**SEMINAR ORGANISED BY THE FRENCH COUNCIL OF STATE
IN COOPERATION WITH ACA-EUROPE**

***ETHICS AND RECRUITMENT
OF MEMBERS OF THE SUPREME ADMINSTRATIVE COURTS AND COUNCILS OF STATE***

Questionnaire

The Versailles seminar will address two related topics: ethics and recruitment.

The first topic will be discussed on Friday morning, 29 November, in two round tables. The first will focus on the legal and institutional framework. The second, based on practical cases, will address the content of ethical rules.

The second topic will be addressed on Friday afternoon during the third round table.

Ethics for magistrates was discussed at the seminar organised by AIHJA/IASAJ in September 2020 in Athens. It was also discussed at a meeting of the European Association of Administrative Judges (AEAJ) in May 2023 focusing on the freedom of expression of magistrates. Some of the questions below repeat those asked in the Athens questionnaire. You can, of course, use the answers you provided in 2020 to respond to this questionnaire.

I Ethics: Legal and institutional framework

1.1. General framework

1.1.1. Are the ethical obligations of public officials in general enshrined in your country's positive law?

☒Yes

☐No

If yes, they are enshrined (please check all applicable answers):

☒in the Constitution

☒in the law

☒in a regulatory text

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☒in a Charter of Ethics or a Collection of Ethical Principles

☐other

Please explain if necessary:

There is no Charter of Ethics nor any provision of the Constitution or the legislature which is applicable to *all* public officers. Different legislative provisions and/or Charters of Ethics apply to the different public bodies.

1.1.2. Are the ethical obligations of members of your institution specifically enshrined in your country's positive law?

☒Yes

☐No

If yes, they are enshrined (please check all applicable answers):

☒in the Constitution

☒in the law

☒in a regulatory text

☒in a Charter of Ethics or a Collection of Ethical Principles

☒other

Please explain if necessary:

By virtue of Article 133 of the Constitution any member of the Supreme Constitutional Court including the President, may be dismissed on the ground of misconduct. "Misconduct" is not defined in the Constitution. The *Guide to Judicial Conduct*, ("*Guide*"), which is a Charter of Ethics, applies to all judges of the Republic, including the judges of the Supreme Constitutional Court. The *Guide* offers guidance in respect of areas such as conflicts of interest and other integrity related matters (e.g gifts, freedom of expression and side activities). A disciplinary case is heard by the President and Members of the Supreme Court (Act 33/1964 as amended). (Please note that any disciplinary case against the President or Member of the Supreme Court is heard by the President and Members of the Supreme Constitutional Court). The procedural and evidential rules, are set out in detail in the Procedural Rules of the Supreme Court of 2023.

Note: In 2023 the Judiciary in Cyprus underwent a substantial reform. One of the reforms that took place was the division of the then Supreme Court into the Supreme Constitutional Court and the Supreme Court. The Supreme Constitutional Court, the Institution that I serve, has exclusive constitutional and administrative jurisdiction .

1.2. Charter of Ethics

1.2.1. Does your institution also have a Charter of Ethics or a Collection of Ethical Principles?

☒Yes

☐No

If the answer is yes: On which date was this document adopted?

In 2019.

1.2.2. Is the adoption of this document an obligation for your institution?

☒Yes

☐No

Please explain if necessary:

There was no legislative obligation to adopt a Charter of Ethics, but there was a strong need to codify all the settled principles of the case law. GRECO also recommended, in its report, that a code of ethics should have been adopted.

1.2.3. Was this document adopted in response to a particular event that stirred public opinion?

☐Yes

☒No

If yes, please explain the legal and political context that led to the adoption of this text:

1.2.4. Who drafted this document?

☒A working group composed exclusively of members of your jurisdiction

☐A working group expanded to include outside persons

☐A working group involving associations of administrative judges

☐Other

Please explain if necessary:

The document was drafted by members of the Supreme Court who were guided by the Bangalore Principles of Judicial Conduct and the Guide to Judicial Conduct of England and Wales.

1.2.5. Which authority signed and enacted this document?

☒The president of your institution

☒A collegiate body of your institution

☐Other

Please explain if necessary:

The document was approved and then signed by the President and all the Members of the Supreme Court of Cyprus (See *Note in paragraph 1.1.2).* The document was published and it is easily accessible to the public through the internet.

1.2.6. Has this document undergone one or more revisions?

☒Yes

☐No

Please explain the purpose of these revisions if necessary:

Four (4) revisions.

1.2.7. What is the legal value of this document?

☒This document contains binding legal rules (hard law)

☒This document contains soft law standards

☐Other

Please explain if necessary:

The *Guide* is intended to offer assistance to judges regarding their conduct, including impartiality, integrity, propriety, equality, competence and diligence. It contains core guiding principles on judicial conduct and enables the judges to perceive whether their conduct and/or specific activity is appropriate or not. The Guide is based on the *Bangalore Principles of Judicial Conduct* and the *Guide to Judicial Conduct of England and Wales*.

Non conformity with the provisions of the *Guide* does not necessarily lead to a disciplinary procedure, this will depend on the facts of each case. The factors that are taken to consideration are, as stated in the document, " … *the severity of non compliance, the consequences of it to third parties, or to judicial system as a whole, or whether there is a consistent pattern of impropriety/ misconduct of such kind*". In the document it is expressly noted, that non conformity with specific provisions could ultimately result in disciplinary action.

1.2.8. Please attach this document to your response, if possible in a French or English translation, in the form of an attached document or a web link.

A copy of the *Guide,* translated in English, is attached.

1.3. Scope of application of ethical rules:

1.3.1. Whether a Charter of Ethics or equivalent text has been adopted or not, do the ethical rules applicable to members of your supreme court apply identically to magistrates in the lower courts of your judicial system?

☒Yes

☐Partially

☐No

Please explain if necessary:

The *Guide* applies to *all* the judges of the Republic.

1.3.2. To whom do these ethical rules apply?

☒To members of your institution who are active within it

☐To members of your institution who are temporarily not serving there, under secondment or availability arrangements, in other administrations or in the private sector

☐To resigning members

☐To retired members

☐To administrative staff (referendary judges, legal assistants, clerks, interns, etc.) assisting members of your institution

☒Other

Please explain if necessary:

As mentioned above, the *Guide* applies to *all* judges of the Republic, including the President and Members of the institution I serve. There is no express provision stating that its application extends to retired judges. The provisions of the *Guide* do not apply to the administrative staff of the Court. They are civil servants and different rules apply to them.

1.3.3. In the event that your institution exercises both a judicial and a consultative function, do the ethical obligations imposed on members exercising one or the other of these functions differ?

☐Yes

☐No

☒Not applicable

Please explain if necessary:

1.3.4. If there is a duality of jurisdiction in your country distinguishing an administrative jurisdictional order and a judicial jurisdictional order, are the ethical rules applicable to magistrates of these two orders different?

☐Yes

☐Partially

☒No

Please explain if necessary:

1.3.5. If the ethical rules are wholly or partly different for magistrates of these two orders, please indicate one or more examples of obligations that apply to magistrates of only one order or that apply differently to magistrates of each order of jurisdiction:

Not applicable.

1.3.6. If the magistrates who make up your institution belong to several different categories (for example, a bench and a public prosecutor's office), are they subject to different ethical rules?

☐Yes

☐No

☐Partially

☒Not applicable

If these ethical rules are wholly or partly different for magistrates of different categories, please give an example.

1.4. Relationship between ethical and disciplinary rules:

Is a breach of ethical obligations necessarily an offence that may result in disciplinary action?

☐Yes

☒No

If not, please give an example:

Not every transgression warrants disciplinary action, this will depend on various factors. See also answer 1.2.7 above.

Example: Article 6.1 of the Guide provides that a judge should not comment publicly on politically sensitive or controversial matter. If a judge expresses his view, at a conference, on euthanasia, a controversial matter, this will not necessarily lead to a disciplinary action. But if a judge makes racist comments through his Facebook account this will most certainly lead to a disciplinary action against him.

1.5. Training on ethical rules:

Are members of your institution made aware of or trained in ethics?

☒Yes

☐No

If yes, how and how often?

All the judges of the Supreme Constitutional Court have been members of the Judiciary for decades. We have been trained on ethical matters when we first got appointed but also through seminars/workshops which were held on a regular basis. The seminars/workshops are organised by the Judicial Training School.

1.6. The College of Ethics

1.6.1. Has your institution created or does it have a collegiate body or a single authority responsible for answering ethical questions that may arise for members of your institution?

☒Yes

☐No

1.6.2. If yes, how is it appointed?

The *Guide* provides that if a judge is in doubt as to the propriety of an act he should seek advice from the President of the Court and in some cases from his colleagues. The President of the Court is a leading figure and in practice all the members of the Court seek his advice not only on strictly ethical matters but on any matter which is associated with their post.

If the referral concerns a serious matter or a matter of public importance, then the President may refer it for consideration to the Plenary Session of the Court.

1.6.3. If yes and in the case of a collegiate body, how is it composed?

See answer 1.6.2 above.

1.6.4. Who can refer to this body?

☒A member of your institution for an ethical question concerning them

☒A magistrate from the lower courts for an ethical question concerning them

☒The president of your institution

☒Other members of your institution

☒A litigant who believes that a magistrate has disregarded their ethical obligations

☒This body can refer to itself

☒Others

Please explain if necessary:

See also answer 1.6.2 above. Anybody can make a referral, including a Member of the Court, a judge of a lower court, an advocate, a litigant or any civilian . If the referral concerns a serious matter or a matter of public importance, as already stated above, then the President may refer it for consideration to the Plenary Session of the Court.

1.6.5. Are the opinions given by this body made public?

☐Yes

☒No

1.6.6. If yes, are the published opinions anonymised?

☐Yes

☐No

1.6.7. Can these opinions be challenged before the court?

☐Yes

☒No

Please explain the legal scope of these opinions:

1.7. Declaration of interests

1.7.1. Must members of your institution complete a declaration of interests?

☒Yes

☐No

If yes, please briefly describe the modalities of its submission:

Within a very short period after their assignment, the President and the Members of the Court are legally obliged to make a written submission declaring all their assets and economic interests. They must declare, among other things, whether they are affiliated with any legal entity (e.g. when a family member is employed in the legal entity) and state their interest. This declaration has to be revised by the judges on a regular basis. All the declarations prepared by the President and the Members of our Institution are submitted to the President of the Supreme Court who is empowered to examine them and in case of impropriety, take any action she considers necessary.

The President and the Members of our Institution must also submit a written declaration stating the law firm/firms with which he/she is affiliated. This document is submitted to the President and to the Registrar of the Court who prepares the Schedule of the cases.

1.7.2. Is there a specific procedure or *ad hoc* body responsible for examining conflicts of interest that may arise when a member of your institution leaves for the private sector?

Every ex judge who wishes to work, within a two year period after his resignation/retirement, has to apply to an ad hoc body and get its permission. Failure to do so constitutes a criminal offence, punishable with imprisonment and or fine (Act 114(I)/2007, as amended). The Supreme Court in its judgment, Reference 4/2022, 27.06.2023, affirmed that the above law applies not only to public officers but also to the Judiciary.

The national law, CAP. 2, article 12 also provides that a judge, for one year after he/she leaves her post, for any reason, *cannot* work as an advocate and appear in front of a court.

1.8. The oath

Do members of your institution have to take an oath?

☒Yes

☐No

If yes, what does this oath consist of and how is it taken?

Before taking office, the President and the Members of the Supreme Constitutional Court have to take an oath before the President of the Republic, that they will carry out their duties in an impartial and independent way, according to the provisions of the Constitution and the Law, without fear, favour, bias or prejudice. The document is then signed by the Judge and the President of the Republic.

II Ethics: Content of rules

2. 1. Independence, impartiality and prevention of conflicts of interest

2.1.1. In which circumstances should a member of your institution abstain from sitting or risk being disqualified from a judgement panel?

☒In cases of familial ties that may link the magistrate with a party

☒In cases of friendly ties that may link the magistrate with a party

☒Due to previous functions performed by the magistrate

☒Other

Please explain, citing any relevant jurisprudential examples

The matter is regulated by par.2 of the *Guide*. "*In accordance with the Judicial Practice Direction of 17th March 1988, as it was subsequently amended, a judge, shall apply the principles as laid down by the case law in relation to actual or objective bias and shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:* *The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings,* *The judge previously served as a lawyer or was a material witness in the matter in controversy, or*

The judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy.

A judge shall not try a case in which he or she has a close family relationship with a party or the spouse or domestic partner of a party.

Friendship with, or personal animosity towards a party is also a compelling reason for disqualification, Friendship may be distinguished from acquaintanceship which may or may not be an adequate reason for disqualification, depending on the nature and extent of such acquaintanceship.

Subject to the compelling provisions of the Judicial Practice Direction of 17th of March 1988, as amended by the Supreme Court's decisions up to the date of 1 1th of February, 2019 (Official Gazette of the Republic of Cyprus, Annex II, Part I, Procedure Rules, Number 4120, 15th of February, 2019) and, subject to the provisions of paragraph 2.5 above, guidance in relation to a judge's personal relationships, when he or she is called to adjudicate / sit on a particular case, with parties to litigation, lawyers or witnesses, is to be provided by the settled principles of the case law (a non-exhaustive reference is made to the following cases: ***Pitsillos v. Evgeniou (1989) 1 CLR 691, Apostolidou v. Republic (2002) 3 CLR 80, Michaelides v. Republic, Criminal Appeal 125/2017, 26/4/2018, De Cubber v. Belgium [1984] 7 EHRR 236, Hauschildt v. Denmark (1989] 12 EHRR 266, Nicholas v. Cyprus, No. 63246/10, 9/2/2018, Locabail (UK) Ltd v Bayfield Properties Ltd [2002] QB 451, R v Bow Street Magistrates ex parte Pinochet (No.2) [2000] 1 AC 1 19, Re Medicaments and Related Classes of Goods (No. 2) 1 WLR 700, M v Islington LBC [2002] 1 FLR 95 and Lawal v Northern Spirit Ltd [2003] UKHL 35).***

Where appropriate the judge may confer and consult a colleague".

2.1.2. If your institution exercises both a jurisdictional function and an advisory function, what individual measures does it implement to comply with the *Procola* case law of the European Court of Human Rights dated 28 September 1995, according to which the fact that certain members successively exercise, regarding the same decisions, advisory and jurisdictional functions is likely to compromise the structural impartiality of the institution?

☐Prohibition of a member's participation in the judgement of an appeal directed against an act taken after advisory opinion from your institution if they participated in the deliberation of that opinion

☐Prohibition for members of a judgement panel to consult the files of advisory panels

☐Other

Please explain if necessary:

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Not applicable.

2.1.3. If your country allows members of your institution to temporarily leave to take up other functions in the public or private sector, what ethical rules govern such a departure and, when the time comes, such a return?

☐Obligation to abstain, before departure, from participating in any deliberation involving a future employer from the moment the individual enters into negotiations with them

☐Prohibition for the members concerned, during this temporary period outside the institution, from intervening in cases they became aware of in the exercise of their jurisdictional activities

☐Prohibition for a member practising as a lawyer from submitting requests and briefs and appearing in court before your institution for a specified period

☐Obligation to abstain, if applicable for a specified period after the return, from participating in the judgement of disputes concerning decisions taken by the authority with which the member previously served

☐Other

Please explain if necessary:

Not applicable

2.1.4. Can a member of your institution receive gifts?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

The *Guide* provides that acceptance of a gift or hospitality of modest value, as a token of appreciation, may be unobjectionable. For example, a judge who makes a speech or participates in some public or private function should feel free to accept a small token of appreciation. The acceptance of invitations to lunches or dinners by legal and other professional and public bodies or officials, where attendance can be reasonably seen as the performance of a public or professional duty, carrying no degree of obligation, is not objectionable.

2.1.5. Can a member of your institution receive an honorary decoration from their country or a foreign country?

☐Yes

☐Yes, under certain conditions

☐No

Please explain if necessary:

There is no law that forbids a judge to receive an honorary decoration, nor there is any provision in the Guide to that effect.

In the Constitution, article 28.4, it is expressly stated that: "no title or nobility or other social distinction shall be conferred by or recognised in the Republic".

2.2. Exercise of individual liberties

2.2.1. Are there limits placed on the freedom of expression and opinion of members of your institution?

☒Yes

☐No

Please explain if necessary:

The *Guide* provides that a judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, he/she shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

If a judge is known to hold strong views on topics relevant to a case, by reason of public statements or other expression of opinion, he or she should consider whether it would be appropriate to hear the case irrespective of whether the matter is raised by the parties. The risk will arise if a judge has taken part publicly in a controversial or political discussion.

Judges should exercise their freedom to talk to the media or in a public debate *with caution*. They should not comment publicly or in the press, on politically sensitive or controversial matters.

Judges should be aware that, they should not comment publicly or in the press on the merits of individual cases. They should also, refrain from answering public criticism of a judgment or decision. Judges should not air disagreements over judicial decisions in the press.

They should refrain from commenting publicly or in the press in a manner that risks undermining public perception in the impartiality and integrity of the judiciary or in a manner that a judge's comments may lead to recusal from a certain case in the future.

2.2.2. In particular, is the use of social media by members of your institution regulated?

☒Yes

☐No

Please explain if necessary:

The *Guide* provides that whilst the use of social networking is a matter of personal choice, judges' attention is drawn to the security aspects of this medium to personal and family safety as well as to the risks posed to the independence, integrity of the judiciary as a whole and to a judge's own dignified standing and reputation .

Judges who blog or post comments on other people's blogs, must not identify themselves as members of the judiciary. They must also avoid expressing opinions which, were it to become known that they hold judicial office, could damage public confidence in their own impartiality or in the judiciary in general.

The use of social networking, either in a personal or judicial capacity, should be conducted in a manner that abides by, promotes and adheres to the Bangalore Principles of Judicial Conduct whilst taking into account the non-binding Guidelines on the Use of Social Media by Judges, issued in November 2018 by the Global Judicial Integrity Network which operates under the auspices of the United Nations.

It is expressly stated in the *Guide* that failure to adhere to this particular guidance, in relation to social networking and blogging, *could ultimately result in disciplinary action*.

2.2.3. As an example, can a member of your institution participate in a public debate of general scope (for example, on immigration or euthanasia), provided that they do not specifically mention a particular case they may have been involved in judging?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

As already stated in par. 2.2 above, judges should not comment publicly or in the press, on politically sensitive or controversial matters or in a manner that undermines public perception in the impartiality and integrity of the Judiciary.

2.2.4. Can a member of your institution write and publish an article or a book? Can they teach at a public university or a private educational institution?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

The *Guide* expressly provides that a judge can write, lecture and participate in activities concerning the law, the legal system, the administration of justice or related matters. He/she can engage in other activities concerning other matters, (e.g. poetry, art, literature, sports) provided these activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties).

2.2.5. If yes, must they seek prior authorisation from the head of your institution?

☐Yes

☒No

Please clarify if necessary:

See par.2.2.3 above.

2.2.6. Are members of your institution allowed to engage in political activities?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

The *Guide* provides that a judge shall not have, nor shall he or she appear to have, any political ties, e.g. by attending/participating in political gatherings or events of a political cause. Where a close member of a judge's family is politically active, the judge needs to bear in mind the possibility that, in some proceedings, that political activity might raise concerns about the judge's own impartiality and detachment from the political process and should act accordingly.

2.2.7. Can members of your institution run for elections?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

2.2.8. If a member of your institution is elected, can they continue to perform their functions in your institution?

☐Yes

☐Yes, under certain conditions

☐No

Please explain if necessary:

Not applicable. As stated above, a judge cannot run for elections while he holds his/her office. In order to be able to do so, he/she has to resign beforehand.

2.2.9. If a member of your institution is elected, can they, in the event of full-time elective office, rejoin your institution upon the expiration of their mandate?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

2.2.10. Can a member of your institution sign a petition?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

It depends on the subject matter of the petition. For example, he can sign a petition which condemns cruelty against the animals but he cannot sigh a petition which supports the deportation of all immigrants from the country.

2.2.11. Can a member of your institution participate in a demonstration?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

The *Guide* provides that Judges should not participate in public demonstrations which would associate them with a political viewpoint or cause, diminish their authority as a judicial officeholder or cast doubt on their independence and create a perception of bias.

2.2.12. Can a member of your institution invoke a "conscience clause" to refuse to apply the law – for example, by refusing to sanction a doctor who, in violation of the provisions obliging him to do so, failed to inform his patients about the possibility of terminating their pregnancy?

This matter is not regulated and it is not covered by the provisions of the *Guide*. Furthermore, I am not aware of any case in which a Judge faced the above dilemma. Nevertheless, it has to be emphasised that a judge has a duty to adjudicate *always* according to the provisions of the Constitution and the Law.

2.3. Case studies

To add substance to our discussion, the organisers of the symposium would like to discuss specific questions that you have encountered and on which your College of Ethics, if you have one, would have pronounced.

The French Council of State proposes four questions to you, as an example:

- On impartiality: Can a consultant judge (*rapporteur public*) of the Council of State [responsible for presenting to the members of the judgement panel the case before them, the legal issues it raises, and proposing a solution] receive a gift from a third party, not a party to the litigation, for the direction of the findings he has made in a case concerning the euthanasia of an elephant? (Opinion no. 2013/4 of 17 June 2013)

- On conflicts of interest: Which cases can a head of jurisdiction assign to a magistrate whose spouse is one of the most important members of the French Government? (Opinion no. 2017/4 of 18 September 2017)

- On conflicts of interest: Under what conditions can a former administrative magistrate practise as a lawyer? (Recommendation no. 2017-1 of 15 November 2017)

- On the obligation of discretion and freedom to produce intellectual works: Can a judicial magistrate seconded to the Council of State, during their secondment period, publish a historical essay on the *Ranucci* case, which had caused a stir and led to one of the last capital executions in France in 1976? (Opinion no. 2016/4 of 17 January 2017)

III. Recruitment of members

3.1. Who can be recruited in your institution?

3.1.1. How many members do you recruit on average each year in your institution?

There is no recruitment of Justices every year. If one of the nine posts (the number is fixed) becomes vacant for any reason (resignation, termination of employment, retirement or death), the president of the Republic appoints a new member.

3.1.2. Are all new members recruited at the same rank, or are the members of your institution divided into several ranks for which different recruitment methods exist? Please explain:

All members have the same powers and jurisdiction. In practice, the most senior member, in service, is appointed as President of the Court. He deals, among other things, with all the administrative issues and he represents the Court in ceremonies and other public functions. He is also responsible to examine all the declarations of economic and other interests, submitted by the judges of the lower courts and the judges of the Supreme Court (Note: the judges of the Supreme Constitutional Court, as already stated above, submit their declarations to the President of the Supreme Court).

The procedure followed for the appointment is the same for all members.

3.1.3. Are age conditions set for the recruitment of these new members?

☐Yes

☒No

Please explain if necessary:

There are no "age conditions", but it has to be noted that no person gets appointed in the Court unless he/she has at least twelve (12) years practice as an advocate.

3.1.4. Are diploma conditions set for the recruitment of these new members?

☒Yes

☐No

Please explain:

As stated above, no person gets appointed in the Court unless he/she has at least twelve (12) years practice as an advocate hence a law degree is the minimum requirement. Furthermore, he has to be of high professional standard and have great knowledge on Constitutional Law and Administrative Law and/or European Law and/or Human Rights Law and/or experience in handling such cases.

3.1.5. Is it possible to become a member of your institution directly after completing university studies or, if applicable, after a training college?

☐Yes

☒No

Please explain:

See par. 3.1.4 above.

3.1.6. Are conditions of prior professional experience required to become a member of your institution?

☒Yes

☐No

Please explain:

See par. 3.1.4 above

3.1.7. Can members of the lower courts become members of your institution?

☒Yes

☐No

Please explain:

Members of lower courts can become members of the Supreme Constitutional Court, provided they have the qualifications and the experience described in par. 3.1.4 above and are also of *very high moral standards*.

If yes, what is their proportion in the number of new members?

All members of the Supreme Constitutional Court have served in the lower courts.

3.1.8. How old is the youngest of your colleagues?

He is fifty-five (55) years old.

3.1.9. Are the members of your institution recruited without a time limit - that is, for a career that will end with retirement - or for a fixed-term contract?

The members of our Institution do not serve on a fixed term contract but they serve until the retirement age (68). This is expressly provided in the Constitution, Article 133.7(1).

3.2. How does the recruitment procedure work in your institution?

3.2.1. Does the executive branch intervene in the recruitment procedure for members of your institution?

☒Yes

☐No

Please explain:

The President and the Members of our institution are appointed by the President of the Republic. The Advisory Judicial Council advises the President whether a candidate is suitable for the position or not.

3.2.2. Does the recruitment procedure for members of your institution involve an individual interview?

☒Yes

☐No

3.2.3. If yes, is this interview an opportunity to assess the candidate's motivation as well as their legal knowledge?

☒Yes

☐No

3.2.4. Does the recruitment procedure vary depending on the rank the candidate is applying for - in the event that recruitments in your institution may be made at different ranks (cf. above 3.1)?

☐Yes

☐No

Please explain if necessary:

Not applicable.

3.3. What is the procedure for appointing members of your institution?

3.3.1. The appointment of members of your institution results from a decision:

☒by the executive branch (for example, a presidential decree)

☐by the judicial branch (by the president of your institution or a panel of independent judges)

☒other

Please explain if necessary:

As already stated above, the President and the Members of our Institution are appointed by the President of the Republic. The Advisory Judicial Council advises the President whether a candidate is suitable for the position or not. The Advisory Judicial Council is an independent body composed of the President and the Members of our Institution, the Attorney General, the President of the Bar Association and two legal experts of high professional and moral standards.

3.3.2. Can the appointment of members of your institution be challenged in court?

☐Yes, through an action at the time of the appointment of said members

☐Yes, as an exception regarding the regularity of the composition of the members of the judgement panel

☒No

If yes, before which judge?

3.3.3. If your institution is competent to hear this litigation, how does it ensure respect for the right to a fair trial?

Not applicable.

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