



**International Association of Judges**

*promoting an independent judiciary worldwide*

## **Questionnaire on the Use of psychological Tests for Judges – IAJ Survey's Results**

On 11<sup>th</sup> March 2024, Prof. Marco Fabri of the Bologna branch of the Institute of Legal Informatics and Judicial Systems of the National Research Council of Italy (IGSG-CNR), has proposed to the Secretary General of the International Association of Judges (IAJ), Mr. Giacomo Oberto, to circulate among IAJ National Associations a very short questionnaire on the use (or non-use) of psychometric/psycho-aptitude/psychological tests in the recruitment/selection/assessment of judges.

This document is a report about the final results of such survey, the first of this kind among national judicial associations.

The questionnaire consisted of three questions, with the possibility of adding comments. The first question concerned the existence of psychological, or psycho-aptitude (or similar) tests, in the selection process of new judges. The second question asked for at least an estimate of the weight of the test on the candidate's overall evaluation. The third question asked whether psychological, or psycho-aptitude (or similar) tests are possibly foreseen during the judges' career, for example for a promotion to a superior court, or to a post of head of judicial office. It is worth remembering that in many countries the judging and prosecuting functions are separate; therefore, the answers obtained mainly concern judges. The questionnaire was completed by 56 associations of judges from all over the world, out of the 92 composing the IAJ. Out of the total number of respondents, 32 belonged to the European Regional Group (European Association of Judges), 9 to the African Group, 10 to the Ibero-American Group and 7 to the ANAO Group.

Following 30 associations responded by saying that in their Countries some kind of psychological, or psycho-aptitude (or similar) tests are in use for the initial selection of judges:

<ul style="list-style-type: none"> <li>• Armenia</li> <li>• Austria</li> <li>• Benin</li> <li>• Brazil</li> <li>• Chile</li> <li>• Croatia</li> <li>• Czech Republic</li> <li>• Dominican Republic</li> <li>• Ecuador</li> <li>• Estonia</li> <li>• Finland</li> <li>• Georgia</li> <li>• Greece</li> <li>• Hungary</li> <li>• Italy</li> </ul>	<ul style="list-style-type: none"> <li>• Kazakhstan</li> <li>• Latvia</li> <li>• Lithuania</li> <li>• Luxembourg</li> <li>• Mexico</li> <li>• Moldova</li> <li>• Mozambique</li> <li>• Mongolia</li> <li>• Panama</li> <li>• Peru</li> <li>• Philippines</li> <li>• Portugal</li> <li>• Slovakia</li> <li>• The Netherlands</li> <li>• Tunisia</li> </ul>
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Following 26 associations responded by saying that in their Countries no psychological, or psycho-aptitude (or similar) tests at all are in use for the initial selection of judges:

<ul style="list-style-type: none"> <li>• Azerbaijan</li> <li>• Australia</li> <li>• Bolivia</li> <li>• Bosnia and Herzegovina</li> <li>• Burkina Faso</li> <li>• Canada</li> <li>• Cyprus</li> <li>• Denmark</li> <li>• England and Wales</li> <li>• France</li> <li>• Gabon</li> <li>• Germany</li> <li>• Guinea (Conakry)</li> </ul>	<ul style="list-style-type: none"> <li>• Liechtenstein</li> <li>• Liberia</li> <li>• Norway</li> <li>• Sao Tomé and Principe</li> <li>• Scotland</li> <li>• Serbia</li> <li>• Slovenia</li> <li>• South Africa</li> <li>• Spain</li> <li>• Sweden</li> <li>• Switzerland</li> <li>• Taiwan</li> <li>• U.S.A.</li> </ul>
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As for the information provided by the respondent associations on the first question, we may notice that, for instance, the Austrian association added in the comments that the test was introduced several years ago as a consequence of a sensational and violent case involving a judge with an evident mental disorder. Spain indicated that there is no test, but during the training period the School of the Judiciary can report any problems. In France the test existed, but it was abandoned after a few years; however, the presence of a psychologist is foreseen in the recruitment process of new judges and prosecutors, whose role should be explored in greater depth. The introduction of psycho-aptitude tests has been discussed several

times in Slovenia, but so far no decision has been taken in this regard. In Benin the test is made only at the end of the period of initial training.

As far as Italy is concerned, the Council of Ministers has recently approved a Legislative Decree (No. 44, dated 28<sup>th</sup> March 2024), which provides for supplementary and corrective provisions to the Legislative Decree No. 150, adopted on 10<sup>th</sup> October 2022 according to Law No. 134, dated 27<sup>th</sup> September 2021, which delegated the Government to enact provisions for the efficiency of criminal trials and in the field of restorative justice, as well as provisions aimed at the speedy conclusion of judicial proceedings. The No. 44/2024 Legislative Decree provides, among others, for the introduction of psycho-aptitude tests in order to evaluate the applicants who wish to be admitted into the ranks of ordinary Judiciary and to assess any reason of unsuitability to exercise the judicial function. The psycho-aptitude interview, which has been introduced by the above-mentioned Legislative Decree, will be applied to recruitment procedures as of 2026. The Italian National Association of Judges and Prosecutors (ANM) expressed concern for the recent reform. It has been pointed out that not only do the new provisions of law reveal some faults as regards the procedure of approval (in fact, they were enacted by force of a legislative decree, adopted by the government on the basis of a delegation law previously enacted by the Parliament, which nonetheless had not provided, in any of its sections, for the introduction of psycho-aptitude tests), but the same provisions are also liable to cast discredit on the entire ordinary Judiciary, as they suggest, in front of the public opinion, the idea that it is urgent to assess the psychological fitness of magistrates. Plus, the introduction of psycho-aptitude tests will cause inevitable delays in recruitment procedures. The public statement released on 6<sup>th</sup> April 2024 can be found here: [https://www.associazionemagistrati.it/allegati/anm-su-test-psicoattitudinali\\_2.pdf](https://www.associazionemagistrati.it/allegati/anm-su-test-psicoattitudinali_2.pdf).

Out of the 30 countries that use the test, some did not provide information on the estimate of its weight on the overall evaluation, some responded that it is not considered for the purposes of the final evaluation, 24 evaluate it on average at around 20-30% (with extremes spanning from 10% to 50%). In some countries (Croatia, Portugal, Slovakia, Peru, Tunisia) the psycho-aptitude test appears to have a decisive role in the recruitment process, as a negative evaluation excludes the candidate from the selection. In Brazil the result of this test is not binding, but it may be considered. In Kazakhstan passing psychological testing is a prerequisite for admission to an interview with members of the Commission leading the selection of candidates for judges.

During the judge's career, several countries (e.g.: Finland, Latvia, Lithuania, Norway, the Netherlands, Slovakia, Sweden) have indicated that a psycho-aptitude assessment is required, when a judge is promoted to a higher court or to a management position. As far as we know, in the case of the Netherlands, the emphasis is certainly on the aptitude assessment, rather than psycho-aptitude, to hold the management position (we must add that, while drafting this short note, in case of

discrepancy between the reply to the “yes/no” question and the commentaries provided by associations, we have taken the latter into account).

In Brazil judges already in post are only submitted to a psychological test if they appear to have some psychological disturb; the purpose for that examination would be to grant them a health leave. Other Countries as well (e.g. Tunisia) underlined that the High Council for the Judiciary can intervene in case the judge shows signs psychological troubles.

In Canada when a mental health issue is identified it is the responsibility of the Chief Justice to intervene, discuss the issue and ensure appropriate steps are taken (for example, no further sitting until adequate medical clearance of cool health; if medical information reveals a serious problem, such as Alzheimer’s, then no further sitting duties and judge would be expected to retire on medical grounds). Peruvian judges of any level undergo such kind of tests every seven years. Also in the Philippines for promotion purposes, incumbent judges are as well required to undergo the series of psychological exams required in the application process of the Judicial and Bar Council.

The German respondent, on the contrary, remarked that obligatory psychometric/psychological testing of judges already in post must be clearly rejected as it could easily be abused to get rid of certain judges and infringe upon the principle of judicial independence.

The IAJ Secretariat-General warmly thanks Prof. Marco Fabri the Bologna branch of the Institute of Legal Informatics and Judicial Systems of the National Research Council of Italy (IGSG-CNR), for the precious co-operation provided in the preparation of the questionnaire and the assessment of the survey’s results.

Giacomo Oberto  
*Secretary-General*  
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