**Answers from**

**ASSOCIATION OF CROATIAN JUDGES**

**to the**

**Questionnaire of the Special Rapporteur on the independence of judges and**

**lawyers**

1. Please indicate whether there is a national body or mechanism in charge of

selecting, appointing, promoting, transferring, suspending or removing judges in your

country. What is the exact denomination of this body or mechanism? What are the legal

basis for its establishment (e.g. constitutional provisions; ordinary law or other)?

**A:** In Croatia judges and presidents of courts are appointed and promoted by the State Judiciary Council /SJC/. There is also similar body for appointment and promotion of prosecutors State Prosecutorial Council.

Judges can be promoted and transferred only with their consent. as it is stated in Croatian Constitution.

SJC has authority to suspend judges from the bench if they are charged with serious criminal charge and if disciplinary proceedings are initiated for grave disciplinary offences which justify such measure. Such decisions are subject to appeal to Constitutional Court and while suspended judges receive ½ of their monthly salary.

SJC is composed of 7 judges, two professors of law and two members of the Parliament. Members form rank of judges are elected by their peers / all judges in the country vote for 7 members among candidates/. Same principles is applied for professors of law where professors of law at all 4 Schools of Law vote for two members. Parliament is electing their two members with restraint that one of the members has to be from the majority and one MP from the opposition.

The establishment , composition and authority of SJC is set up in the Constitution and other issues are regulated by Law on SJC

2. Please provide information on the composition of the body or mechanism (number

and qualifications of members), the procedure for the appointment of its members and the

duration of their term of office. Please also provide information on the human and

financial resources of this body or mechanism (e.g. number of employees and their

qualifications; annual budget).

**A:** For some issues please refer to the above .

First step is candidacy procedure which takes place at each court in the Country.

Elections are held at each court for candidates from respected court. After the candidacy faze of elections is finalized all candidates are listed at the ballot, and all judges in the country vote on general secret elections for judges –members of the SJC which has to be composed of two judges of Supreme Court, two judges of Courts of Appeal, two judges of first instance courts and one judge from specialized courts (administrative, commercial and misdemeanour courts) .

Members of SJC have mandate of four years and their mandate can be renewed, but now amendments to the Law are proposed that it will be impossible to have two terms of office in the row.

The SJC’s budget is determined by the Parliament.

SJC has staff of 6 administrative clerks most of them lawyers by education, but lack of staff is overbridged with regulation that judges members of SJC have less of their pure judicial duties in the courts where they sit.

Presidents of courts cannot be members of SJC.

3. Please provide detailed information on the legislation and practice existing in

your country in relation to:

(a) The selection and appointment of candidates for judicial offices and the criteria used

for their selection and appointment (e.g. qualifications, integrity, ability and efficiency);

**A:** Judges of first instance court can be elected only if they successfully finished school for judges or passed the exam which is equivalent to the School for judges.

(b) Condition of service and security of tenure of judges;

**A:** Once appointed term of tenure is until year of retirement ( 70 years of age). Judges can be removed from office only if SJC decides so / resignation, disciplinary decision, permanent inability for a judge to fulfil its duties/

(c) Promotion of judges;

**A:** Judges can be promoted or appointed to another court of same level or type if there is vacant position announced and they apply to the post.

Before appointment judges are evaluated on the pre-established criteria, all on the same ground, and their evaluation is transferred in point system . To points gained through procedure of evaluation which is not done by HJC but by another body formed only of judges at each court of appeal, are base to form a rank list of candidates. After the interview with the candidates before HJC where not more than 20 points can be added to the points in the evaluation SJC by vote decides which judges are going to be promoted or appointed to another court where points are not only but important criteria .

(d) Transfer of judges;

**A:** Please see answer above.

Without judge’s consent they can be transferred only if state decides to reorganize system of courts or when one or more courts are abolished.

(e) Disciplinary proceedings against judges.

**A:** Disciplinary procedure and disciplinary offences are defined by law- Law on HJC.

Proceedings can only be initiated by president of court, president of higher court and president of Supreme Court and Ministry of justice.

Proceedings are held before SJC with all guarantees of fair trail and right to defence.

Decisions are subject to appeal to the Constitutional Court.

What is the role played by the national organ or mechanism with regard to the issues

referred to above?

**A:** In all issues mentioned above SJC is only authority with powers to deliver decisions .

4. If the national organ or mechanism does not have a role to play in relation to any

of these issues, please provide detailed information on legislation and procedure for:

(a) Judicial selection and appointment;

(b) Transfer and promotion of judges;

(c) Disciplinary proceedings against judges

**A**: Not applicable for Croatia

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