

THE JUDGES' ASSOCIATION OF SERBIA –
RESPONSES TO THE QUESTIONNAIRE OF
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)?

- It is the High Judicial Council that decides on selecting, appointing, promoting, transferring, suspending or removing judges in Serbia.

The High Judicial Council was established by the Constitution of the Republic of Serbia of 2006 and its position, composition, selection and competences are provided by the [articles 153, 154 and 155 of the Constitution](#).

The [Law on High Judicial Council](#) regulates the position, competences, organization and the mode of operation of this body in detail, as well as the conditions and procedure of electing their members, their tenure and termination of office, but also includes provisions of conditions and means for its functioning.

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).

- The High Judicial Council is comprised of 11 members, 3 out of which are ex officio members: Chief Justice of the Supreme Court of Cassation (the court of the highest instance in Serbia), Minister responsible for the judiciary (Minister of Justice) and President of the competent Committee of the National Assembly (Committee for the judiciary). The remaining 8 members are appointed by the National Assembly, 6 of them are judges (elected by the judges on different levels of courts) and the remaining two prominent legal practitioners with at least 15 years of experience in profession. One of the two is an attorney, while the other is a professor of a law faculty. Tenure of the members of the High Judicial Council is 5 years.

An Administrative Office of 48 employees aids the work of this body. The majority have attained university education.

The means for functioning of the High Judicial Council are provided within the Budget of the Republic of Serbia. Forming of this body's own budget has been postponed until 1 January 2019, when the judicial budget should be created to fund working of courts and of this body.

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);
 - (b) Condition of service and security of tenure of judges;
 - (c) Promotion of judges;
 - (d) Transfer of judges;
 - (e) Disciplinary proceedings against judges.

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

- Selection of judges is provided by the Law on Judges and Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents. A judge that is being appointed for the first time tenure is selected by the National Assembly based on a proposal of the High Judicial Council, while only the High Judicial Council decides on promotion of judges.

Vacancies for judicial appointments are publicly announced. Upon submission of applications, evaluation of candidates is undertaken in a manner provided by the Rulebook on the criteria, standards, procedure and bodies for evaluation of performance of judges and court presidents. The main criteria are quality of judge's work (based on a number of quashed decisions compared to their overall number) as well as its quantity (based on a number of decisions made and the time of their drafting). Competence and professionalism of a candidate are evaluated in this manner.

Transfer of a judge is regulated by the Law, which requires judge's consent for transfer, with the exceptions in a situation of cancellation of a court the judge had been appointed to or in case of termination of prevailing jurisdiction of the court. It is the High Judicial Council that decides regarding a transfer of a judge, upon obtaining their consent.

Disciplinary liability of judges is provided by the Law on Judges, which also determines the bodies that decide on the matter: Disciplinary Prosecutor and Disciplinary Judge. They are appointed by the High Judicial Council, which also decides on appeals against decisions of disciplinary judges. The Law also provides types of disciplinary misdemeanours and measures.

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

- Since it the High Judicial Council that decides on all of these matters, there is no need to provide additional response to this question.