

# DU CONSEIL SUPÉRIEUR DE LA MAGISTRATURE À UN CONSEIL DE JUSTICE ? PERSPECTIVES ET CONDITIONS D'UNE RÉFORME DU CSM\*

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## ABSTRACT

*The existence of a council of justice and the powers granted to it are key constitutional questions in regard of the importance of the judicial authority in the organization of public authorities. The analysis starts from the assumption that a reform of the Conseil supérieur de la magistrature must fulfill two requirements. First, it must give to the CSM the means to genuinely secure the independence of the judicial authority, which is to say the right of the litigants to a fair trial. Secondly, it must avoid, as far as possible, the politicisation of the magistracy and its self-management by the magistrates's unions. The strengthening of its powers, centered around the three basic functions of a council of justice - namely : to secure the independence of the judges, to manage the careers of the magistrates, and to ensure the professional discipline of the magistracy - must go hand in hand with a reflexion about its composition. In this regard, there are two key questions to consider. The first bears on the numerical balance between the magistrates and the members of the council that are not magistrates. The second bears on the way the members of the council are appointed.*

Keywords : Council of justice ; CSM, Independence ; Impartiality ; Politics ; Right to a fair trial ; Unions.

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\* L'analyse reprend, de manière plus opérationnelle, l'essentiel des développements consacrés à ce sujet dans B. Mathieu, *Justice et politique : La déchirure ?*, Lextenso, 2015.

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