legal practice, and they usually join the court after graduating from the Faculty of Law. • There is a risk of encapsulation of the judiciary – the position of assistant judge is relatively closely tied to only one person of the judge . • There is a risk of judges being filled by persons (e.g. less successful lawyers) without any prior experience in court. • Personal (family) ties may have some influence in the placement of new candidates in the courts. • Lack of consensus for the development of new legislation and methodology for the comprehensive evaluation of judges. • Lack of consensus for the creation of new legislation and methodology for promoting judges to higher courts. • Potential instrumental influence of policy on legislative regulation.
<p>Criteria</p> <p><i>The balance of formal and informal criteria, level of criteria, that may affect the quality of candidates selected (if for example, too low</i></p>	<ul style="list-style-type: none"> • Comprehensible publication of the entire procedure, including the publication of the circuits for preparation on the Internet. • Invitation to transparency of the individual stages of the whole process. • Don't cling to legal knowledge of an encyclopedic character. 	<ul style="list-style-type: none"> • The quality of the selected persons may be high in terms of their ability to learn a lot of information at once, but this does not guarantee the quality of the court decision. • The complexity of selection procedures may discourage or exclude even suitable persons.

<p><i>standards for entry) or may affect the size of the pool of candidates (if standards are too high)</i></p>	<ul style="list-style-type: none"> • Examine the candidate's ability to work with legal programs, the ability to improvise, the ability to empathize, etc. Also examine the organizational skills of candidates. • Establishment of transparent criteria for the ongoing evaluation of judges that reflect the professional, personal and social levels with minimal importance of personal ties in the court • Both formal and informal criteria should play an appropriate role in the evaluation of judges. • The outcome of the evaluation could be directed, inter alia, to recommending and targeting further skills improvement (suggestion of possible training, etc.). • In the case of activity statistics, account must be taken of the diversity of the cases in question in terms of their complexity and time requirements • Establishment of a comprehensive system for the promotion of judges, including the method of evaluating the judge's previous performance. 	<ul style="list-style-type: none"> • The current system will not prevent the penetration of persons with neuropathic tendencies (or otherwise personally unsuitable persons) into the justice system. • A low level of examination of the psychological, analytical and social aspects of candidates in the selection procedure may result in the recruitment of people with low organizational, communication and other social skills, lower analytical thinking skills, etc. • Separation (alienation) of justice from society. • In the area of evaluation and promotion of judges, the current threat is to increase the influence of informal and subjective criteria.
<p>Methods</p> <p><i>Methodological factors that can impact the perception of the procedure as transparent, objective and allowing to choose the best candidates</i></p>	<ul style="list-style-type: none"> • The new legislation represents an opportunity to increase the transparency of the entire process of selecting judges and its unification • More stages of the selection procedure can ensure greater overall objectivity in the selection of a suitable person for the post of judge 	<ul style="list-style-type: none"> • Great influence of court presidents and personal relationships during training as a "judicial candidate" • Great influence of a particular judge during the preparation in the position of "assistant judge". • There is a threat of clientelism and the closure of the judiciary • Trainers in the final evaluation are not guided by clear and unambiguous aspects of evaluation

	<ul style="list-style-type: none"> • Creation of a comprehensive methodology and body that will independently evaluate the judge • For the objectivity of the evaluation, it may be appropriate to award "points of difficulty" to individual cases that each individual judge deals with, to evaluate effectiveness • Also in the context of assessing a judge's abilities for promotion purposes, the possibility of assigning "points of difficulty" to individual cases handled by a given judge seems appropriate. 	<ul style="list-style-type: none"> • Difficulty in assessing the quality of judicial decision-making in relation to quantity • Excess influence of informal and subjective criteria associated with loyalty to the presidents of both courts • Low objectivity of reflection on the judge's previous work • The best judges may not be promoted because of the disapproval of the presiding judge.
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3. Recommendations

- Some of the shortcomings of the Czech system of selecting judges identified in the original comparative analysis were resolved by an amendment to the Act on Courts and Judges, which unifies the entire system of selecting judges and makes it more transparent.
- On the other hand, the new system is quite complicated and includes 4 examination levels – for the standard route leading to the position of judge:
 - 1) Assistant Judge – selection procedure 3 years (up to 2 years of other legal experience can be counted)
 - 2) Professional judicial examination (it is possible to apply for it after three years, it is a prerequisite for 4)
 - 3) Judicial candidate (selection procedure – 1 year)
 - 4) Judge - condition judicial candidate in the last 5 years (exceptions are set) and professional judicial examination (or comparable – lawyer, executor, notary, public prosecutor)
- Although no information is yet available on the practical implications of the amended judicial selection system, we can identify some potential risks or weaknesses.

- The system allows a judge to become a person without any experience outside the judiciary, *de lege ferenda* it is possible to consider the condition of obtaining legal experience outside the judiciary.
- On the other hand, a person without any experience in the judiciary may also become a judge. An example here may be a lawyer (executor, public prosecutor) who, after 5 years of experience, can become a judge (if successful in the selection procedure) without judicial experience. A possible solution would be to establish an obligation to complete the stage of "judicial candidate" for all candidates for the work of judge without specified exceptions. The advantage would be not only that each interested person has the opportunity to get acquainted with the real operation of justice, but also to undergo various trainings within the judicial academy. On the other hand, it could be possible to hold this position on a part-time basis for a longer period of time (e.g. in parallel with advocacy or other legal activities)
- For some legal professions (e.g. academic, in-house lawyer) entering the judicial sphere is very complicated. For example, an academic – must pass a professional judicial examination (and for this he needs at least 3 years to work as an assistant judge, while up to 2 years can be counted, but there is no legal entitlement to this), but then after 10 years of scientific and pedagogical activity in the legal field related to the activities of courts, he does not have to perform the function of a judicial candidate (!) and can apply directly for the selection procedure for judges. *De lege ferenda*, a reverse counting of experience would be more appropriate: for an academic, the position of judicial candidate would make much more sense than of an assistant judge, as the above position of judicial candidate could be made compulsory for all candidates without exception. On the other hand, this year of intensive examination of a candidate by the judiciary gives a chance to consider his recommendation for the post of judge or not.
- From the point of view of the examined criteria within the selection procedure, it is possible to positively evaluate the effort and determination of the candidate's abilities in terms of the application of the law in a particular case, although the level of selected cases may be too high for some applicants and very demanding to elaborate due to the fact that they do not have their own experience. The content of the judicial examination has not undergone significant changes and is still focused mainly on a very thorough examination of the broad legal knowledge of candidates.
- The amendment to the legislation has reduced the importance of the psychological assessment of the candidate, which is perceived as an undesirable trend in this evaluation. As regards the psychological assessment of candidates, it should play a much more important role not only in the process of selecting suitable persons, but also in the process

of possible ongoing evaluation of judges, as a person's psychological profile can vary greatly over time due to different circumstances.

- A suitable inspirational model for possible further direction seems to be, for example, the Dutch system, which, when selecting suitable persons for future judges, does not examine the level of legal knowledge (which is ensured by the required legal qualifications and experience – including benchmarking), but focuses on testing other skills and abilities of candidates that it considers necessary for the smooth management of the demanding function of a judge.
- As regards the system of evaluation and promotion of judges, the new legislation on court officials can be positively assessed, as the system is uniform and more transparent in this area compared to the previous situation. However, there is still no formally established system of continuous evaluation of judges (which the Constitutional Court rejects without the existence of an independent body) and a formal system of promotion of judges to higher courts (in practice, however, informal methods based on consensus and respect of all parties involved work well). A more comprehensive solution for the future in this area can be expected only in the situation of the existence of an independent body such as the Supreme Judicial Council.

III. Lithuania

1. Assessment of current situation and practices of selection, evaluation, and promotion of judges in Lithuania

One of the main features of Lithuanian selection, evaluation, and promotion of judges is a detailed regulation of all the procedures. On one hand, such regulation provides more transparency, on the other hand, sometimes too detailed and complex regulation can lead to a burdensome and lengthy selection of new judges as well as evaluation and promotion of current judges.

One of the new features of Lithuanian system is professional assessment of personal competences and so-called *soft skills* performed by independent psychologists. This allows to have more objective evaluation of personal competences. However, this is an expensive exercise for an underfinanced judicial system. Even with professional psychologist the assessment is not without its pitfalls as too many and sometimes overlapping personal competences are evaluated. Thus, this procedure after some monitoring could be further improved in the future.

A practice of combining quantitative and qualitative indicators during evaluation and promotion procedures and building conclusions based on a wide range of different sources, including court president’s opinion or results of survey of court personnel (in promotion) could be indicated as a good practice. Though, a weak point of this practice is the absence of standardized form of opinion, which has a considerable role and creates a potential risk of judges, planning their career, feel dependent on their relationship with the president of the court. Thus, some sort of standardization of president’s opinion (for example, via templates with relevant criteria of evaluation) could be implemented to eliminate potential threats of excess subjectivity.

The root of the problem of selection and promotion procedures lies not the procedures themselves, but the possibility for the President of The Republic to completely dismiss the results of the procedures and choose a candidate for a judge’s vacancy or promotion, which was not considered the most suitable or even unsuitable to be a judge or promoted during the procedures. This issue can jeopardize the transparency of the procedures and discourage potential candidates to the race. However, this risk can be eliminated by the Judicial Council, possessing a power to balance the issue by voting against candidates whom were deemed not the best or even not suited for the vacancy.

2. Selection, evaluation, and promotion of judges in Lithuania – SWOT analysis

Area	Strengths	Weaknesses
<p>Judicial Independence</p> <p><i>Are there sufficient safeguards (composition of bodies, participating in selection procedures, etc.), ensuring judicial independence in selection procedures and appointment</i></p>	<ul style="list-style-type: none"> • Proper constitution of Judicial Council (all members are judges selected by their peers, except 3 judges, which are members <i>ex officio</i>). • Effectively independent from legislative and executive. • Judicial Council has a power to appoint 3 members (out of 7) of the Selection Commission. • Plays a significant role in the appointment procedure – its decision not to advice to appoint selected candidate is mandatory for the President of the Republic. <p>Evaluation:</p> <ul style="list-style-type: none"> • Routine judicial evaluation takes place in a regular manner, within the periods prescribed by law; • Evaluated judge can appeal the decision of the Commission to the Judicial Council. • The evaluation of a judge is performed with his/her presence, and he/she presents his/her position, remarks, arguments. 	<p>Selection:</p> <ul style="list-style-type: none"> • Composition of the Selection Commission – majority of the Commission is non-judicial members, appointed by the President of the Republic. • President of the Republic is not obliged to follow the conclusion of the Selection Commission – can choose a candidate not ranked among the best without a profound justification. • Length of the selection procedures (and long periods of pending vacancies, which impacts a workload of judges) due to complex procedures.

<p>Regulation</p>	<ul style="list-style-type: none"> • Level of regulation (Constitution, statute (law)) – main issues regulated on a “higher” level. • Regulation is sufficiently detailed, including competence model, criteria, methods of assessment. • Procedures, timeframes, and participating/deciding actors are clearly defined in the regulation. <p>Evaluation:</p> <ul style="list-style-type: none"> • Goals of the judicial evaluation, established by the Law, correlate with the recommendations of international bodies working on judicial independence (CEPEJ, CCJE): improvement of the judicial activities, training needs, promotion. 	<ul style="list-style-type: none"> • Too detailed and complex regulations lead to difficult and lengthy procedures. <p>Evaluation:</p> <ul style="list-style-type: none"> • Members of the Commission are not involved full-time, it created difficulties in organizing work effectively. • Certain issues are not regulated (the Commission itself can do it): e.g. templates of questionnaires, etc.
<p>Criteria</p> <p><i>Assessment of criteria’s sufficiency, clarity and correspondence with the main sets of competences expected from a judge (professional, social, personal)</i></p>	<p>Selection:</p> <ul style="list-style-type: none"> • Comprehensive description of the model of competences. • Criteria clearly set out. • Formal and objective criteria for entering the selection process. • A combination of professional, personal and social skills to successfully complete the selection process. • Substantial role is given to the personal qualities, which have been recognized as very important for effective judicial performance. <p>Evaluation:</p> <ul style="list-style-type: none"> • Combination of quantitative and qualitative criteria. Balance of qualitative and quantitative indicators is relevant (50/50). 	<p>Selection:</p> <ul style="list-style-type: none"> • Judicial exam is focused on ability to memorize, not on an intellectual capacities or professional skills. • Too many personal competences to evaluate (3 sets of competences, 39 competences in total) – some of which overlap, create confusion in assessing their content. • Opinion of the President of the Court as the a very subjective indicator is debatable, especially when no unified templates exist. • Some doubts among judges arise regarding the opinion of the court on the candidate (as it is done on the basis of the first impression, if the candidate is coming from outside of the court). <p>Evaluation:</p>

	<ul style="list-style-type: none"> • Both professional activities and personal engagement (how many trainings were attended, etc.) are evaluated. • When evaluating quantitative indicators (e.g., term of adjudicating the case and comparing it to the average adjudication period at the courts), the workload and other aspects, which may impact those indicators, are taken into account. • Particular attention is paid to the quality of judgments (on the basis of the recommended standards of judgments), as the objective indicator of this criteria the reversal of judgments is assessed. <p>Promotion:</p> <ul style="list-style-type: none"> • Comprehensive description of the model of competences. • Criteria clearly set out. • Formal and objective criteria for promotion. • A combination of professional, personal and social skills evaluated for in the procedure of promotion. • Substantial role is given to the personal qualities, which have been recognized as very important for effective judicial performance. • Special additional personal competences are required for those going to leadership positions. • Leadership as a competence is given a substantive role, which reflects modern trends in career planning. 	<ul style="list-style-type: none"> • When assessing professional activities, statistics is sometimes an issue – for example, with regard to a minimum workload, how to calculate adequately. <p>Promotion:</p> <ul style="list-style-type: none"> • Too many personal competences to evaluate (3 sets of competences, in total 39 competences) – some overlap, create a confusion in assessing the content of them. • Only 35 percent of the total the grade is composed by the quality of the activity of the judge.
Methods	Selection:	Selection:

<p><i>Efficiency of methods, enabling to comprehensively assess indicators of candidates' competences</i></p>	<ul style="list-style-type: none"> • A combination of formal and informal methods throughout the selection procedure. • Psychological assessment helps a lot to have more objective evaluation of personal competences. • Outsourcing of services of psychological assessment guarantees professional, impartial assessment. <p>Evaluation:</p> <ul style="list-style-type: none"> • 100 points in total are assigned (25 for every indicator), which allows to compare results, especially when they are used for promotion reasons; • Mixed method: objective method of statistics and interview. <p>Promotion:</p> <ul style="list-style-type: none"> • Procedure is based on a comprehensive information on professional performance prepared by the Evaluation Commission. • A combination of formal and informal methods throughout the procedure. • Psychological assessment allows to have more objective evaluation of personal competences. • Outsourcing of psychological assessment services guarantees professional, impartial assessment. • Special attention in psychological assessment (and extra time for interview) is dedicated to candidates applying for leadership positions. 	<ul style="list-style-type: none"> • In personal assessment – a number of competences to assess in 2 hours too high. • Large costs of psychological assessment. • Lack of unified templates (letters of reference, etc.) for getting comparable information on all candidates. • No particular description how to count points in assessment of professionalism, which comprise a substantive weight in the whole evaluation (up to 20 points out of 100). <p>Evaluation:</p> <ul style="list-style-type: none"> • Opinion of the President of the court – lack of developed methodology – difficult to compare, sometimes becomes very formal, no relevant information; • Oral interview for regular evaluation every 7 years not necessary, because it becomes formal, maybe could be written. <p>Promotion:</p> <ul style="list-style-type: none"> • Too many personal competences to assess in 2 hours; • Large costs of psychological assessment. • Lack of unified templates for provision of the opinion of Court President and other judges undermines a possibility to get comparable information.
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Area	Opportunities	Threats
<p>Judicial Independence</p> <p><i>External factors, that may impact the judicial independence during the selection and appointment procedures (political influence, practical issues of the procedures, etc.)</i></p>	<ul style="list-style-type: none"> • Having a properly composed and effectively independent judicial body allows to select the candidates that judiciary sees as the most suitable. • Significant/fundamental role in selection process allows to ensure impartiality (from legislative and executive branch) in the candidate selection process. • Allows for more objective promotion, which may potentially attract the best leaders to apply for promotion. • The balance of judicial and non-judicial members of the Selection and Evaluation Commissions allows to ensure the credibility of the procedure and to avoid the corporativism. 	<p>Selection and promotion:</p> <ul style="list-style-type: none"> • Members of the Selection Commission do not work full-time or part-time. It may cause (and causes) huge workload and obstructions in procedure. • A judicial body with a majority of non-judicial members, or members appointed from the legislative or executive branches may either select not the candidates that judiciary deems not the most suitable or be influenced/interested to appoint candidates favorable to other branches. • The power to announce selection to the vacancies rests on the President of the Republic, which may end at the pending vacancies for a time till “suitable” potential candidates appear. <p>Evaluation:</p> <p>The considerable role of court president’s opinion creates a potential risk of judges, planning their career, feel dependent on their relationship with the president of the court.</p>
<p>Regulation</p> <p><i>General remarks on the aspects of the regulation, ensuring transparent and objective selection procedures. Particular attention should be</i></p>	<ul style="list-style-type: none"> • Regulating in a manner where the most fundamental issues would be on the statutory level and the rest of the regulation in bylaws allows for both – stability of the procedures on one hand and a required flexibility to quickly react to changing environment on the other. • Clearly setting out procedures, timeliness and participating/deciding actors spurs confidence and trust of prospective candidates in the 	<p>Selection and promotion:</p> <ul style="list-style-type: none"> • Too detailed and complex regulation may “leave out”/discourage certain candidates from applying. The career-track may become very homogenous (e. g. only people from within court’s system would apply). • Regulation leaves the possibility to select the best suitable candidate not from the top of the list, which jeopardize the transparency and

<p><i>given to the gaps in the regulation, that can cause threats to the credibility of the procedure.</i></p>	<p>selection process and likewise gives credibility to the procedure, which attracts candidates from outside the judiciary.</p> <p>Evaluation:</p> <ul style="list-style-type: none"> • Law establishes the framework and clearly sets all the aspects, that have to be regulated by the Judicial Council regarding evaluation procedures, which helps not to leave gaps in by-laws. • Clear indication of the goals of the evaluation at the Law allows to improve the system of needs-based trainings and performance-based promotion. 	<p>objectiveness of the procedure and at the end can harm the credibility of the whole procedure.</p> <p>Evaluation:</p> <ul style="list-style-type: none"> • Lack of regulated methodology for evaluation by the administration of the court can end – up in a subjective opinion. • Lack of clear set of templates adopted by regulations or listed as to be adopted by the Commission can end-up in different conditions of evaluation of judges and therefore some doubts among judges about the objectiveness and non-discrimination.
<p>Criteria</p> <p><i>The balance of formal and informal criteria, level of criteria, that may affect the quality of candidates selected (if for example, too low standards for entry) or may affect the size of the pool of candidates (if standards are too high)</i></p>	<p>Selection:</p> <ul style="list-style-type: none"> • Requirement to comply with only formal “requirements” for entry to the selection procedures allows to attract a larger pool of candidates and better selection opportunities. <p>Selection and promotion:</p> <ul style="list-style-type: none"> • A combination of formal and informal criteria throughout the selection process allows to get a full “overview” of a candidate, including his/her knowledge and personality traits. <p>Evaluation:</p> <ul style="list-style-type: none"> • A combination of quantitative and qualitative criteria allows to get a full “picture” of judge’s performance, including his/her professional skills and behavior. 	<p>Selection:</p> <ul style="list-style-type: none"> • Too high criteria for entry to the selection process may curtail the pool of prospective candidates. <p>Selection and promotion:</p> <ul style="list-style-type: none"> • A high weight of personal criteria, which are associated with more informal and subjective assessment may prevent suitable prospective candidates from applying.

<p>Methods</p> <p><i>Methodological factors that can impact the perception of the procedure as transparent, objective and allowing to choose the best candidates</i></p>	<p>Selection and promotion:</p> <ul style="list-style-type: none"> • A combination of methods (including psychological testing) allows to get the best overview of candidate. • Psychological assessment (test and interview) makes the procedure in line with modern trends of recruitment of high level professionals. <p>Promotion:</p> <ul style="list-style-type: none"> • Questionnaire for the personnel of the court about judges aspiring to be promoted to leadership position, allows to take into account opinion of the personnel. 	<ul style="list-style-type: none"> • Outsourcing (through public procurement) of psychological assessment services has a risk of acquiring possible lower quality services. • A risk of a gap of psychological testing services (because of a lack of financial resources or shortcomings in public procurement procedures) can cause a blockage of selection. • A complex methodology may lead to limitation of the candidates' pool (prospective candidates). <p>Evaluation:</p> <ul style="list-style-type: none"> • Standardized template for the President's opinion would allow to compare results in case of the evaluation for promotion better. <p>Promotion:</p> <ul style="list-style-type: none"> • Technological issue – questionnaire can be answered several times by the same person, which can end-up in distorted picture of the personnel's opinion about a judge applying for a promotion.
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3. Recommendations

- To amend legislation and **to empower Judicial Council to initiate and announce selection to judicial vacancies** (now this power rests on the President of the Republic) in order to facilitate procedures and prevent from long time pending vacancies.
- To further **discuss amendments to the content of the exercise and methodology of the entry examination** so that it would allow to more comprehensively evaluate intellectual capacities or professional skills of the candidate instead of his/her capacity to memorize large amount of information.

- For more comparable and objective evaluation of information regarding the candidate or a judge, applying for a promotion, to **develop templates** standardizing form of court president’s opinion on the candidate and judge applying for promotion, references from former employers of the candidate, questionnaires of court staff, etc.
- Having in mind indications, that there are too many personal competences to evaluate, it is recommended to **perform the monitoring of a new system of psychological assessment and to improve list of competences** and methodology if necessary.