

Simplified Questionnaire

This questionnaire is intended for preparing the work of a Medel audit mission. It should also serve as a basis for the annual report on the state of the judiciary in Europe.

Therefore each member organization is requested to fill in this questionnaire in preparation for the meeting of the Managing Board in Bucharest, to be held on June 20th and 21st, 2008.

General questions

1. What developments have recently taken place in your country with respect to the matter of independence of the judiciary? What have been the developments in the area of fundamental freedoms and rights?
2. What are the texts which the independence of the judiciary are founded on and what is their value (constitutional value, legislative, practice, case law...)?
3. Are the magistrates enjoying unhindered freedom of association and/or syndication? What is the proportion of magistrates belonging to a trade union or an association? Are there multiple trade unions or associations of magistrates?
4. Does the general public feel (if it can be established on the basis of surveys or public opinion polls) that magistrates are independent?
5. Has justice been seriously criticized in the last ten years? If yes, on what occasion?
6. What is the share of the budget of the judiciary in the overall state budget? Has there been any major increase or decrease of that share?

Status

(The following questions concern judges and prosecutors)

7. *Recruitment and education:* a) What are the selection criteria? b) What is the content of the magistrates' education c) What are the modalities of the first appointment of magistrates?
8. *Council of the Judiciary:* Is there a council of the judiciary or magistracy? If yes, what are the modalities of its appointment and functioning? Its competences?
9. *Career:* a) Is rank separated from the post? b) What are the rules governing, if applicable, promotion? c) Are there criteria for promotion on the basis of merit or other criteria apart from seniority? d) Are there rules in place setting limits to

the duration of exercising a particular function and/or in a particular geographical location?

10. *Appraisal*: how are magistrates appraised?

11. *Secondment*: what are the rules regarding secondment and return to the original corps (in particular after exercising political functions)?

12. *Earnings*: what are the earnings of magistrates at the beginning of their career?

Criminal Law

13. Is the Prosecutor's Office subject to the principle of legality of prosecution, or does it have the possibility of choice? In the case of the latter, are these choices subject to control?

14. Is there a criminal policy defined in a centralized manner? What is the authority in charge of such policy? Is it politically accountable?

15. Are the prosecutors obliged to inform justice ministers, even about particular cases? Are there rules protecting confidentiality?

16. Is a prosecutor or an investigating judge in charge of criminal investigations?

17. Is the judicial police dependent or independent from the public ministry? Is it obliged to report to the prosecutor all infractions (*notitiae criminis*) it is aware of?

18. Are the citizens involved in criminal justice? (Jury, echevinage, non-professional judges?)

19. Is there a system of legal assistance for poor persons in place? If so, how does it function?

20. Are there specialized authorities in place for certain areas: combating corruption, terrorism and/or economic and financial crime, other?

21. What is the maximum penalty? Has the number of detainees evolved in the recent years?

Responsibility - Discipline

22. a) What is the disciplinary regime for magistrates (disciplinary proceedings, sanctions? b) What are the authorities that initiate the proceedings carry them out and enact the decision? c) Are there ways or means to appeal against decisions of disciplinary proceedings?

23. Are the magistrates involved in defining deontological or ethical rules of the magistracy?

(The answers to the questionnaire may include qualitative assessments)