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**The Lithuanian model of selection and
evaluation of judges
from the comparative perspective:
what other countries reforming their
judicial selection and evaluation systems
can learn from us**

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You can learn from:

Good
practices

Mistakes

Selection and evaluation of judges. Background



There are no uniform rules for selection, evaluation, and promotion of judges in Europe;



One common characteristic: research shows that a more **transparent** system is needed (for society, but also for individual judges and “to be judges”);



The description of the “gold standard” of personal qualities of an “ideal judge” is not possible because there is no such thing as an ideal judge; (currently formal and informal rules play together); Diversity of people is a necessary requirement for a balanced system;



But N.B. The best procedural system without the right people could be worse than the best people without the right system.

Selection phases:



- 1) Deciding on the eligibility criteria;
- 2) Recruiting and **creating the poll of candidates** (**mostly overlooked phase now** (e.g. Netherlands: actively targeting various groups); + diversity requirements); (pool from eligible candidates only);
- 3) Getting the persons shortlisted for the position;
- 4) Appointing the selected persons.

Emerging European standard:

all these categories together should be checked in an unbiased and transparent way

Classification of competences and skills:



General requirements + **integrity check**



Professional knowledge and skills



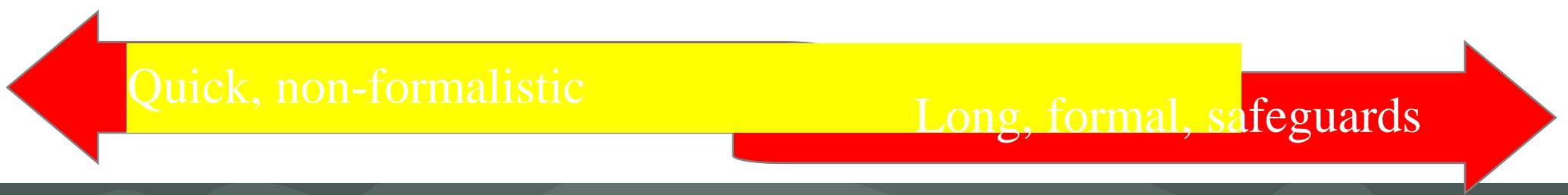
Personal and psychological competences



Social competences and skills

Current trends in the EU and abroad in the judges selection area

- Most of the analyzed countries have introduced the system of appointment of judges, where a significant role has been designated **to the councils for judiciary** as a safeguard to a political influence of the executive and legislative in the procedure; Main principles of each of the abovementioned procedures mostly are established on the level of primary legislation;
- The main findings from the comparative research of various European countries show that despite the variety of the approaches there is the clear tendency in countries undergoing the reforms in the area of the judiciary **towards transparency** and ensuring the principle of non-discrimination;
- But the comparative research confirms the necessary to seek for **the balance of transparency and objectivity of the selection and appointment procedures vs effectiveness and efficiency of the formation of judicial corpus**. Too complex procedures and too technocratic approach can become an obstacle to effectively recruit judges and ensure effective functioning of judicial system.



Main questions to ask when designing / evaluating the selection system

- Which main **model**? (“Closed model”; Open Competitive model; Civil service model; Recognition judiciary);
- In-between of models: **Who is the main “gatekeeper”**? (Judicial councils; Executive; Political actors (Parliaments); Judicial (training) schools; Specialised institutions; in case of non formal procedures – powers vested in the hands of the Court Presidents?)
- **How the person gets on the selector’s radar in order to be actively considered for the position?** (e.g. “judges in UK were in the past selected through such non transparent procedures that even the persons being considered for judicial positions did not know they were taken into account”);
- Are there **clearly defined set of competencies** against which candidates for judicial appointment are to be assessed?
- Is this List of competences **published** (e.g. on website, is an explanation on it available?) and available to all general public and prospective candidates?
- Do the clearly defined and published competences **include all**: professional, personal, psychological and social competences and skills?
- Are the selecting **procedures** transparent, non-biased and created by incorporating the latest know – how in the personnel selection process?
- Have the **selectors undergone the training** needed to ensure transparency and avoid unconscious biases?

Some findings to keep in mind

- A risk of too long and difficult procedures with many stages, testing, examination, interviewing **is that the best lawyer would become reluctant to apply to the judicial positions;**
- Avoid the tendency to set very high and very detailed requirements (criteria) for the selection, evaluation and promotion of judges;
- **The focus needs to be on the methodology how you will check these requirements;**
- The attention to requirements but not on the methodology can cause doubts about the objectivity of the procedures (e.g. raise the question “how the “integrity” is being measured and how to ensure that these procedures are transparent and non-discriminatory in nature);
- Different models tend to favor different candidates: recruitment through judicial schools lead to overrepresentation of women and middle class (difficult path); model with judicial self-government tends to favor those with ties in the judiciary etc.

Extract from the Checklist	Lithuania
Are there clearly defined set of competencies against which candidates for judicial appointment are to be assessed?	+
Do the clearly defined and published competences include all : professional, personal, psychological and social competences and skills?	+
Is this List of competences published (e.g. on website, is an explanation on it available?) and available to all general public and prospective candidates?	+
Are the tasks of a judge described in a published function profile , in a structured way, making use of information technology?	Still some work to do
Is the independency from undue political influence ensured?	+ -
Is the fairness of the procedure ensured (and perceived)? (e.g. are the selectors trained on how to avoid unconscious biases? etc.)	+ - possibility to select candidate not from the top of the list jeopardizes the transparency and objectiveness of the procedure and can harm the credibility
Is the system open to all suitably qualified candidates?	+
Are the entry requirements not overly formalistic and attractive to diverse pool of candidates?	-

Understand how the unconscious biases influence us

- E.g. Netherlands: **the assessment of initial motivation letters of applicants should be made in an anonymous (blinded) way** – to keep non - discriminating approach to all the applicants.
- At the first evaluation of motivation letters, the assessors should not know the age and the sex of the applicant, to allow them to concentrate on the motivation of the applicant and the facts of previous legal practice and other experiences in the field of law.



Challenges of forming the wide and diverse pool of candidates to the judicial office in LT

System is not attractive for experienced lawyers

Entry exam is focused on memorization, not on intellectual capacities or professional skills

Lacking strategical direction to pro-active marketing of judicial position

**No specific system how to attract diverse pool of candidates:
Entry requirements are the same for judicial assistants, prosecutors, attorneys of law, other lawyers outside court system**

Current image of judicial work is quite negative

Negative press

Rumors about huge workload in the era of hybrid work and talks about 4 days week

Low salary level comparing to other law and similar professions





Cooperation and information



ABOUT PROJECT

PROJECT CONCEPT AND AIM



This project addresses the common European challenges in the justice and home affairs area. Discussions about the problems related to the judiciary in Europe often mention citizens' mistrust in the courts and the general misconception that courts and judges are not accountable to the society. One of the reasons of such negative attitude is the lack of transparency regarding the criteria and procedure of the selection, evaluation and/or promotion of judges.

„Portrait of Judge“:

Will offer the initial possibility of self-assessment for countries in order to help them review the state of the system of selection, evaluation and promotion of judges in their respective jurisdictions.

www.judgeportrait.eu

