

IFES RULE OF LAW WHITE PAPER SERIES

GLOBAL BEST PRACTICES:
JUDICIAL COUNCILS

Lessons Learned from Europe and Latin America

April 2004

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The IFES Rule of Law Series is a collection of papers focused on capturing emerging global best practices and lessons learned on themes related to democratic principles, fundamental human rights and the Rule of Law. This paper was made possible by a grant from the United States Agency for International Development. It reflects the opinions of IFES and should in no way be construed as the official position of the United States Agency for International Development. Any person or organization is welcome to quote from this paper as long as proper citation is made.

**GLOBAL BEST PRACTICES
JUDICIAL COUNCILS
LESSONS LEARNED FROM EUROPE AND LATIN AMERICA**

Abstract: The Judicial Council, like the judiciary itself, is an important institution that should be structured and operate in a transparent, accountable manner. This is one of the key findings of this research paper and an important lesson learned from past reform efforts around the world. While Judicial Councils are often heralded by reformers and donors as institutions likely to contribute to the strengthening of judicial independence, another key finding of our research is that they may serve more as a barrier than as an avenue to judicial independence and accountability, particularly in countries where corruption is systemic or the judiciary is controlled by the executive.

This paper studies the existence and functioning of Judicial Councils in light of the international, regional and national principles on judicial independence and integrity and of the overarching goal of promoting a Rule of Law culture around the world. In order to present a comprehensive picture of Judicial Councils, the paper addresses a variety of themes, including (i) the rationale for their creation; (ii) the different models and how they respond to country-specific needs; (iii) membership variations from country to country; and (iv) the most relevant attributions and responsibilities. The paper also raises some questions about the legitimacy and role of Judicial Councils within the broader structure of powers in a democratic State governed by the Rule of Law. Finally, some reflections on judicial education, policy functions and the relationship between the Judicial Council and the courts are included.

**IFES Rule of Law Tool:
Seven International Best Practices for Judicial Councils,
A Tool to Strengthen Judicial Independence and Integrity**

1. **Independent, transparent and accountable** – Judicial Councils must be independent bodies and operate in a transparent and accountable manner.
2. **Structure** – The structure, powers and processes of Judicial Councils must be designed to safeguard and promote judicial independence. If adequate checks and balances are not in place, the Judicial Council may become a pawn in the hands of the executive, legislative and/or powerful groups, thereby undermining judicial independence.
3. **Adequate resources** – Judicial Councils must be granted adequate human and financial resources.
4. **Composition** – While the exact composition of Judicial Councils varies greatly from country to country and depends on existing obstacles to judicial independence, there is an emerging consensus among judges, legal scholars and practitioners that Judicial Councils should be composed of a majority of judges and that Councils with broad representation may function more fairly and independently.
5. **Judicial membership** – Judicial members of the Judicial Council should be elected by their peers rather than appointed by the legislature or executive. The selection process should be transparent and provide for civil society participation and oversight.
6. **Powers** – Judicial Councils around the world have varying powers which range from judicial administration to decisions affecting the judicial career, but there is an emerging consensus that where they exist they should be responsible for the judicial selection process and contribute to the promotion, discipline and/or training of judges.
7. **Monitoring and reporting** – The decision-making process of the Judicial Council should be transparent and allow for civil society participation and oversight. Mechanisms to monitor Judicial Council operations must be put in place and effectively implemented.

**GLOBAL BEST PRACTICES
JUDICIAL COUNCILS
LESSONS LEARNED FROM EUROPE AND LATIN AMERICA**

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**GLOBAL BEST PRACTICES
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“In many countries, judicial councils or commissions have been established to improve the process of judicial selection. Although judicial councils exist in both civil and common law countries, they are a particularly prominent feature of legal cultures with a civil law tradition. The specific role that judicial councils play varies from one country to the next. In many, it goes beyond the selection process; in others, it may not include it.”¹

“The only clearly stated objective behind the Latin American councils was that of augmenting judicial independence. Accompanying discussions and the functions assigned to the councils suggest two secondary goals: improving judicial performance and administrative management. One enormous initial problem is the lack of clarity as to how the councils were supposed to achieve any of this. As we will see, that problem has continued to obstruct the delivery of the desired results.”²

“In various European countries [judicial councils] ... function as intermediaries between Government and the judiciary in order to guarantee the independence of the judiciary in some way or in some respect. These Court Administration Authorities have different competences in different EU countries. Some of them act as boards for the appointment of judges and disciplinary action against judges (e.g. France and Italy), other administration authorities play an active role in the budgeting and general (financial and administrative) management of Courts, as well as housing, education, computerization etc. (e.g. Sweden and Denmark).”³

1. Introduction and Overview

After decades of political, economic and legal reform in transition and developing countries, there is an increasing consensus that Rule of Law reforms are necessary to build the enabling environment conducive to democratic sustainability, socioeconomic development and the fight against corruption. There is also a growing consensus that an independent and accountable judiciary, an independent media and an informed and engaged civil society are crucial to achieving the Rule of Law.

In order to build an independent and accountable judiciary, many countries have chosen to create new institutions, such as Judicial Councils. While Judicial Councils can play an important role in strengthening judicial independence and in creating accountability mechanisms for the judiciary, they are only one of the components of a broad judicial reform strategy, which should cover a wide range of issues, including access to justice, the enforcement of judgments and anticorruption.

The first Council was created in France in the 1800s, but it has undergone numerous reforms since that time. Additional reforms, focused on how to make the French Council and judiciary more independent and accountable, are still being hotly debated today. During the latter half of the twentieth century, most civil code

- 1 IFES/USAID. 2001. *Guidance for Promoting Judicial Independence and Impartiality*. USAID Technical Publication. USAID: Washington, DC. Hereinafter the “*Judicial Independence Guide*”; available at http://www.ifes.org/rule_of_law/description.html in Arabic, English, French and Spanish
- 2 HAMMERGREN, Linn. 2002. *Do Judicial Councils Further Judicial Reform? Lessons from Latin America*. Working Paper No.28. Rule of Law Series. Carnegie Endowment for International Peace: Washington, DC
- 3 VOERMANS, Dr. Wim. 1999. *Councils for the Judiciary in EU Countries*. European Commission/TAIEX; available at http://cadmos.carlbro.be/Library/Councils/Councils.html#_Toc459267097

countries in Europe, as well as those in Latin America, Africa, Asia and the Middle-East, have created Judicial Councils. While it was often concerns about the independence of the judiciary and judicial administration that led these countries to create Judicial Councils, the institutions vary in scope and composition from country to country.

a. Rationale

International and Regional Judicial Independence Principles

International and regional human rights treaties recognize the right to an independent and impartial judiciary as part of the broad guarantee of the right to a fair trial.⁴ Guidelines and principles have been drafted to define the meaning and scope of judicial independence and have been complemented by the case law of regional human rights courts.⁵ Judicial independence has also been recognized domestically through constitutional or statutory provisions and case law.

Multiple and interrelated rationales have been advanced in support of the creation of Judicial Councils. Most of these rationales reflect attempts at strengthening the independence of the judiciary by insulating judicial career processes from external interferences. Some Northern European and Latin American countries have also focused on improving judicial management and efficiency.

i. Strengthening Judicial Independence

Concerns about the independence of the judiciary led to the creation of Judicial Councils, starting in France and Southwestern Europe and spreading worldwide as part of reform efforts to improve judicial independence and court operations. The [Judicial Independence Guide](#) notes that:

“Although protection of judicial independence is a common goal for most judicial councils, the specific problems councils are designed to address are often quite different. In many countries, the problem is executive, legislative, or political party domination of the judiciary. In others, the Supreme Court is perceived to have excessive control over lower court judges. Some countries are primarily concerned with the amount of time judges spend on administrative matters and want to improve the effectiveness and efficiency of the courts by transferring the managerial function to another body.”⁶

The underlying rationale for Judicial Council creation in countries like France, Italy, Portugal and Spain was the need to insulate the judiciary from the executive. Judicial Councils were granted extensive powers in the judicial career, including the selection, promotion and discipline of judges, in an attempt to limit executive interference. Strengthening judicial independence and promoting improved judicial governance through the creation of an independent body in charge of key aspects of the judicial career has also been the stated rationale behind the creation of Judicial Councils in many countries in Latin America, Central and Eastern Europe and the Former Soviet Union.

4 See, *inter alia*, the International Covenant on Civil and Political Rights (1966) (ICCPR) art.14, the European Convention on Human Rights and Fundamental Freedoms (1951) (ECHR) art.6, the Inter-American Convention on Human Rights (1978) (ACHR) art.8 and the African Charter of Human and People’s Rights (1981) (ACHPR) art.7

5 See, *inter alia*, the UIN Basic Principles on the Independence of the Judiciary (1985) (UNBP), the Universal Charter of the Judge (1998) (the Universal Charter), the European Charter on the Statute of the Judges (1999) (the European Charter) and the case law of the European Court of Human Rights, the Inter-American Court of Human Rights and the African Commission of Human Rights.

6 See, the [Judicial Independence Guide](#)

ii. Improving Administrative Management and Efficiency

To a large extent, rationales related to the improvement of administrative management and efficiency can be tied back to the general objective of strengthening judicial independence. In cases in which administrative tasks are transferred from the executive to the Judicial Council, as in Hungary or Costa Rica, this transfer might limit external interferences in judicial affairs. In cases in which administrative tasks are transferred from the judiciary to the Judicial Council, as in Bolivia, this transfer might enable judges to focus more efficiently on their adjudicative functions, which theoretically eliminates interference and might improve administrative processes and budgetary management.

Europe – In many European countries, including those where Judicial Councils originated, the improvement of administrative management was not the rationale for the creation of the Councils. Indeed, in France, Italy, Portugal and Spain these powers remain in the hands of the Ministry of Justice. In these countries, there have not been significant demands for transfer of these powers to the judiciary or Judicial Council. By contrast, Judicial Councils in Northern Europe, especially in Denmark or Sweden, were created exclusively to meet the objectives of improved administrative management and control over the judicial budget and personnel.

Latin America – Interestingly enough, the transfer of administrative management powers has been more frequent in Latin America, where these powers were traditionally held by judges, than in many European countries, where the Ministry of Justice often retains control over judicial administration and budgetary management. This reality fuels arguments that transfers of administrative powers may not have contributed to judicial independence and that, instead, they may have been an attempt to interfere with judicial independence. For example, in Mexico, the creation of the Judicial Council and the transfer of the administrative powers of the courts have been criticized by some because they challenge the independence of the courts.

b. Background and Overview

While Judicial Councils have been created with a view to insulating the judiciary and judicial career processes from external political pressure, they do not guarantee that these problems will be resolved. In fact, in some countries interference appears to have become even more diffuse and pernicious. Differences in the structure, membership and responsibilities of the Councils can have a significant impact on the Councils' ability to promote judicial independence.

While the composition and structure of a Council should promote more checks and balances within the judiciary and among the various branches of government, in practice the institutional structure and composition of the Council are often intentionally skewed or political flawed. In this situation, the creation of such a Council does not achieve its purported objectives and it may just perpetuate the status quo. Indeed, some analysts believe such Councils are fatally flawed by design. In any event, many Councils in Latin America and Eastern Europe are still embryonic institutions, which need to be reformed and strengthened or to become more accountable. Civil society has a key role to play in this process.

**The Contribution of Judicial Councils to Judicial Independence:
Expectations versus Reality in Central America⁷**

In a survey of five Central American countries conducted in April 2002, there were striking differences between the expected role and the actual role of Councils in promoting and strengthening judicial independence. On the one hand, in those Central American countries where Councils exist, a majority of the respondents noted that the Council had had a negative impact on the promotion of judicial independence. On the other hand, in countries where Councils do not exist, an overwhelming majority of respondents (over 80%) noted that creating a Council could have a positive impact on judicial independence.⁸ While these evaluations appear to be at odds, they generally support the important proposition that Councils, if structured properly and depoliticized in practice, have the institutional potential to promote judicial independence. Exactly how this can best be done in a given country will depend largely on the political context in which the legal system operates.

2. International and Regional Principles and Trends

a. Judicial Councils and International and Regional Principles

United Nations Basic Principles on the Independence of the Judiciary [UNBP] –The **UNBP** calls for the guarantee of judicial independence by the State, freedom from undue influence in the judicial decision-making process and objective judicial career processes. It does not, however, explicitly mention the creation and role of judicial councils. The *Universal Charter* refers to judicial councils in broad terms and recommends that the selection of judges as well court administration and the judicial disciplinary process “be carried out by an independent body that includes substantial judicial representation”.⁹

Beijing Principles and Latimer House Guidelines – Similarly, there have been some mentions of judicial councils, their membership and their potential role in regional instruments. For example, in the **Beijing Principles**, the Chief Justices of Asia and the Pacific recognized the use of judicial councils in the appointment of judges and called for membership by “representatives of the higher judiciary and the independent legal profession”.¹⁰ In the Commonwealth, the **Latimer House Guidelines** suggested that appointments should be made at least on the advice of a judicial council, “established by the Constitution or by statute, with a majority of members drawn from the senior judiciary.”¹¹

Council of Europe – The most comprehensive efforts to draft minimum standards regarding the creation, membership and role of judicial councils have been undertaken in Europe, under the direct or indirect supervision of the Council of Europe. In its **Recommendation on Judicial Independence** of 1994, the Council of Europe recommends that the responsibility for the selection and career of judges be entrusted to an authority independent from the government and the administration and whose members are selected by the judiciary.¹²

7 Honduras Conference on Judicial Independence in Central America, April 2002. Data collected through a survey of the participants, the “IFES 2002 Central American Survey”.

8 Data collected through the IFES 2002 Central American Survey. Among the Central American countries surveyed, only El Salvador and Guatemala reported the existence of a Judicial Council.

9 Universal Charter of the Judge, 1999, International Association of Judges, art.9 and 11

10 Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region, 1995, 6th Conference of Chief Justices of Asia and the Pacific, Beijing, China, art.15

11 Latimer House Guidelines for the Commonwealth, Preserving Judicial Independence, 1998, #1

12 Recommendation No.R (94) 12 of the Committee of Ministers to Member States on the Independence, Efficiency and Role of Judges (1994) (Council of Europe Recommendation), art.1.2.c

European Charters – Efforts to design regional judicial independence guidelines that would supplement the **Council of Europe Recommendation** culminated with the 1998 adoption of the **European Charter on the Status of the Judge**, which provides that:

“In respect of every decision affecting the selection, recruitment, appointment, career progress or termination of office of a judge, the statute envisages the intervention of an authority independent from the executive and legislative powers within which at least one half of those who sit are judges elected by their peers following methods guaranteeing the widest representation of the judiciary.”¹³

Other important efforts to promote judicial independence have been undertaken by regional judges’ associations. The European Association of Judges adopted a document that calls for the creation of an “independent body which represents judges” to carry out judicial selection and promotion as well as court administration responsibilities.¹⁴ The MEDEL¹⁵ also adopted the **Palermo Declaration**, which aims at drafting an additional protocol to the European Convention of Human Rights. The **Palermo Declaration** advocates the creation of a Higher Judicial Council to “guarantee the independence of the judiciary”. Recommended membership includes a majority of judges elected by their peers but also “prominent figures designated by parliament”. The **Palermo Declaration** recognizes broad powers to the Judicial Council, including the supervision of the selection process, the responsibility of the appointment and disciplinary processes, court administration and judicial training, the determination of the judicial budget and recommendations on judicial policy.¹⁶

It is worth noting that most of the thinking on the appropriate role and composition of Judicial Councils has flowed from the European experience. While European standard-setting efforts on Rule of Law and judicial independence issues have potential application in other regions, the lack of a set of consensus guidelines outside of Europe is a void that needs to be filled. Towards this end, it may be worth adding that European guidelines have consistently advocated the recognition of increasingly broader powers for Judicial Councils.

b. Models

Even though documents such as the **UNBP** or the **Council of Europe Recommendation** do not directly advocate the creation of independent Judicial Councils, such Councils have been created throughout the world as a means to ensure the objectivity and independence of the processes of the judicial career and to improve the quality of the administration of justice.

Countries have followed two main trends in creating judicial councils, depending on whether the responsibilities of the council are primarily focused on the judicial career or on the management of court operations. A report commissioned by the Dutch government in the late 1990s on the position and functioning of different European Councils for the Judiciary documents this distinction between what the author calls the *Southern European model* and the *Northern European model*.¹⁷

13 European Charter on the Status of the Judge, 1998, Council of Europe, art.1.3

14 Judges’ Charter in Europe, 1993, European Association of Judges, art.4, 5 and 6

15 The Association of European Magistrates for Democracy and Freedoms (MEDEL) is a network of national judges’ association in Eastern and Western Europe.

16 Draft Additional Protocol to the ECHR “Palermo Declaration”, Association of European Magistrates for Democracy and Freedoms (MEDEL), Palermo, Italy, 1993

17 VOERMANS, Dr. Wim. 1999. *Councils for the Judiciary in EU Countries*. European Commission/TAIEX; available at http://cadmos.carlbro.be/Library/Councils/Councils.html#_459267097. The author discusses the distinction between the «Southern European model» and the «Northern European model».

While countries in Western Europe follow this distinction fairly closely, other countries have tended to borrow aspects from both models in designing their own Judicial Councils. Variations of these models can be found throughout the world, including in Eastern and Central Europe and Latin America. The array of powers and responsibilities granted to the Judicial Council has become highly country-specific and often constitute variations of these two models.

The Main Models for Judicial Councils in Europe	
Northern European Model	Southern European Model
<ul style="list-style-type: none">• Primary function is to facilitate the effective and efficient management of the judiciary.• Competences are related to court administration, management and budgeting.• Court administration functions include the supervision of judicial administrations, caseload management, strategic planning and flow rates.• Court management functions include facilities, automation, recruitment and training.	<ul style="list-style-type: none">• A constitutional provision creates the Judicial Councils.• Primary function is to protect and strengthen judicial independence.• All responsibilities and competences are related to judicial career decisions (advice or power to select and promote judges, discipline judges; training; etc.).

Global experience to date illustrates that the creation of a Judicial Council can have a significant positive or negative impact on judicial independence depending on the model chosen and the variations in its implementation. In some Latin American countries, such as Mexico or Peru, the creation of Judicial Councils does not appear to have led to substantial improvements in the insulation of the judiciary from political control and interferences. Our research reveals evidence that some Councils in Latin America may be insufficiently accountable and become an additional source of interference with judicial independence.

c. Relationship between Councils and the Courts

Model Relationships to the Courts
<ol style="list-style-type: none">1. Judicial Councils are subordinate organs of the Supreme Court or entirely dependent on the Supreme Court or Courts – for example, Brazil, Costa Rica, Austria and Cyprus.2. Judicial Councils have powers over lower-level judges but no power over Supreme Court judges – for example, Argentina, Guatemala.3. Judicial Councils have powers over all judges, including Supreme Court judges – for example, Peru.

In practice, the powers of Judicial Councils will have a varying effect depending on whether these powers extend to the Supreme Court as well as the lower courts and, if they do, the binding effects of these powers. The extent of control exercised over the Supreme Court varies from country to country. This relationship may be important if the Council’s powers affect the judicial career, such as powers to select or discipline judges. For purposes of assessing the relationship between Judicial Councils and the courts, Judicial Councils can be divided into three categories, as presented in the box above.

d. Effects of Judicial Council Decisions

The real powers of a Judicial Council may be limited by the legal weight accorded to its decisions. If it renders only advisory opinions, it may become powerless, and the deciding authority may choose to disregard its opinion. The responsibilities undertaken by the Council with regard to the appointment process may vary from an advisory opinion or the elaboration of a list of potential candidates to a mandatory consultation or legally binding decisions.

**Powers of Judicial Councils:
Models of Involvement in Judicial Appointments**

In the appointment of judges, Judicial Councils may have varying powers, ranging from no role at all to actual appointment powers:

1. **No role** – Canada, Denmark
2. **Purely advisory** – Panama, Poland, Slovakia
3. **Proposal of candidates for selection (non-binding)** – Guatemala (lower court)
4. **Proposal of candidates for selection (binding)** – France (higher courts)
5. **Proposal of candidates for ratification** – El Salvador
6. **Actual appointment** – Bulgaria, Dominican Republic (Supreme Court)

3. Establishment and Composition of Judicial Councils

a. Creation of Judicial Councils

Once the decision has been taken to create a Judicial Council, the question arises as to the means of creation – namely, should there be a constitutional basis for the creation of the Council or will a statute suffice.¹⁸ Establishing the Council through a constitutional provision may help emphasize its importance as a guarantor of judicial independence. Judicial Councils were created by a constitutional provision in countries such as France, Italy and Peru whereas they were created by legislation in countries such as Hungary and Denmark.

Although the legitimacy of Judicial Councils is not necessarily at risk when they are created by statute, in countries that are in the process of consolidating democratic institutions, the constitutional creation of Judicial Councils may help strengthen their legitimacy within the legal and judicial framework. Indeed, a constitutional provision will grant the newly-created institution the legitimacy of constitutional recognition and may help insulate it from interferences from the executive, legislative or judiciary through legislation, decrees or rulings. The transfer of powers from the executive or the Supreme Court to the Judicial Council may also reduce dependency upon the will of the other institutions and strengthen the legitimacy of the Council.

¹⁸ Latimer House Guidelines for the Commonwealth, Preserving Judicial Independence, 1998, #1 calls for a judicial council, “established by the Constitution or by statute”. It is the only documents of all the international and regional instruments surveyed with addresses the constitutional or legal basis for the creation of the council; it does not however express any preference.

b. Membership

The membership of the Judicial Council varies greatly from country to country and depends on the political reasons which motivated its creation. There is an emerging international consensus that Judicial Councils should have a broad-based membership, which includes a majority of judges. The most successful models appear to be those with representation from a combination of State and civil society actors and with broad powers sufficient to promote both judicial independence and accountability.

Emerging Consensus Principles on Judicial Council Membership

1. Protecting judicial independence calls for judges to represent the majority of the Council membership;
2. Promoting judicial accountability requires broad membership in order to ensure checks and balances and address judicial corruption.

i. Judicial Representation

One of the main reasons for creating Judicial Councils has often been related to the need to insulate the judiciary – and especially the appointment process – from external political pressure. In order to achieve this objective, there is a general consensus that judges should represent a majority of the Council’s membership. International and regional instruments refer to the membership of judicial councils as including “substantial judicial representation”¹⁹, “representatives of the higher judiciary and the independent legal profession”²⁰, “a majority of members drawn from the senior judiciary”²¹, “members ... selected by the judiciary”²² or “judges elected by their peers”²³.

The Salvadoran and Macedonian Exceptions: Judicial Councils without Judges

El Salvador – a 1999 reform of the Judicial Council limited membership to legal professionals and scholars, excluding judges and all other State actors. At the time, this composition was perceived as contributing to the strengthening of the independence of both the Council and the judiciary from both political branches of government (Executive and Legislative) and the higher ranks of the judiciary. Judicial representation was reintroduced in 2002, and the Council is now composed of six legal professionals and a lower court judge.

Macedonia – the Judicial Council is composed of seven respected legal professionals elected by Parliament based on nominations by the President and a parliamentary commission. The Constitutional Court struck down a proposition establishing that the Judicial Council should be composed of four judges and three representatives of the other branches of government.²⁴

19 Universal Charter of the Judge, 1999, International Association of Judges, art.9 and 11

20 Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region, 1995, 6th Conference of Chief Justices of Asia and the Pacific, Beijing, China, art.15

21 Latimer House Guidelines for the Commonwealth, Preserving Judicial Independence, 1998, #1

22 Recommendation No.R (94) 12 of the Committee of Ministers to Member States on the Independence, Efficiency and Role of Judges (1994) (Council of Europe Recommendation), art.I.2.c

23 European Charter on the Status of the Judge, 1998, Council of Europe, art.1.3

24 Reports and commentaries on the Constitutional Court decisions of July and October 2003 can be found on the website of the Macedonian Helsinki Committee for Human Rights, at <http://www.mhc.org.mk/>.

Most countries have adopted this position and created Judicial Councils with at least some representation of the judiciary. There is no consensus however as to which levels of the judiciary should be represented on the Judicial Council. Some international and regional instruments call for a majority of members selected from the higher ranks of the judiciary while others advocate a broad representation of all levels of the judiciary.²⁵ However, a cursory survey reveals that in most countries, high-level judges are members of the Judicial Council. About half also include lower-level judges.

High-Level v. Lower-Level Council Membership Models

1. **Only lower-level judges** – El Salvador
2. **Only high-level judges** – Canada, Dominican Republic, Georgia, the Netherlands, Peru and Turkey
3. **Judges of all levels** – Argentina, Colombia, Portugal and Slovakia

ii. Broadening or Limiting Council Membership

Apart from the judiciary, three other categories of members may be represented on the Judicial Council:

- Members of the political branches of government (Executive and Legislative);
- Members of the legal community, often bar association representatives, legal scholars or eminent lawyers; and/or
- Members of civil society and eminent public figures.

Some international and regional instruments call for a diversified membership which relies on judges as well as members of other sectors, including “prominent figures designated by parliament”²⁶ or “representatives of ... the independent legal profession”²⁷. In a number of countries, the executive branch has a representative sitting on the Council, often the Minister of Justice.²⁸

Increasingly, non-governmental members are appointed to the council, thus enabling external monitoring of the judiciary and limiting opportunities for executive or legislative interference. Such external members may be members of the legal profession and jurists or lay members of civil society. For example, it is common to have representatives of the Bar Association or of the Law School appointed to the Judicial Council.²⁹

25 See, *inter alia*, the Latimer House Guidelines for the Commonwealth, Preserving Judicial Independence, 1998, #1 “a majority of members drawn from the senior judiciary” and the European Charter on the Statute of the Judge, 1998, Council of Europe, art.1.3 “authority independent from the executive and legislative powers within which at least on half of those who sit are judges elected by their peers following methods guaranteeing the widest representation of the judiciary”.

26 Draft Additional Protocol to the ECHR “Palermo Declaration”, Association of European Magistrates for Democracy and Freedoms (MEDEL), Palermo, Italy, 1993

27 Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region, 1995, 6th Conference of Chief Justices of Asia and the Pacific, Beijing, China, art.15

28 See, for example, in France, the Minister of Justice and the President are *ex officio* members, in Poland and Argentina, one representative of the executive is appointed to the Council

29 See, for example, in Argentina (4 lawyers and one member of the academic community), El Salvador (4 lawyers and 2 law school professors), Nigeria (5 members of the Bar Association) and Spain (8 jurists).

Non-Judicial Members of Judicial Councils

The Head of the Executive – Dominican Republic, France, Italy

The Minister of Justice – France, Lithuania, Poland, Ukraine

The Heads of Parliament – Dominican Republic

Parliamentarians – Argentina, Estonia

Lawyers/Jurists – Argentina, El Salvador, Macedonia, Spain

General Prosecutor/Prosecutors – Belgium, Bulgaria, Greece

Law Professors – Belgium, El Salvador, Italy, Macedonia

Some believe the number of members may also affect the independence of the Judicial Council and its ability to promote judicial independence. The overall number, as well as the number of representatives from each group, varies greatly from country to country. For example, the Italian Council has 33 members, the Bulgarian and Polish Councils have 25 and the Bolivian and Dutch Councils have only five.

c. Appointment of Council Members

Not unlike the judiciary itself, the members of the Judicial Council should be selected according to an objective and transparent process. Only a few of the international and regional instruments address the issue of the selection process for Judicial Council membership. The **European Charter** suggests that judicial representatives should be “elected by their peers”³⁰ and the **Palermo Declaration** advocates a mixed membership with a majority of judges elected by their peers but also “prominent figures designated by parliament”.³¹ As noted in the Judicial Independence Guide:

“The power to appoint council members is often shared, further increasing the checks built into the system. In many cases, at least the legislature and the executive participate. In some countries, professional bodies ... nominate their own members to serve on the council.”³²

In order to avoid politicization and encroachments on the independence of the Council, the selection process for members of the Judicial Council should be objective and transparent. This includes the practice of election by judicial peers.³³ However, neither election by peers nor appointment by the executive and/or Parliament is likely to entirely insulate the council from external interference, politicization and undue pressures. There are additional ways of building checks into the system such as ensuring that the power to appoint is shared between several authorities who either concur in the appointment of all members or each appoint certain members.

30 European Charter on the Status of the Judge, 1998, Council of Europe, art.1.3

31 Draft Additional Protocol to the ECHR “Palermo Declaration”, Association of European Magistrates for Democracy and Freedoms (MEDEL), Palermo, Italy, 1993

32 See, the Judicial Independence Guide

33 See, for example, France, Italy, Argentina, Guatemala, Bulgaria and Poland

Selection of Judicial Council Members: Checks and Balances Models

1. Several authorities participate in the appointment:

El Salvador – the legislature appoints the members from slates of three candidates nominated by the professional group they represent (judges, lawyers, law professors);

Romania – judges and prosecutors sitting on the Council are appointed by Parliament upon proposal by the general assemblies of judges and prosecutors.

2. Each authority appoints a certain set of members:

Portugal – Seven judges are elected by their peers and one is appointed by the President as well as seven members from outside the judiciary appointed by Parliament and one by the President

Some Judicial Councils also include *ex officio* members, such as the Minister of Justice or the Chief Justice of the Supreme Court. While there is no fundamental reason their membership should be excluded *per se*, many believe it is advisable to limit the number of *ex officio* members and show preference for representatives chosen through a transparent process.

The length of tenure of members is an equally important issue. Traditionally, it seems that members are appointed for a rather short period of time, ranging from three years in the Netherlands or El Salvador to six years in Macedonia. Some countries, however, provide for life terms, such as in Cyprus and Canada, while others limit the term of a Judicial Council member to the length of term of his/her primary office, such as in the Dominican Republic and Panama.

In any case, there is a consensus that the length of tenure should be sufficient to guarantee the independence of the Council and short enough to ensure periodic renewal and accountability of the members. Moreover, the term should not coincide with that of the appointing authority. Staggered terms may also help provide continuity while periodically renewing the composition of the council.

4. Duties and Responsibilities of Judicial Councils

Specific duties and responsibilities have been delegated to Judicial Councils, especially in the appointment and disciplinary processes, but their powers vary from country to country in terms of both scope and effects. In some cases, the lack of clarity of the scope and effect of Council functions, at times combined with a failure to fully transfer powers to newly created Councils, has led to disappointing Council performance.

a. Selection and Appointment of Judges

The most widely recognized power of a Judicial Council is its role in the appointment of judges. The **Universal Charter of the Judge** calls for the involvement of “an independent body, that includes substantial judicial representation” in the selection, appointment and promotion processes.³⁴ The **Council of Europe Recommendation** recognizes that “[the] authority taking the decision on the selection and career of judges should be independent of the government and the administration” or in the event of appointments by the

34 Universal Charter of the Judge, 1999, International Association of Judges, art.9

government calls for guarantees of transparency and independence including, *inter alia*, “a special independent and competent body to give the government advice which it follows in practice”.³⁵ The **European Charter on the Status of the Judge** recommends that all decisions affecting the judicial career – including the selection, appointment and promotion of judges – should involve a judicial council, defined as an authority independent of the executive and legislative and composed of a majority of judges.³⁶

In cases in which Judicial Councils are competent to select judges, it is important to have clearly defined objective criteria applied in a transparent manner. If there are no objective criteria, transferring selection powers to the Judicial Council may only reproduce, or worsen, discretionary and politicized judicial appointments. For example, in Peru, the selection criteria are highly subjective due, in part, to the lack of indicators and guidance for Judicial Council decisions. The Peruvian Council is attempting to develop clear indicators in this area through a reform program recommended by IFES.

Most countries have granted their Judicial Councils some powers in the judicial selection process, though only a few of them have the final word in the appointment process.³⁷ In many Latin American and Eastern European countries, the Council participates in the selection process of Supreme Court and lower courts by reviewing the merits of candidates and proposing candidates to the appointing authority. In other countries, the Council participates only in the selection of some judges, either lower court judges or Supreme Court judges, or has no role at all in the process.

Hungary: Checks and Balances in Judicial Selection

The structure, powers and operations of the Council and the procedures for appointments and promotions should be properly insulated from political considerations. A good example of a country model that achieves these objectives is that of Hungary. The selection and appointment process of judicial candidates in Hungary incorporates a number of institutional and political checks and balances. Candidates are selected by the Presidents of the Supreme, Appeals and Regional Courts based on an interview and on non-binding opinions by the relevant Judicial Council. Then, these Court Presidents send their selection to the National Judicial Council which forwards its nomination to the President. Consequently, judges are initially appointed by the President for a probationary term of three years, after which the President may reappoint them for an “indefinite term”. Certain judicial bodies are entitled to express opinions on appointments but these opinions are non-binding. Court Presidents and the National Judicial Council enjoy a high degree of discretion under this system.³⁸

b. Judicial Career

Judicial education, training and evaluation – In some countries, the Judicial Council has been entrusted with oversight of judicial education and training. Less frequently, it also plays a role in the evaluation of judges. For example, in El Salvador, the Judicial Council “carries out regular evaluations of judges and runs the Judicial Training School”.³⁹

35 Recommendation No.R (94) 12 of the Committee of Ministers to Member States on the Independence, Efficiency and Role of Judges (1994) (Council of Europe Recommendation), art.I.2.c

36 European Charter on the Status of the Judge, 1998, Council of Europe, art. 1.3

37 For the varying powers of Judicial Councils in the judicial selection process, see, box under section 2d.

38 See, *Judicial Independence in Hungary*, in *Monitoring the EU Accession Process: Judicial Independence*, Open Society Institute (2001) (<http://www.eumap.org/reports/content/20/348/html>)

39 *Efforts to Enhance Judicial Independence in Latin America: A Comparative Perspective in Guidance for Promoting Judicial Independence and Impartiality*, 2001, USAID Technical Publication

Judicial promotion – In some countries, such as Costa Rica, El Salvador, Guatemala, and Hungary, the Judicial Council is involved only in the selection of judges. In others, such as France, Italy, Bulgaria and Romania, it also participates in the promotion process.

c. Discipline and Ethics

Disciplinary process – Another area in which many Judicial Councils have been granted powers is the disciplinary process. The **Universal Charter** recommends that disciplinary action should be carried out by independent bodies that include substantial judicial representation”.⁴⁰ The idea is to insulate disciplinary proceedings from both external interference – for example, from the executive or political parties – and internal interference – mainly from the judicial hierarchy. The **Council of Europe Recommendation** calls upon member states to “consider setting up, by law, a special competent body which has as its task to apply any disciplinary sanctions and measures”.⁴¹

Accordingly, many Judicial Councils have at least some disciplinary powers. This is also explained at least in part by the fact that many Councils were created to strengthen judicial independence and balance judicial independence with judicial accountability.

USA: Judicial Councils and Discipline

According to the 1789 Constitution of the United States, a federal judge may be impeached only by the US House of the Representatives for “treason, bribery or other crimes and misdemeanors.” This is the sole and seldom used method of removal of federal judges.

However, in 1939, a more effective disciplinary mechanism with formal and informal features was developed for less serious misconduct. The United States Congress created the Judicial Councils of the Circuits, which are decentralized administrative structures in the eleven circuits throughout the country and in the District of Columbia circuit. A Judicial Council consists of an equal number of trial and appellate judges and is chaired by the relevant circuit chief judge. Initially, these Councils had the power to formally investigate judges.

However, because Judicial Councils as a body rarely disciplined judges, Congress revised the system of judicial accountability. Under the new system, the circuit Chief Justices themselves were given the power to screen frivolous or irrelevant complaints and take informal action. If the complaint is not deemed to be frivolous, the Chief Justice appoints a committee of circuit and district judges to investigate and provide a report to the Circuit Council.

Granting disciplinary powers to Judicial Councils raises questions about its membership. Indeed, in order to safeguard the independence of judges and depending on country context, it can be questionable to entrust members of the other branches of government with powers to investigate and sanction judges. However, there are ways to limit participation in the judicial disciplinary process, such as excluding non-judicial members from disciplinary proceedings. This issue needs to be given serious consideration on a country-by-country basis.

Another important issue is the right for judges to challenge disciplinary sanctions. More generally, judges faced with disciplinary proceedings are entitled to the same rights and fair trial guarantees as any defendant. In Peru,

⁴⁰ Universal Charter of the Judge, 1999, International Association of Judges, art.11

⁴¹ Recommendation No.R (94) 12 of the Committee of Ministers to Member States on the Independence, Efficiency and Role of Judges (1994) (Council of Europe Recommendation), art.VI.3

Judicial Council decisions in disciplinary proceedings against judges have been perceived as highly discretionary and are not open to appeals. Many believe this non-transparent, unaccountable process led to a number of abuses and violations.

The Judicial Council in France: Membership and Disciplinary Proceedings

1. Membership

- Judges;
- Prosecutors;
- Non-judicial personalities appointed by the President and heads of the Assembly and Senate; and
- Two *ex officio* members: the President and Minister of Justice.

2. Disciplinary Proceedings

The Council has jurisdiction over all disciplinary proceedings concerning judges. In an attempt to safeguard judicial independence, the President and Minister of Justice, *ex officio* members of the Council, are excluded from participating in judicial disciplinary proceedings.⁴²

d. Court Administration and Budgetary Control

Some countries have chosen to transfer court administration and budgetary responsibilities to a Judicial Council, either from the Ministry of Justice or from the Supreme Court. In countries in which court administration and the judicial budget were the responsibility of the Ministry of Justice, this transfer aimed at reducing external interference, especially from the executive, in the affairs of the judiciary. In countries in which these functions were the responsibility of the Supreme Court, the objective has been to separate administrative and jurisdictional functions so that the judiciary may concentrate fully on the latter.

Court Management Models

1. Transfer from the Ministry of Justice to the Judicial Council

Eastern European Judicial Councils have been granted judicial administration powers in an attempt to insulate the judiciary from the Executive. In many, the Executive interference with the courts has been traditionally high. Shifting responsibilities for court administration and the judicial budget to an independent entity has been one of the components of broader judicial reform strategies. For example, in Hungary, the Reform Laws on Courts (1997) established a National Judicial Council which exercises the power of court administration and drafts and supervises the judicial budget for court administration.

42 O.58-1270 of 12/22/1958 on the Status of the Magistracy, art.48 and L.O.94-100 of 02/05/1994 on the *Conseil Supérieur de la Magistrature*, art.18

2. Transfer from the Supreme Court to the Judicial Council

Latin American Judicial Councils have been granted judicial administration powers in an attempt to refocus the courts on their adjudicative functions. This shift may have had the unintended consequence of making the courts less independent and accountable in the Latin American context. For example, in Argentina, court administration has been transferred from the Supreme Court to the Judicial Council, but it is unclear whether this has improved the efficiency or the independence of the courts.

3. Judicial Councils only responsible for Court Management

Some countries, such as Denmark and Sweden, have created Judicial Councils which are exclusively responsible for judicial administrative and budgetary matters. In these countries, the shift may have had a significant impact on the improvement of judicial efficiency.

e. Policy Functions and Access to Information

Some Judicial Councils have been granted some responsibility to formulate policies and to advise the Ministry of Justice on matters regarding the judiciary and judicial independence. Advisory policy functions may play an important role in that they guarantee some involvement of the judiciary in the design of policies which are likely to affect it. For example, in Panama, the Judicial Council has the authority to recommend judicial policies and propose legislative changes.

One of the means to promote Judicial Council participation in the strengthening of the judiciary and of its independence is to grant the Council some degree of responsibility in the institutional planning and in the definition of judicial policies. To that end, the Judicial Council could be entrusted with elaborating periodic plans for judicial system development, such as drafting reports on the State of the Judiciary or supervising the implementation of judicial policies.

Judicial Councils can also play a significant role in increasing public access to information related to the judiciary either by directly releasing information through publications or diffusion to the media or by responding to public requests for information.

Information Held by Judicial Councils

Judicial Councils may have a variety of information that should be made available to the public:

1. Information related to all judicial career processes, especially to the selection and disciplinary processes;
2. Information related to specific cases, judicial policies and legislative initiatives; and
3. Information on judicial governance, especially on the proper management of the courts and judicial budget.

5. Accountability, the Role of Civil Society and Public Trust

As noted above, Judicial Councils should be encouraged to interface with the public, through avenues for public requests of information as well as for public participation in the Council's activities. Increasing the transparency

of Council activities and promoting public participation in their most important activities, particularly in the judicial selection process or in judicial policy formulation, may help increase public trust in the judiciary.

Argentina: A Model for Civil Society Monitoring and Reporting

Poder Ciudadano, an Argentine NGO and Transparency International chapter, has been involved in monitoring the Council since 1999. The program, called Civic Monitoring of the Judicial Council, appears to have achieved some progress in improving the transparency and openness of the Council and in increasing public access to judicial information and processes. Specific achievements include civil society participation in the drafting of the judicial council law and in its internal regulations; periodic reporting of the Council's activities; and concrete changes in the internal mechanisms of the institution to make the Council's decision-making processes more open to the public. *Poder Ciudadano* has also contributed to the launching of similar programs in Bolivia and Peru.⁴³

As a justice institution, the Judicial Council should be held to high standards of ethics. Thus, the laws and regulations governing the functioning of the Judicial Council should therefore establish clear accountability mechanisms. One of the main complaints against many Judicial Councils, especially in Latin America, has been the lack of accountability of Council members. For example, in Peru, Council decisions related to the selection of judges have been perceived as arbitrary, but there are no clear policies and procedures to ensure that the Council is accountable for its decisions.

Accountability mechanisms for the members of Judicial Councils should include a certain degree of public participation in Council activities and oversight of the conduct and behavior of members. Civil society monitoring and reporting on the activities of the Council is an excellent tool to improve the quality and transparency of its decisions. Most Councils in developing and transition countries have failed to create effective means of civil society oversight and participation. The lack of avenues for participation and control has contributed to further public mistrust in the judiciary and related institutions. This has happened in some Latin American countries, such as Bolivia and Colombia, where the creation of Judicial Councils has generally failed to promote increased participation of civil society in the management of the judiciary, leading to social discontent.

6. Recommendations

While some recommendations have global application, others require some level of identification of the country-specific problems and needs before targeted reforms can be implemented or even fully designed. Solutions, and therefore the composition and role of Judicial Councils, may vary from country to country as sources of interference, loopholes and misadministration are identified.

IFES has identified seven broad, international best practices for Judicial Councils as a tool to strengthen judicial independence and integrity. These best practices address the themes of (1) independence, transparency and accountability; (2) a structure designed around checks and balances; (3) adequate resources; (4) a broad-based composition; (5) judicial membership on the Council; (6) adequate powers; and (7) monitoring and reporting mechanisms.⁴⁴

43 PEREZ TORT, Maria Julia, *Iniciativa de la Sociedad Civil para la Transparencia del Consejo de la Magistratura – Programa Ciudadanos por la Justicia (Argentina) [Initiative of Civil Society for Transparency in the Judicial Council – Citizens for Justice Program (Argentina)]*, 2002; available at http://www.dplf.org/frameset_pub_eng.htm

44 For a more detailed presentation of these best practices, see the table attached to the Abstract.

The following recommendations and guidelines are suggestions that may improve the independence, accountability and efficiency of a Judicial Council. These recommendations and guidelines do not purport to be an exhaustive list of programming activities, but rather they could assist reformers as they implement reforms to achieve the abovementioned best practices:

- **Institutional strengthening** – In order to make Judicial Councils efficient and adequate public institutions, support and technical assistance geared towards strengthening the capacity of the Council to undertake its functions are necessary. The redefinition of the relationships between public institutions and among the three branches of government might also be necessary.
- **Developing accountability mechanisms** – In many Judicial Councils the legal and the institutional framework regarding accountability of their members is insufficient. Also, it is advisable to consider, within the mechanisms of accountability, those that include public participation.
- **Adequate training of Council members** – Council members should receive adequate and periodic training as needed to perform their functions fairly and effectively and to reduce their vulnerability to pressure and to encroachments by the institutions previously entrusted with these powers. For example, in Councils responsible for the selection of judges, Council members and staff should receive training designed to provide them with the tools and techniques to improve their capacity to carry out an impartial and objective selection.
- **Transparent Council procedures** – It is important to increase the transparency of Council procedures, especially in the judicial career processes, as well as the public availability of information related to Council decisions and activities. Increased transparency and information will open avenues for more public oversight, thereby increasing the accountability of Council members and promoting the integrity of the judiciary.
- **Cooperation between the Council and the Judiciary** – Increasing the level of cooperation and creating avenues for effective inter-institutional cooperation will help develop improved judicial policies and facilitate the management of the judiciary by improving communication and coordination between the institutions involved. For example, in countries in which the Council proposes or comments on the judicial budget which is then approved by Parliament, improving coordinated action between the Council and Judiciary and between the Council and Parliament, will help ensure that an adequate budget is adopted and might also speed up the process.
- **Insulating the Council from interferences** – Insulating Judicial Councils from political interferences with its activities (or with its membership) is a key to building the independence of the institution as well as public trust and legitimacy. The sources of interference and the activities most vulnerable to these interferences must be identified before programs to insulate the Council from these pressures can be fully designed.
- **Civil society participation** – Creating effective channels for civil society participation and engagement in judicial management, judicial policy design, and monitoring should be explored. A Judicial Council should also strive to improve its public image and develop public campaigns and informative mechanisms to present the Council as an indispensable public institution supportive of judicial independence.

ANNEX I: JUDICIAL COUNCIL CHECKLIST

IFES Rule of Law Tool: Judicial Council Checklist

- Is there a Judicial Council?
- If yes, has it played a role in the strengthening of judicial independence?
- If no, would the creation of a Judicial Council help promote judicial independence?
- Was the Council created by a constitutional or statutory provision?
- Who are the members of the Judicial Council?
 - High level judges
 - Low level judges
 - Prosecutors
 - Members of the executive
 - Members of the legislative
 - Members of academia
 - Members of the legal profession
 - Other members of civil society
- Is the total number of members and the number of members of each category sufficient to promote institutional independence?
- Are representatives of the judiciary a majority of Council members?
- Is the length of tenure of Judicial Council members sufficient to promote institutional independence?
- Who appoints Judicial Council members?
- Are there sufficient checks and balances in the appointment process?
- What are the powers and responsibilities of the Judicial Council?
 - Selection and appointment of judges
 - Promotion of judges
 - Discipline of judges
 - Evaluation of judges
 - Training/education
 - Court administration
 - Determination of the judicial budget
 - Control of the judicial budget
 - Advice on judicial policy
 - Judicial ethics
- Does the Council have jurisdiction over the Supreme Court?
- If yes, does this jurisdiction include appointment? Does it include discipline?
- Are the Council's decisions legally binding or purely advisory?

ANNEX II: SELECTED BIBLIOGRAPHY

International and Regional Standards and Principles

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ANNEX III: JUDICIAL COUNCILS TABLES – AMERICAS AND EUROPE

[Note: The tables are color-coded as follows: “yes” is represented by black and “no” by white.]

Table 1: Countries with No Judicial Council

COUNTRY	Was a Council created?	Is the creation of a Council explored?
EUROPE		
Czech Republic	NO	YES
Germany	NO	YES (German Association of Judges)
The United Kingdom	NO	
LATIN AMERICA		
Chile	NO	
Nicaragua	NO	
Uruguay	YES – abolished in 1989	NO

Table 2: Countries with Judicial Council Subordinate to the Supreme Court

COUNTRY	COMMENTS
EUROPE	
Austria	5-judge body within each court, with advisory nomination powers
Cyprus	The Council corresponds to the plenary of the Supreme Court
LATIN AMERICA	
Brazil	Advisory body within the judiciary, which has only limited functions
Costa Rica	Two small internal Councils: Superior Council and Judicial Council
Guatemala	Advisory body within the judiciary, which has only limited functions
Honduras	

Table 3: Membership of Judicial Councils in North and Latin America

Country	Low level judges	High level judges	Prosecutors	Executive Representative	Legislative Representative	Academia (Law-Related)	Legal Profession	Judicial Employees	Civil Society	Total number of members
Argentina	■	■		■	■	■	■			19
Bolivia		■					■			5
Canada		■								Varies
Colombia	■	■								13
Dom. Rep.		■		■	■					7
Ecuador	■	■				■	■			8
El Salvador	■					■	■			7
Mexico	■	■		■	■					7
Panama		■		■			■			8
Paraguay		■		■	■	■	■			8
Peru		■	■			■	■		■	7
USA	■	■								27

Table 4: Membership of Judicial Councils in Western and Eastern Europe

Country	Low level judges	High level judges	Prosecutors	Executive	Legislative	Academia (Law-Related)	Legal Profession	Judicial Employees	Civil Society	Total number of members
Belgium										44
Bulgaria										25
Denmark										13
Estonia										11
France										12
Georgia										12
Greece										15
Hungary										15
Iceland										5
Ireland										17
Italy										33
Lithuania										24
Macedonia										7
The Netherlands										5
Norway										7
Poland										25
Portugal										17
Romania										15
Slovakia										18
Spain										21
Sweden										10
Turkey										7
Ukraine										20

Table 5: Appointment and Tenure of Judicial Council Members in North and Latin America

Country	Executive	Legislative	Judiciary	Civil Society	Ex Officio Members	Tenure (Years)
Argentina						4
Bolivia					President of the Supreme Court	10
Canada					Chief Justice of Canada; Superior Court chief justices, senior associate chief justices and associate chief justices; senior judges of the Supreme Court of the Yukon Territory and the Supreme Court of the Northwest Territories and the Nunavut Court of Justice; the Chief Justice of the Court Martial Appeal Court of Canada; the Chief Judge and Associate Chief Judge of the Tax Court of Canada	Life, up to 75
Colombia						8
Dom. Rep.					President of the Republic; President of the Senate; President of the Chamber of Deputies; President of the Supreme Court	Length of term of primary office
Ecuador					President of the Supreme Court	6
El Salvador						3
Mexico						5
Panama					President of the Supreme Court; Presidents of the Supreme Court Chambers; General Prosecutor; General Administrative Prosecutor; President of the National Bar	Length of term of primary office
Paraguay						3
Peru						5
USA						Varies

Table 6: Appointment and Tenure of Judicial Council Members in Western and Eastern Europe

Country	Executive	Legislative	Judiciary	Civil	Ex-Officio Members	Tenure (Years)
Belgium						4
Bulgaria					President of the Cassation Court; President of the Supreme Administrative Court; and Chief Prosecutor	5
Denmark						N/A
Estonia					President of the Supreme Court; Minister of Justice	3
France					President of the Republic; Minister of Justice	4
Georgia						N/A
Greece	Random selection				President of the Cassation Court; General Prosecutor	1
Hungary					President of the Supreme Court; Attorney General; Minister of Justice; President of the Bar Association	6
Iceland						5
Ireland					Chief Justice of the Supreme Court; Presidents of the High Court, Circuit Court and District Court	N/A
Italy					President of the Republic; President of the Supreme Court; General Prosecutor of the Supreme Court	4
Lithuania					Chairman of the Supreme Court; Chairman of the Court of Appeals; Chairman of the Supreme Administrative Court; Minister of Justice; Minister of Finance; Delegate of the President; Delegate of the Chairman of Parliament (Seimas); Chairman of the parliamentary legal affairs committee; Chairman of the parliamentary budget committee	4
Macedonia						6
The Netherlands						3
Norway						4
Poland					Presidents of the Supreme Court and Supreme Administrative Court; Minister of Justice	4
Portugal					President of the Supreme Court	3
Romania						4
Slovakia					President of the Supreme Court	5
Spain					President of the Supreme Court	N/A
Sweden						N/A
Turkey					Minister of Justice; Undersecretary of the Minister of Justice	4
Ukraine					President of the Supreme Court; Procurator General; Minister of Justice	N/A

Table 7: Judicial Council Duties and Responsibilities in North and Latin America

Country	Selection and/or Appointment	Promotion	Discipline	Evaluation	Training	Budget Management	Court Management	Data Collection and/or Public Information	Policy Advice
Argentina									
Bolivia									
Canada									
Colombia									
Dom. Rep.									
Ecuador									
El Salvador									
Mexico									
Panama	Purely consultative (recommendations on selection, evaluation, proposed laws, court administration)								
Paraguay									
Peru									
USA									

Table 8: Judicial Council Duties and Responsibilities in Western and Eastern Europe

Country	Selection and/or Appointment	Promotion	Discipline	Evaluation	Training	Budget Management	Court Management	Data Collection and/or Public Information	Policy Advice
Belgium									
Bulgaria									
Denmark									
Estonia									
France									
Georgia									
Greece									
Hungary									
Iceland									
Ireland									
Italy									
Lithuania									
Macedonia									
The Netherlands									
Norway									
Poland	Purely consultative body (appointment). Initiative for constitutional challenges of acts threatening judicial independence.								
Portugal									
Romania									
Slovakia									
Spain									
Sweden									
Turkey									
Ukraine									