European Network of Councils for the Judiciary (ENCJ)

Réseau européen des Conseils de la Justice (RECJ)

ENCJ contribution for the 2023 European Commission Rule of Law report

Relevant developments in relation to the independence of the judiciary

The ENCJ would like to contribute to the Rule of Law report. There are 3 sections to the contribution. Section 1 deals with the ENCJ statements and actions in 2022 on Rule of Law issues. Section 2 presents the results of the 2022 ENCJ Survey among judges on their independence. Section 3 provides an overview of relevant developments in the ENCJ Member countries in relation to Judicial Independence and is based on information provided by the Members.

The 2022 was marked by the start of Russia's war against Ukraine. Therefore solidarity as one of the values on which the EU is based, encompassing assistance to countries in restoring peace, freedom, democracy, respect for fundamental rights and the rule of law, has played a crucial role throughout the year and influenced the activities undertaken by the ENCJ. From the point of view of the ENCJ, Judicial solidarity (solidarity between judges and judiciaries across national borders) is essential and possible due to cooperation established at the European level.

Reinforcement of independent and accountable judiciaries in the European Union to guarantee access to fair, independent and impartial courts is central to the mission of the ENCJ. To this end the ENCJ not only continues to systematically develop standards and guidelines for the governance of the judiciary, but also brings together the Councils for the Judiciary to actively show solidarity with the members in need. Acts of solidarity may take many forms and depend on a specific situation. In this realm, a support visit to assess the situation to Hungary was organized, where challenges faced by the Hungarian judiciary were assessed and verified. Even after voting out the KRS the ENCJ continued to kept track on the ongoing processes affecting the judiciary in Poland. There are ongoing reform processes in Poland and Hungary, which may further aggravate the position of the judiciary, while excessive use of disciplinary proceedings to persecute judges and attacks through pro-media government outlets continue to provide a chilling effect.

In 2022 certain horizontal developments on the level of the Councils for the judiciary were witnessed. The Council for the Judiciary of Ireland is now successfully operating and in the end of the 2022 year amendments to the Constitution of the Grand Duchy of Luxembourg, providing for the set-up of a Council for the Judiciary were adopted. It is expected that the required legislation will be passed and the Council will be set up in 2023. In other Member States, however, political deadlocks and malfunctioning of the checks and balances system may lead to a decrease of public trust in Councils for the Judiciaries. In Spain, the political deadlock that blocks the renewal of the National Council for the Judiciary (CGPJ) not only makes the Spanish Council unable to function properly but affects the

functioning of the whole the judicial system. Delay in renewing the Councils is also witnessed in Bulgaria.

Results of the 4th ENCJ Survey on the Independence of Judges carried out in 2022 revealed struggles in the realm of cooperation with other state powers. In a State governed by the Rule of Law, all state powers should support each other in carrying out their functions, and all should refrain from interfering with the competence of others. Councils for the Judiciary should act to strengthen and maintain the Rule of Law, in particular by providing support for judicial independence, accountability and the quality of the judiciary. To be able to fulfil this mission Councils must be consulted and involved in each stage of development of changes and reforms regarding the judiciary, including the digitalisation of the judiciary. This would be beneficial in ensuring efficacy of the reforms and would also instill trust and confidence among the state powers. Exchange and dialogue between the judiciary and the other state powers thus should be regarded as a priority to ensure that the needs of justice are adequately considered.

1. ENCJ general statements, actions and letters

In the reference period the ENCJ undertook several actions and adopted a number of statements and opinions in relation to the Rule of Law in general and regarding specific EU Member States in particular.

Hungary – ENCJ Board delegation visit

On 17 and 18 October 2022, an ENCJ Board delegation visited Hungary upon the invitation of the National Judicial Council (OBT). The visit was to show solidarity and support the members of the OBT in their efforts to uphold the Rule of Law and Judicial Independence in Hungary. At the ceremonial meeting of the OBT the President of the OBT and the ENCJ President delivered a speech. Afterwards a discussion took place with the other stakeholders present such as the President of the OBH, the President of the Kuria, the deputy-minister of Justice and the President of the Judges Association MABIE. The ENCJ delegation also had bilateral meetings with the representatives of the Ministry of Justice, the President of the OBH and the President of the Kuria.

- The full report of the visit including speeches can be found here.

In reaction to the European Commission's decision on Hungary's recovery and resilience plan, under the condition of the full and effective implementation of 27 milestones, on 2 December 2022, the Executive Board of the ENCJ published a statement welcoming the milestones set by the European Commission to strengthen Judicial Independence in Hungary.

The strengthening of the competences of the Judicial Council of Hungary is necessary to safeguard Judicial Independence and will improve the checks and balances in the Judicial system. A Council for the Judiciary can only fulfil its role if it is independent of the legislature and executive and is attributed with sufficient powers.

- ENCJ Board statement on judicial independence in Hungary

Poland – developments since the expulsion of the Krajowa Rada Sądownictwa (KRS) from the Network

The ENCJ General Assembly expelled the Polish KRS in October 2021 for not acting to safeguard independence of the Judiciary or individual judges, in a manner consistent with its role as guarantor. The expulsion of the Polish KRS should be seen as an act in defence of the ENCJ and the values it stands for such as judicial independence and the rule of law in Europe.

Since the expulsion of KRS there has been no contact with representatives of the KRS. The ENCJ cooperates with the other stakeholders and is committed to defending and restoring judicial independence in Poland. Developments in Poland are discussed regularly within the context of the meetings of the Presidents of the European Judicial Networks.

With regard to the KRS, the ENCJ has not been aware of any positive changes in 2022. A new Council started its mandate in 2022 which is in large parts similar to the previous one. A well-functioning independent and accountable Council for the Judiciary that safeguards the independence of the Judiciary as a whole and of individual judges would need to be installed in Poland. In the view of the ENCJ, this would best serve the rights of the citizens of Poland and the rest of the EU.

ENCJ Athens Declaration on judicial solidarity in times of crisis, 1-3 Athens 2022

With regards to the recent developments across Europe, the ENCJ General Assembly united in Athens 1-3 2022 adopted a declaration on judicial solidarity in times of crisis. The declaration sets out what judicial solidarity entails and which actions could be taken to support any judiciary under attack.

In the Athens Declaration, the ENCJ states, among others, *"There is collective duty on the European judiciary to state clearly and cogently its opposition to any acts that would undermine the independence of individual judges, the judiciary or Councils for the Judiciary"*. In addition, the General Assembly, considering, current developments in Europe, called upon all governments to refrain from any form of prosecution or persecution of judges (through criminal trials, disciplinary proceedings or other forms of intimidation) for speaking out in favour of the Rule of Law and Judicial Independence. It was also stressed that it is a judges' duty to speak out when democracy, Rule of Law and fundamental freedoms are in peril.

- Click here to read the declaration

2. ENCJ Survey among judges

The first quarter of 2022 was marked by the 4th EU wide ENCJ Survey on the Independence of Judges. This is a unique tool which allows to assess the perception of independence of the judiciaries through the direct input of national judges and to obtain statistically credible data on the independence of the judiciary in Europe. In total a record number of 15,821 professional judges from 29 judiciaries[1] of 27 countries participated in the survey.

The survey has revealed that judges in the EU generally value the independence of their colleagues positively with country answers averaging from 7.0 to 9.8 on a 10 point scale. Judges rate their own independence even higher, between 7.5 and 9.9. It is also important that these figures tend to improve continuously for all judiciaries together on average.

However, the results of the survey also reveal that in certain countries the independence of the judiciary did not increase or has even decreased. Among the factors, which negatively affect the independence of the judiciaries many judges express critical views on human resourses decisions concerning judges and, in particular, about appointment and promotion of judges. Other factors, such as workload and non- competitive remuneration are also seen as making a negative impact in more than several jurisdictions. In the view of respondents, appointment to the Supreme Court/Court of Cassation also remains problematic in a variety of countries.

One of the constraints felt in most of the judiciaries is also the pressure from the (social) media at a case level, many judges also feel that their independence is not respected by/on the (social) media or general.

Another crucial element to the independence of the judiciary remains its interaction with other state powers. It is fraught with problems in many judiciaries. The results of the survey allow to highlight these particular problems: (1) the implementation by government of judicial decisions that go against the interest of government is often inadequate, (2) lack of respect for judicial independence by government and parliament is in many countries a big issue, according to the respondents, and (3) scarcity of resources provided by government affects independence. These results show that other branches of government may not necessarily see judiciary as an equal counterpart and exert their relative power since judiciaries (Councils for the Judiciaries) are dependent on the other state powers for improvement of legislation and for adequate resources.

Thus, the results of the survey provide that most of the judges In Europe are positive about their independence, but they still identify issues that affect their independence negatively. Some of these are at case level, others at system level. The survey provides many insights into the functioning of the judiciary at national level and the ENCJ encourages Councils for the Judiciary and other governing bodies to analyze the outcomes for their judiciaries and address the issues that are raised by the respondents. However, it should also be acknowledged that Councils for the Judiciaries are not in a position to address all issues on their own so cooperation with other state powers remains a crucial issue.

[1] In the UK the judiciaries of England and Wales, Northern Ireland and Scotland are distinguished.

3. Councils for the Judiciary - Information from the ENCJ Members

1. Changes in the functioning of the Councils

General remarks

In the reference period a few Councils for the Judiciary reported changes to the Council or its functioning. For those Councils that do report changes to the functioning the information can be found in the country specific section of the report (see below).

There also are Councils[2] did not report any changes to the Council for the Judiciary or its functioning.

Country specific section

- On the general functioning and efficiency of the Council, **Državno sudbeno vijeće (DSV) / The State Judicial Council of Republic of Croatia** stated that apart from changes in the way of nomination of the members (see below), there were no major developments in legislation to report.

  The institution stressed that every candidate for member of the Council from certain type of the court in addition to a written consent for his or her candidature must also submit a CV and must hold the position of a judge for at least five years in that type of court. Also, the Commission for the Election of Council Members must publish the established lists of candidates and their CVs on the website of the Supreme Court of the Republic of Croatia.

- **The Danish Court Administration** highlighted that the rules have been slightly altered so that there is added one more person to the Board. That person shall be a president of a court of 1 instance. Doing that stresses the leadership competence in the joint board and likewise it is now completely clear that the board consists of a majority of judges. There have been no other relevant and significant developments in relation to the Council for the Judiciary (the Court Administration) nor are there any planned.

- **The Conseil Supérieur de la Magistrature of France** stressed that the four-year term of the current members of the Council will end on 20 January next.

  As part of the renewal of the membership, elections for future judicial members took place from 12 to 15 December 2022.

  Thus, among the 6 “judges” members, the magistrate of the Court of Cassation, the head of the court of appeal and the head of the court of first instance were chosen by their respective peers. The other 3 judges were elected by the judges' associations.

  The same process was followed for the 6 “prosecutors” members.

  The names of the 8 external members are not yet definitively known.

  For the record, the heads of the Court of Cassation (already in place) are ex officio members of both panels, bringing the number of magistrate members to 7.

- **The High Council of Justice of Italy** noted that with reference to the Report on the "Rule of law" for the year 2023 of the European Commission and with regard to the ENCJ questionnaire on the same topic, it is important to note that the fundamental novelty to be reported is represented by Law No.

[2] The Councils of: Supreme Judicial Council of Bulgaria, Greece (Administrative Council), National Court Administration of Finland, Italy (Administrative Council), Hoge Raad voor de Justitie/Conseil Supérieur de la Justice of Belgium.

71 of June 17, 2022. This Law empowers the Government on a series of topics, such as the reform of the judicial system. It also contains prescriptive provisions such as, for example, those relating to the establishment and functioning of the High Council for the Judiciary.

Indeed, Law No. 71/2022 intervened on the Law No. 195/1958 (Regulations on the establishment and functioning of the High Council for the Judiciary) introducing significant changes, which have been discussed by the self-governing body in various resolutions. They are summarized below in order to highlight the critical aspects from the point of view of a possible *vulnus* to the independence and autonomy of the judiciary.

The main changes, introduced in the body of the aforementioned Law no. 195, are hereinafter highlighted.

First of all, Art. 1 of the mentioned Law No. 195 has been amended. The number of Councillors has been increased to thirty (20 career members and 10 lay members). Paragraph 1 *bis* was then added to Art. 1, in which it is established that "*Within the Council, the members discharge their functions in full independence and impartiality. The elected magistrates are distinguished only by functions*". The rule is important in order to reaffirm the independence and autonomy of single Councillors with respect to any groups they belong to and where they have presented their candidacy for election. However, this rule does not ban the right of Councillors to be part of these groups.

As for the members elected by the Parliament, the new Art. 22 confirms that lay members of the Council are elected by the Parliament in a joint session of the two Chambers by secret ballot and with the majority of three-fifths of the assembly. Art. 22 also provides that they now are chosen among university professors in law and lawyers who have effectively practised their profession for fifteen years "*according to transparent candidacy procedures, to be carried out in compliance with gender equality pursuant to Articles 3 and 51 of the Constitution*".

Furthermore, the electoral law for the identification of career members of the Council was amended. The new Art. 23, in fact, provides that the election is carried out: a) in a single nationwide constituency, for two magistrates who discharge legitimacy functions at the Supreme Court of Cassation and the General Prosecution Office at the same Court; b) in two territorial constituencies, for five magistrates who discharge prosecution functions at the merit offices and at the National Anti-Mafia and Anti-Terrorism Directorate; c) in four territorial constituencies, for eight magistrates who discharge judicial functions by deciding on the merits, or who are assigned to the Supreme Court of Cassation pursuant to Article 115 of the judicial system, according to the Royal decree No. 12 dated 30 January 1941; d) in a single nationwide constituency for five magistrates who discharge judicial functions by deciding on the merits, or who are assigned to the Supreme Court of Cassation pursuant to Article 115 of the judicial system, according to the Royal decree No. 12 dated 30 January 1941.

The constituencies, which have more or less the same number of voters, are determined by decree of the Minister for Justice, having heard the High Council for the Judiciary. The decree is issued at least four months before the day set for the elections, taking into account the need to ensure that all magistrates of the single district of the Court of Appeal are included in the same district and that there is territorial continuity between the districts included in the single constituency. At least six candidates must be expressed in each constituency and each gender must be represented in no less than half of the effective candidates.

When less than six candidates are admitted or the gender ratio is not respected, the Central Electoral Office draws lots for the missing candidates from among all the magistrates who are eligible. Moreover, this applies in a single constituency and refers to those who have not manifested their unwillingness to run for election, also by electronic communication to the High Council for the Judiciary.

In the constituencies for the election of the 8 judges of the merits, the candidates can declare to the Central Electoral Office their connection with one or more candidates of the same or of other constituencies among those envisaged by Article 23, paragraph 2, letter *c)*.

Each candidate cannot belong to more than one group of connected candidates and the connection does not work unless gender representation is guaranteed and is not reciprocal between all candidates of a group.

The single nationwide constituency operates only as a proportional corrective of the majority system. In this constituency are elected five judges who, not being first or second in the territorial constituency, are part of the most voted groups (of connected magistrates) or who have received, as individuals not connected to any group, the greatest number of valid votes. Within the winning groups, the seat is assigned to the candidates who received the highest percentage of votes in their constituency.

The resulting impact of the proportional representation system is appropriately emphasized in the rule according to which all votes obtained from candidates elected at the first round, who are connected to a group, are deducted from the total number of votes obtained by the same group (new version of Art. 23, par. 2 and 3,).

On 23rd March 2022, the Council issued an opinion submitted to the Minister of Justice concerning the regulatory novelties. On that occasion, it was pointed out that the new electoral system would not improve significatively the previous rules and somehow it made some distortions even worse. The new electoral law, then, seems to be weak in achieving the stated goals and namely: reducing the ability of organized groups to determine the electoral results and, conversely, fostering the election also of candidates not supported by the groups themselves. Furthermore, even though the proposed system remains mostly a majority representation (in this way 15 seats to 20 are allocated after all), the corrective proportional measure aims at providing smaller groups to be represented in the Council and that as a result of being connected to a group, as stated above. However, it is highly probable that they will be under-represented if they don't win in the constituencies under a two-member system, whereas the larger groups will be over-represented. This will reproduce the trend of the previous electoral system.

The Council expressed its concern also with regard to the discretional drawing of the electoral constituencies by the Minister of Justice (by adopting a ministerial decree) in order to avoid the risk of "*gerrymandering*", i.e. the redrawing of electoral district boundaries aimed at manipulating the electoral results, with an obvious bias against the constitutional principle of judicial independence and autonomy.

As to the eligibility for election (passive suffrage), an increase of the minimum seniority threshold to acquire the right to be elected has been foreseen: from the current three years to the seniority necessary for passing the third professional appraisal. This choice narrows actually the right to be elected.

The law still states that the Steering Committee members of the High Judicial School cannot be elected after their mandate (a four-year period) in order to safeguard the reputation of the supreme institution of training for magistrates, as well as the independence and transparency in training assignments.

Whereas it has been unreasonably increased the length of ineligibility of magistrates who worked at the CSM as magistrates in charge of the Secretary-General Office or of the Studies and Documentation Centre for five years from the coming back in their function (Art. 24, par. d)), where the period of the ineligibility for the Council's career members themselves is limited to four years.

As to the Council's Commissions, Law. 71/2022 modified Article 3 which states that the President of the High Council for the Judiciary, every sixteen months, on the Presidential Committee's proposal, has the power to appoint the Commissions in compliance with the legislation and the general rules of procedure. Furthermore, Article 3 also states that the permanent members of the Disciplinary Division

can be assigned only to one Commission, that they cannot be members of the Commission dealing with the assignment of managerial and semi-managerial positions, with the professional appraisals and with the ascertainment of possible situations of incompatibility in performing judicial functions pursuant to Art. 2 of R.D. Lgs. No. 511 of 31 May 1946.

The novelty concerning the extension to sixteen months of the single membership period in the Commissions is undoubtedly noteworthy (currently it lasts one year). The novelty concerning the situations of incompatibility for permanent members of the Disciplinary Division produces also a significant impact.

Such a broad system of incompatibility is not justified with a view to enhancing the image of the disciplinary tribunal as an impartial third party in discharging its tasks, since both the Civil Joint Divisions of the Court of Cassation and the ECtHR, respectively, found no violation of Article 111 of the Constitution and of Art. 6, par. 1 of the ECHR, in relation to the partly corresponding composition of the CSM Disciplinary Division and Plenary Assembly. The Courts emphasized the difference between the judicial assessment of the disciplinary offences and the assessment carried out in the administrative procedure. In addition to that, even though the permanent members of the Disciplinary Division should not be part of the abovementioned Commissions, they participate in any case in the Plenary meetings of the Council and they contribute, through their vote, to adopt the final resolutions proposed by the Commissions themselves.

Moreover, an almost total foreclosure of the effective judges of the Disciplinary Division to be members of the Commissions seems to limit the scope of their mandate and determine a diversification of their status with respect to the other Councilors.

With reference to the composition of the Disciplinary Division, the new regulations provide that two lay members belong to it: the Vice President, who presides over the Division for the entire duration of the Council's term, and another lay member. The Disciplinary Division is also made up of a magistrate with effective functions of legitimacy, two magistrates who exercise the functions of merit judges, and one who exercises the functions of prosecution.

Article 7 of Law 195/58 has also been modified and it foresees that the identification of the candidate for the relevant position of Secretary General of the Council is now examined by the Presidential Committee, following a notice communicated to all magistrates. The Council shall resolve the appointment.

Even the appointment of the Deputy Secretary General is made by the Presidential Committee, following a competition for titles open to all magistrates. Both appointments have a term of six years, without prejudice to the maximum ten-year out-of-role period.

The regulation of the procedure, with primary legislation, for the appointment of the Secretary-General and the Deputy Secretary, so far envisaged by the Internal Regulations, responds to the aim of avoiding procedural rules can depend on Council's decisions which can depend on majorities that vary over time. However, the procedures for assigning these tasks determine an undoubted centralization of the power of choice of the two magistrates at the top of the Secretariat in the Presidential Committee and not in the autonomous governing Body (*Plenum)*.

Novelties are also foreseen with reference to the Council Secretariat, an essential structure for the functioning of the Body and in particular of the Council's Commissions and of the *Plenum* itself, made up of magistrates and administrative staff, for which it is envisaged that external members can be recruited in a number not exceeding eighteen "*selected through a procedure for assessing qualifications and an interview*". At least one-third of the positions in favor of administrative managers from constitutional bodies and central public administrations must be reserved.

If allowances are granted to magistrates (including the Secretary-General and the Deputy Secretary), these cannot exceed the all-inclusive salary limit indicated in Art. 13 of the Legislative Decree 24 April

2014, No. 66, converted with amendments by law 23 June 2014, No. 89, as integrated by Art. 1, paragraph 68, of Law No. 234/2021.

For the sake of completeness, it should be noted that the new structure seems to present critical issues with regard to the setup of the Secretariat as a technical articulation only 'possible', leaving its constitution to a *discretionary decision of the Council* and, therefore, to the variable orientations of the Councilors that will follow one another during the various Council terms.

Such an option indicates a lack of knowledge of the needs of the Council and of the essential role attributed by Art. 13 of the Internal Regulations to secretary judges in support of the autonomous government activities carried out by the Commissions and by the Plenary Assembly.

A further critical issue is related to the presence in the personnel of administrative managers who, indeed, are the only necessary members of the Secretariat. In fact, there is a reserve of posts only in their favor. Since it is foreseen that the share cannot be less than one-third, it is possible that all these posts could be assigned to them.

The members of the Secretariat, as regulated by the current Internal Regulations, are responsible for effective assistance to the activities of the Commissions and of the Council, as indicated by the Council with the resolution of 21 April 2021 and with the resolution of 23.3.2022. To do so, it is necessary to have theoretical knowledge of legal or regulatory matters, and an ability to understand the needs of the offices and the issues that relate to the status of magistrates. Moreover, it is important to understand the impact of regulatory interventions in civil and criminal matters, as well as legal matters, on the organization of the offices, on judicial activities, and on the principles of autonomy and independence of the judiciary.

Moreover, the activity of assisting the Commissions requires the ability to prepare the elements for drafting reasons and reports accompanying the proposals to be submitted to the Council. This implies, as indicated by the Council's practice, the ability to draw up even complex draft resolutions in the various competencies of the Commissions. Indeed, the background necessary to perform such tasks can only be acquired through the concrete exercise of judicial functions. And since it is fundamental that the experience gained in those areas must be adequate, the decision that such an assignment can be assigned to magistrates who have achieved at least the second professional evaluation appears to be appropriate.

Therefore, the contribution of magistrates to the activities of the Secretariat, as indicated by the Internal Regulations, is fundamental and their presence is not fungible with other professional categories, including administrative managers, who have experience gained in workplaces in which the issues of jurisdiction and related legal issues are not dealt with.

With regard to the Studies and Documentation Center, Law No. 71/2022 amended Article 25 of Law No. 195/1958, providing that the Council, within the limits of financial resources, may allocate to the Studies and Documentation Center a number not exceeding twelve external members, with the qualification of university professors and researchers in legal affairs (categories to be considered in the broad meaning of Article 24 bis), lawyers with at least ten years of effective practice, and magistrates who have achieved the second professional evaluation.

University professors are placed on compulsory leave, and lawyers are suspended from professional practice, for university researchers nothing is provided for in Article 25, but the rules laid down in Article 24 *bis* (7) apply to them. The changes give rise to critical remarks similar to those expressed by the Council in the abovementioned resolutions. Indeed, the Council did not agree with the choice of indicating the Studies and Documentation Center as only a possible structure, since the functions entrusted by the Internal Regulations to the magistrates assigned to it are essential for the Council's activities: the members of the Studies and Documentation Center, upon the request of the Commissions, the Presidential Committee, the *Plenum*, take care of the in-depth study, either in

written or oral opinions or reports, of the institutions of the legal system, the drafting of opinions on legislative initiatives of impact on the organisation of the civil and criminal jurisdiction field, the management of litigation in which the Council is a party, the systematisation of the Council's outputs with a purpose of systematic collection and subsequent dissemination, also assists the Council's organizational and strategic choices, where a contribution of theoretical elaboration is required for the concrete activity to be carried out.

The examination of the multitude of topics subject of the opinions issued by the technical articulation requires, therefore, theoretical elaboration skills, specialized knowledge, and interdisciplinarity. It follows that the merely optional and possible nature of assigning experts in legal and regulatory matters to the Studies and Documentation Center is unrealistic and dysfunctional in relation to the needs of the Council, which, on a daily basis, urges the support function which is up to the structure and whose importance is demonstrated by the huge processing contribution that the magistrates assigned to it have constantly provided since it was established (in 1969).

It appears to be critical, then, the decision to provide for a reserve of positions only for professors, researchers, and lawyers, who, hypothetically, could be the only ones employed by the Office (the share of one-third reserved for them is the minimum), with magistrates being completely excluded. If theoretical and speculative skills, analytical and processing capacities, and extensive legal knowledge are required to perform the activities assigned to the structure, nevertheless, some activities require knowledge of the organizational issues within judicial offices, qualified professional experience acquired in the exercise of judicial functions, and the previous concrete practice of the principles of autonomy and independence in the various areas in which they are expressed. A various composition of the external workforce is justified by the importance of specialized and pluralistic knowledge in the processing entrusted to the Study and Documentation Center. Nevertheless, for the activities within the competence of the office, qualified professional experience acquired in the exercise of judicial functions is required.

- **Judicial Council of Latvia** reported that in 2022, the main discussions have concerned the future necessity to strengthen general functioning and efficiency of the Council. More precisely - to define and develop the financial independence of the judiciary (Court Administration). This aim has been *expressis verbis* outlined in the Strategy for the Judicial Council 2021 – 2025.

  On May, 2022, the Chairman of the Judicial Council Mr A. Strupišs gave a speech at the Latvian Judge's conference, stressing the following: "There are many large-scale issues to be resolved: 1) Taking over the judicial system's organizational issues under the control of the Judicial Council, because the current situation, even with the introduction of e-cases, proves that political wishes tend to run ahead of actual opportunities, having a very negative impact on the work of the courts; 2) Taking over judicial budget issues under the control of the Judicial Council, because independence should be fiscal as well, not only organizational; 3) Taking the basic issues of training of judges under the control of the Judicial Council; 4) Ensuring the institutional capacity of the Judicial Council corresponding to the aforementioned."[3]

- **The Judicial Council of Lithuania** stressed the following changes:

  The Judicial Council approved the Model for Selection and Evaluation of Judges prepared within the framework of the project "Improvement of Quality, Services, and Infrastructure in Lithuanian Courts" and on 28 January 2022 passed two resolutions implementing the Model. The following legal acts regarding the application of the Model for the Selection and Evaluation of Judges have been developed and approved:

[3] Available in Latvian https://www.at.gov.lv/files/uploads/files/2_Par_Augstako_tiesu/Informativie_materiali/AT_Biletens25_WEB.pdf

1. by Resolution No. 13P-33-(7.1.2.)[4] of the Judicial Council of the 28th of January 2022, the description of the procedure for the use of experts for vacant or available positions of judges of the district court as well as for assessing the personal manner and cognitive qualities and personal competences of persons seeking a career as a judge was approved;

2. by Resolution No. 13P-32-(7.1.2.)[5] of the Judicial Council of the 28th of January 2022, the description of the criteria for the selection of candidates for judges, the criteria for the evaluation of persons seeking a career as a judge and the procedure for the evaluation of personal competences was approved.

Starting from 1 January 2022, in all newly launched selection procedures, the evaluation of the candidates to judicial office personal character and cognitive features as well as personal competencies revealing the candidate's preparation to become a judge is being performed by the independent external experts having appropriate qualifications and experience.

The Model of Judge's Competencies consists of:

(1) thinking and decision-making skills (objectivity and decision-making);

(2) personal effectiveness skills (organization and responsibility, self-improvement, resilience, resistance to corruption);

(3) social skills (conflict management, communication, cooperation, leadership).

Moreover, managerial skills (strategic thinking and performance management) are being assessed during the selection procedures of the candidates' seeking appointment to the office of the Chairperson of the court, Deputy Chairperson, or Chairperson of the division.

The evaluation of personal competencies is based on the methodology approved by the Judicial Council and consists of a competency-based structured interview and a personality questionnaire.

After the evaluation of the candidate's competencies, the experts provide their conclusions to the Selection Commission of Candidates to the Judicial Office. The conclusions are valid for 5 years.

The external experts are selected through public procurement procedures.

In 2022, 63 judges and candidates for the judicial office (Assessment of Personal Competencies) as well as 21 candidates for managerial positions (Assessment of Personal and Leadership Competencies) were evaluated by the experts.

You can get acquainted with the prepared Model for the Selection and Evaluation of Judges by following the link: https://grants.teismas.lt/wp-content/uploads/2022/03/TAVM-santrauka_EN.pdf.

In 2022, the Judicial Council resolved the issues of redistribution of judges' positions in the district courts, also, having determined the need initiated the temporary (for three months) transfer of judges to the Supreme Administrative Court of Lithuania. The need to transfer judges arose due to the large flow of cases that reached the administrative courts of Lithuania in 2021-2022 due to the actions of the authoritarian Belarusian regime, which deprived foreigners of favourable opportunities to enter the territory of the Republic of Belarus and enter the European Union after illegally crossing the Belarusian-Lithuanian border.

Following Paragraph 7 of Article 63 of the Law on Courts, the Judicial Council concluded that the situation in the Supreme Administrative Court of Lithuania due to the aforementioned reasons of a temporary nature hinders the proper functioning of the court. Therefore, the Judicial Council initiated the temporary transfer of judges from the Supreme Court of Lithuania and the Court of Appeal of Lithuania to the Supreme Administrative Court of Lithuania.

[4] The Resolution is available on the link: https://www.e-tar.lt/portal/lt/legalAct/5f7f06d0828e11ecbd43a994b3e2e1cb

[5] The Resolution is available on the link: https://www.e-tar.lt/portal/lt/legalAct/10920c10834d11ecbd43a994b3e2e1cb/asr

In 2022, intensive modernisation works of the Case Allocation Module (hereinafter – the Module) of the Lithuanian Court Information System (hereinafter – LITEKO) were continued. Also, a draft amendment to the Description of the rules for the allocation of cases to judges and the formation of a judicial panel, approved by Resolution No. 13P-123-(7.1.2) of the Judicial Council of 25 September 2015, is being prepared.

When developing the functionalities of the Module, great attention is paid to ensuring an even distribution of cases, providing that the cases assigned to the judge, as well as the cases handled by the judge and their complexity, must be evaluated. Also, while evaluating the judge's busyness, the judge's participation in the judicial panels and other factors should be taken into account.

In addition, the draft Resolution of the Judicial Council on the division of cases into appropriate groups, which would be used for the automated allocation of cases, has been prepared and discussed with the representatives of the courts and the committees of the Judicial Council. The groups of cases are separated by case type (civil, criminal, administrative, administrative misdemeanours, pre-trial investigation documents), subtypes, number templates, and other parameters giving each group of cases a corresponding score ("case weight coefficient"). It is planned to submit the draft Resolution to the Judicial Council for consideration at the beginning of 2023

In response to the courts' observations, practical suggestions, and other questions raised, the Description of the procedure for the payment for work and on-call time on rest periods and public holidays and substitution, granting and payment of bonuses for the increased workload to judges of ordinary and specialised courts has been clarified by the of Resolution No. 13P-116-(7.1.2) of the Judicial Council of 12 May 2022.

On 1 June 2022, Assoc. Prof. Ms. Dalia Vasarienė, a judge of the Supreme Court of Lithuania, and a judicial member of the Judicial Council was elected President of the European Network of Councils for the Judiciary (ENCJ) during a General Assembly of the ENCJ meeting in Athens. This is the first time that a member of Lithuania's judiciary has been elected to head the ENCJ since its establishment of the ENCJ.

On 29 June 2022, Recommendations regarding the organization of judicial psychologists' activities have been approved by the Judicial Council. The purpose of this position, its goals, tasks, and functions as well as its use during interrogations, etc. have been defined.

On 16 September 2022, a discussion "Courts in 10 years: where we aim to be?" took place during the General Meeting of Judges.

On 11 November 2022, elections for the leadership of the Judicial Council took place. The same members were re-elected:

- Chairperson of the Judicial Council: judge of the Civil Cases Division of the Supreme Court of Lithuania Ms. Sigita Rudėnaitė,
- Vice-Chairperson of the Judicial Council: judge of the Civil Cases Division of the Supreme Court of Lithuania Ms. Egidija Tamošiūnienė,
- Secretary of the Judicial Council: judge of the Supreme Administrative Court of Lithuania Mr. Ramūnas Gadliauskas.

The authority and reputation of the courts are determined by values, faith, mission, and knowledge of the direction. Therefore, one of the most important strategic directions of the Judicial Council was to create a vision for the improvement of the judicial system.

In 2022, intense vision creation work took place. It started with an assessment of the real situation inside and outside the judicial system, identification of the most painful issues, and continued discussions and work on setting priority directions, measures, and planning results. A lot of useful information was obtained from the survey of courts and court partners. The results of the survey

confirmed that the high workload and insufficient funding remain the most painful issues for the judicial community.

On 19 December 2022, the work on the creation of the vision was completed and the Vision of the development of Lithuanian courts for the years 2023-2033[6] has been approved by the Judicial Council. This document defines that the mission of the Lithuanian courts is to protect human rights and administer justice openly, responsibly, professionally, and honestly, the vision of the Lithuanian courts is a reliable, wise, efficient, and authoritative court – the guarantor of a strong rule of law.

The most important directions of activity that have been identified in the long-term development vision of the Lithuanian judicial system include the following:

1) to strengthen the authority and independence of the judicial system;

2) to improve services and processes, ensuring quality, openness to innovation, and human-oriented services;

3) to strengthen human resources;

4) to strengthen internal and external communication.

In 2022, Lithuanian courts continued the activities established in the Communication Strategy of Lithuanian Courts for 2021-2024 aimed at increasing the public's trust in the Lithuanian courts as an institution that administers justice, developed consistent coordinated external communication in the court system and carried out joint communication measures that strengthen internal communication and organizational culture in the courts.

In 2022, the first study of the psychological well-being of Lithuanian judges and court staff has been carried out on the Judicial Council's initiative. During the study, the state of psychological well-being of judges and court staff has been assessed and recommendations for improving the psychological state in courts were made[7].

- **The Commission for the Administration of Justice of Malta** highlighted that in 2022 there were no developments regarding the structure/composition of the Council. It is important to point out that by Act XLV of 2020, the Attorney General does no longer form part of the Commission for the Administration of Justice. Hence the Commission consists of the following members: the President of the Republic of Malta, the Chief Justice, two Judges of the Superior Courts, two Magistrates of the Inferior Courts, a member appointed by the Prime Minister, a member appointed by the Leader of the Opposition and the President of the Chamber of Advocates.

- **The Raad voor de rechtspaak of Netherlands acknowledged** that since the 12th of September 2022 the Council has a fifth member. The member is a judge, this means that the majority of the Council members is a judge. This is in line with the EU standards.

  With regard to the way of nomination of the members the intention is to increase transparency of the procedure but also to limit the involvement of the Minister of Justice in the procedure and to increase the involvement of judges. Discussions on how to implement this are still ongoing.

- **Conselho Superior da Magistratura of Portugal** noted the following changes.

  I - Declaratory Obligations of Judicial Magistrates

  During 2022, the Judicial High Council (JHC), in the exercise of its powers, adopted the Regulation on the Declaratory Obligations of Judicial Magistrates.

[6]The Vision of the development of Lithuanian courts for the years 2023-2033 is available on the link: https://www.teismai.lt/data/public/uploads/2022/12/vizija-pilna-versija.pdf, a brief description of the Vision is available on the link: https://www.teismai.lt/data/public/uploads/2022/12/vizija-trumpa.pdf

[7] More information about the study can be found on the link: https://www.teismai.lt/lt/pristatyti-pirma-karta-atlikto-lietuvos-teiseju-ir-teismu-darbuotoju-psichologines-geroves-tyrimo-rezultatai/10677

- Regulation (extract) No 346/2022 of 7 April [Regulamento (extrato) n.º 346/2022, de 7 de abril]

It gives effect to the rules applicable to judges resulting from Law 52/2019 of 31 July 2019 (according to the wording introduced by Law 69/2020, of 9 November) which regulates the exercise of duties by political office holders and senior public positions, their declaratory obligations and the respective penalties system.

II - "Revolving doors" between justice and politics

After the opening of the 2022 judicial year, the President of the Supreme Court of Justice and of the Judicial High Council (JHC) submitted to the Plenary of the JHC a proposal to create a working group with the purpose of evaluating the legal regime that regulates the circulation of judges between justice and politics.

The proposal was approved in 05-07-2022, by unanimous deliberation of the Plenary, which determined to proceed with the creation of a working group to consider the issue related to the temporary transition of Judicial Magistrates to political and public positions and the subsequent return of those magistrates to the courts at the end of their service commissions.

The working group, composed by the President and four other members of the JHC, has also the task of rethinking the current legal regime on impediments, incompatibilities and commissions of service (judicial and non-judicial) provided for in the Statute of Judicial Magistrates.

The work is almost concluded and a proposal to amend the Statute will be presented at a forthcoming meeting of the Plenary Council.

- **The Superior Council of Magistracy of Romania** stressed the following:

The Superior Council of Magistracy is, according to the Fundamental Law, the guarantor of the independence of the judiciary and has the composition expressly provided by the Romanian Constitution, republished.

On 16.12.2022 the Law No 305/2022 on the Superior Council of Magistracy, published in the Official Gazette of Romania, Part I, No 1105/16.11.2022 entered into force. Similar to the old regulations, the above-mentioned law provides for the independence of the Superior Council of Magistracy and for its abiding only by the law in its activity, the members of the Council being accountable to judges and prosecutors for the activity carried out in the exercise of their mandate.

As regards the procedure for the election of the members of the Superior Council of Magistracy, the procedure in the new provisions is regulated in a similar manner to the Law no. 317/2004 on the Superior Council of Magistracy, republished, as subsequently amended and supplemented, without significant changes in this respect.

We would point out that during the reference period a procedure for the election of the members of the Superior Council of Magistracy was organized, the final list of judges and prosecutors elected members of the Council being set out in Annex 3 to Decision No 138/2022 of the Plenum of the Superior Council of Magistracy. The elected members were validated by the Romanian Senate by Decision No 172/2022, published in the Official Gazette of Romania, Part I, No 1203/14.12.2022.

Also, by Decision No 173/2022 of the Romanian Senate, published in the Official Gazette of Romania, Part I, No 1203/14.12.2022, the two representatives of civil society were elected to the Superior Council of Magistracy.

As regards the powers/competences of the Superior Council of Magistracy, given the principle of separation of the decision on the career of judges and prosecutors, certain changes have been brought by the new regulation aimed at the sharing/division of duties between the Plenum and the Sections.

As regards the protection/defence of the independence of the judiciary, the new law provides in a similar way to the old regulation, that the sections of the Council are required to bring proceedings/ to refer cases, ex officio, in order to defend/protect judges and prosecutors against any act of interference in or in connection with their professional activity, which could affect their independence or impartiality, as well as against any act that might create suspicions about them and to defend the professional reputation of judges and prosecutors. Similar to the old provisions, the complaints concerning the defending/protection of the independence of the judicial authority as a whole are delt with, upon request or ex officio, by the Plenum of the Superior Council of Magistracy.

- **Sudna Rada, the Judicial Council of Slovakia** stressed that for the purposes of proceedings in matters of property relations of judges (regulated by the Act No. 185/2002 on Judicial Council of the Slovak republic):

  If it is necessary for the complete clarification of the matter and to remove doubts about the non-acceptance of unauthorized payments or about the judge's financial situation, the committee of the judicial council may, after the oral hearing of the judge, request the office of the judicial council to secure information about the existence of bank accounts and transactions on the judge´s accounts, as well as information about the judge's property from other property registers.

- **Sodni Svet, the Judicial Council of Slovenia** underlined that since 2021, a movement to reform judicial legislation has been in place, initiated by the Ministry of Justice, which aims at a coordinated reform of all fundamental laws governing the judiciary (Courts Act, Judicial Service Act and Judicial Council Act). The formal legislative procedures have not yet started, and the project is still in the expert-coordination phase. Draft documents on the amendments to all the above-mentioned acts were prepared by the Ministry of Justice under the previous Government (in power from March 2020 to May 2022), at the end of 2021 and in early 2022.

  1. The proposed amendments to the Judicial Council Act are as follows:

  The current Judicial Council Act does not enable that the Council President or Vice-President would be relieved of any duties (even partly), for example in the judicial function. The amendments point toward the (semi) professionalisation of the function of the President and Vice-President of the Judicial Council.

  The amendments to the Judicial Council Act also propose changes of its competences. Some of them are new (e.g., to decide on the measure of suspension of the presidents and vice-presidents of the courts), some are proposed to be abolished (e.g., to decide on the so-called faster promotion to a higher judicial grade in the same judicial post and of promotions of judges in salary grades). These proposed amendments are in line with the changes proposed in the draft amendments to the Courts Act and Judicial Service Act, which inter alia aim at a reform of the system for the evaluation and promotion of judges.

  The current Judicial Council Act does not provide for judicial control over the legality of the election of members of the Judicial Council from among judges. According to the amendments, legal remedies

against irregularities shall be regulated in all phases of the electoral process by specifying the beneficiaries of redress, the procedure, the competent authorities, and their powers.

Certain amendments seek to strengthen the transparency of the Judicial Council (regarding the record on deliberation and voting, the broadening the grounds for exclusion, the publicity of disciplinary proceedings).

Certain provisions of the Judicial Council Act on disciplinary proceedings regarding judges have been declared unconstitutional. Namely, the law allows for the member of the Judicial Council to participate in the composition of a panel of a disciplinary court also in the event the Judicial Council submitted a petition to initiate a disciplinary procedure. According to the Constitutional Court's decision of October 14, 2021, such rules do not meet the standard of objective impartiality and are therefore in breach of Article 22 of the Constitution of the Republic of Slovenia (Equal Protection of Rights). Draft amendments favour a solution, according to which it shall be ensured that the Judicial Council continues to have a decisive role in the enforcement of disciplinary responsibility of judges.

Also, the Ministry of Justice proposes to amend those provisions of the bill relating to the procedure for seeking remedies in disciplinary proceedings.

In the case of unconstitutionality described above new provisions should have been adopted by November 2022 but were not. Prior to that the Judicial Council provided comments on the draft. However, at the end of 2022, the Ministry of Justice, then under a new Government, proposed that abovementioned unconstitutionality of certain provisions of the Judicial Council Act should be addressed first. Meanwhile, all other envisaged legislative solutions related to the Judicial Council Act should be the subject of an individual legislative process, but together with the reform of the Courts Act and the Judicial Service Act.

2. One of the most important changes of the competences of the Judicial Council as proposed by the working draft of the amendments to the Judicial Council Act, relates to the powers of the branches of government regarding the appointment of a candidate, who had already been elected to judicial office, to the office of a Supreme Court judge, and the appointment of a President of the Supreme Court.

According to the current legal framework, the National Assembly holds the power to appoint a candidate, who had already been elected to judicial office, to the office of a Supreme Court judge after the Judicial Council selects the candidates. However, when it comes to vacant judicial posts at lower instance courts, the power to select, appoint and transfer the candidates, when they have already been elected to judicial office, is vested in the Judicial Council. Similarly, the National Assembly holds the power to appoint the President of the Supreme Court, except that in this procedure the Judicial Council only gives an opinion on the candidates who have applied. Working draft amendments to the Judicial Council Act, the Courts Act and to the Judicial Service Act propose a transfer of power to appoint a candidate to the office of the Supreme Court and to appoint the President of the Supreme Court from the National Assembly to the Judicial Council.

The Judicial Council strongly supports these amendments since it has publicly addressed this issue on several occasions. The National Assembly's decision on the Judicial Council's proposal to appoint an already elected judge to the office of the Supreme Court or the President of the Supreme Court is an act of political discretion, since the National Assembly is not obliged to take any criteria into account in its decision. The National Assembly may therefore reject the Judicial Council's proposal without giving reasons. In the opinion of the Judicial Council, the current system does not ensure that candidates are selected without political influence.

This may have well been the case for three candidates who were not elected/appointed to the Supreme Court by the National Assembly despite a reasoned proposal by the Judicial Council. In 2020, a candidate for Supreme Court judge, then a professor at the Faculty of Law, was rejected by the

National Assembly. The Judicial Council's proposition was not discussed among the members of the National Assembly nor in its working bodies. In 2021, two more candidates, both judges at the court of the second instance, were rejected by the National Assembly. According to the Judicial Council's assessment which is based on the debate among the members of the National Assembly, the National Assembly did not vote in favour of the two proposed candidates because of the disagreement of some members of the Parliament with the judges' decisions in specific court cases. At the time, the Judicial Council publicly expressed its opposition to the politicisation of the of decision-making in the procedures for the election and appointment of judges in the National Assembly, which is not exclusively based on professional criteria.

3. Furthermore, the Judicial Council has repeatedly and publicly advocated for a change in the Constitution which states that (all new) judges are elected by the National Assembly on the proposal of the Judicial Council.

In Autumn 2022, a proposal to initiate the procedure for amending the Constitution was made by a relevant number of members of the National Assembly. It is proposed that the power to appoint (all new) judges should be transferred from the National Assembly to the President of the Republic of Slovenia. Competence to propose candidates for new judges is to remain with the Judicial Council. The procedure is still in its initial phase; following the establishment of the Constitutional Commission that will decide on the proposal to amend the Constitution, a group of experts was also set up to help reach that decision.

The Judicial Council supports the proposed amendment for the same reasons as stated above.

One of the opposition parties announced its support for the continuation of the procedure but is reluctant to approve the proposed amendment without a change in the composition of the Judicial Council. They fear that its current composition poses a risk for nepotism, conflicts of interest, and corruption. According to the current legislation, The Judicial Council is composed of 11 members. Five members are elected by the National Assembly of the Republic of Slovenia from among university professors of law, lawyers, and other legal practitioners, on the proposal of the President of the Republic; six members are elected from among themselves by the judges permanently holding judicial office. No proposal has yet been made on how the composition of the Judicial Council should change.

Additionally, members of the National Assembly propose for a trail period for newly appointed judges. It has been proposed that such a trial period should last for three years.

- **The General Council for the Judiciary of Spain (CGPJ)** stressed that as regards the **competences of the Council** it should be kept in mind that Organic Law 4/2021, of 29 March, introduced a new article 570bis in the LOPJ which limited the powers of a Council of the Judiciary whose term of office has expired. According to this provision, the Council can no longer make these appointments, nor can it appoint the two magistrates of the Constitutional Court, hereinafter TC, while it is in office. However, since on June 12, 2022 the mandate of the 4 judges of the TC whose appointment corresponds two to the Government and two to the CGPJ expired, the Organic Law 8/2022, of July 27, returned to the CGPJ the competence to appoint these two judges, in order to proceed with the renewal of this constitutional body. To this end, a new numeral 1 was introduced in article 570bis of the LOPJ, which establishes that the proposal for the appointment of the two magistrates of the TC that correspond to the CGPJ will be carried out by a three-fifths majority and within a maximum period of three months from the day following the expiration of the previous term of office.

  To address the issue of the appointment of the two judges of the TC, the Plenary of the Council has met on eight occasions, five of them extraordinary (September 8, October 13 and 20 and December 22 and 27) and three ordinary (September 29, October 27 and November 24).

  The two judges of the TC were appointed unanimously at the extraordinary plenary session of December 27.

As noted above, with the new Article 570bis of the LOPJ, **the Council**, as long as it continues to exercise its ad interim functions, **cannot make discretionary appointments**. Also exercising their functions ad interim are the magistrates whose terms as presidents of the courts have expired. At the moment, this situation affects the president of the Audiencia Nacional, 7 presidents of High Courts of Justice, 21 presidents of Provincial Courts and 25 presidents of Chambers.

The reform does not affect, however, the promotion of judges to the category of magistrates, since 110 judges were promoted to this category in 2022. On the other hand, it does affect the promotion to the category of magistrates of the SC: of the 79 positions, 19 are currently vacant.

As long as the renewal of the Council does not take place, the return of the constitutional competence, repealing Organic Law 4/2021, of March 29, is inexcusable. The normalization of the Council's power of appointment of the High Posts could only take place in the short term, by an immediate renewal of this constitutional body, and failing that, in the medium term, by a regulatory change, modifying the Organic Law 4/2021.

2. Relations with the other State Powers

A number of Councils for the Judiciary **(State Judicial Council of Croatia, NCA Denmark, Greek Administrative Council, Commission for the Administration of Justice of Malta**) reported that hat there were no special remarks about their relations with other state powers.

- Regarding the relation of the **Conseil Supérieur de la Justice/ Hoge Raad voor de Justitie / The High Council of Justice of Belgium** with other State powers, the Council reported the following:

  Regarding the general relationship between the HCJ and other state powers, please refer to the explanation in the questionnaire regarding 2021 under point 2.a.

  Challenges to the independence of the judiciary can often be linked to specific important incidents that stir public opinion and question the proper functioning of the judiciary. This often gives rise to heated political debates on the need for tighter control over the functioning of the judiciary. Every so often, it is proposed to set up a control body for the judiciary.

  In each of these cases, the HCJ must then react and explain that this falls within its competence and that its composition and modus operandi ensures that the investigations respect the independence of the judiciary.

  An example of such a case was the Yassine M case. According to the various elements made available to the CSJ, on the morning of 10 November 2022, Yassine M. allegedly went to a police station, declared that he wanted to carry out attacks against the police and expressed his "need for help". The public prosecutor's office would then have been informed and would have instructed the police officers to accompany Yassine M. to the psychiatric unit of a hospital. In the early evening, Yassine M. would have killed a police officer and injured another. These events caused a great stir and many questions as to the functioning of the police and the judiciary.

  The HCJ decided to launch a investigation into the case of Yassine M. The special investigations of the High Council of Justice focus on the functioning of the judicial system, and not on individual responsibilities. If necessary, recommendations will be made to ensure that such events do not happen again.

Although serious efforts are made in the field of recruitment, the availability of sufficient human resources remains a concern, particularly in certain courts or courts of appeal.

These issues have led to rationalisation initiatives aimed at :

- increasing the mobility of judges;

- facilitating transfers between entities;

- Concentrating certain disputes by giving certain courts exclusive jurisdiction over certain matters.

In several opinions, the HCJ has pointed out that there must be sufficient guarantees to ensure the independence of the judges concerned and the proper functioning of the entities involved, as well as the access to justice for citizens.

Increasingly, problems arise because there are insufficient public resources available to execute court decisions, for instance: insufficient places for minors subject to protection orders or people with mental illness who cannot be accommodated.

The development of the auto-management of the judiciary is still in progress. The entry into force entry into force is scheduled for 2024.

- In 2022, the relations of **the Bulgarian Supreme Judicial Council** with the other state authorities and bodies are carried out within the framework of the powers and obligations established by law.

- **Državno sudbeno vijeće (DSV) / The State Judicial Council of Republic of Croatia** underlined that in accordance with proclaimed and factual independence of the Council and judicial power no challenges occurred in that period. The Council had a successful cooperation with the Ministry of justice, especially regarding the amendments to the Law of the State Judicial Council (all proposals from the State judicial Council were accepted).

- **The Danish Court Administration** especially highlighted the independence of the judiciary continues to be very strong parallel to a good cooperation with the Ministry of Justice where it is deemed relevant.

- **The Finnish Court Administration** stressed that the relationship with the other state powers is good. Contact is made when needed, and they are courteous. The independence of the judiciary, and the NCA as its representative, is generally well respected.

- **The Conseil Supérieur de la Magistrature of France** highlighted that in France, a continuous dialogue exists with the executive power, based on the Constitution.

  The Council's fundamental purpose is enshrined in Article 64 of the Constitution: "The President of the Republic is the guarantor of the independence of the judicial authority. He is assisted by the High Council of the Judiciary". According to the institutional practice, the role of the Council is therefore central to ensuring the independence of the judicial authority.

  - 1- Wishing to play its constitutional role to the full, the Council of the Judiciary wished to meet the President of the Republic, in June 2021, to inform him of the strong emotion aroused in the judiciary and far beyond by the outrageous questioning of the judicial institution on numerous occasions. This meeting gave rise to the Estates General on Justice.

  The organisation of the Estates General, which started their work in the autumn of 2021, was led by the Ministry of Justice.

Seven working groups made up of experts were set up and worked on a number of themes (civil, criminal, economic, organisational, …).

Several questionnaires were drawn up for individuals, which differed depending on whether they were justice professionals or not.

The Minister of Justice also travelled to several places in France to meet judges and citizens.

The Chancellery had insisted on the independence of the committee from the executive power, but also of the workshops, with the administration confining itself to providing logistics.

In addition to the participation of the two heads of division and a member common to both formations of the Council in the committee of the Estates General, the Council was keen to play a full part in the work carried out as part of the Estates General on Justice.

In its written contribution of 31 January 2022, the High Council of the Judiciary did not wish to produce a new theoretical document covering the entire scope of the Estates General, which would go far beyond its remit. Its aim is to present the debates from the perspective of the tasks entrusted to it by the Constitution: guaranteeing the independence and exemplary nature of the judiciary, and as such, the fundamental values that must guide the policies conducted in the field of justice.

- Preserve the unity of the judiciary ;
- Strengthen the independence of the prosecution service ;
- Rethink the office of the magistrate ;
- Adapting the territorial organisation of the justice system ;
- Modernise the justice budget ;
- Structuring the team around the magistrate;

The Council met twice with the Minister of Justice (in July and October 2022) to discuss all these issues. At the end of these meetings, a letter was sent to the Minister of Justice setting out the Council's points of attention.

The Minister of Justice announced in autumn 2022 and presented on 5 January 2023 the 60 new provisions resulting from the work of the Estates-General.

- 2- The end of 2021 was marked in France by an unprecedented movement of demands from magistrates regarding their working conditions. The Minister of Justice, who in France is the policy-maker on human resources for the judiciary, announced, among the 60 proposals mentioned above, the recruitment of 1.500 new magistrates over 2027, as well as a significant increase in their salaries. Judicial staff should also be recruited (clerks, assistants).

Tools for fine-tuning the workload and identifying needs have been developed.

The High Council of the Judiciary is very attentive to these developments and has had several opportunities to point out that the working conditions of magistrates and the way in which they are able to dispense justice in practice contribute to the independence of justice as a whole.

- 3- In 2022, due to the questionable conditions under which certain hearings of magistrates by a parliamentary commission of enquiry took place, the Council shared its thoughts with the president of the National Assembly on the conditions for such hearings.

In its view, a committee of enquiry into a judicial decision or case must be conducted in accordance with four intangible principles:

- The separation of powers,
- The independence of the judicial authority,

- Respect for the authority of res judicata: judicial decisions cannot be challenged by any means other than the exercise of appeal procedures,
- Professional secrecy and deliberation.

- 4 - Finally, the discussion of the annual finance bill is the occasion of a meeting between the legislative power and the Council. Each summer, during the examination of the future finance law, the Council answers the parliamentary questionnaire drawn up by the rapporteurs, whose objective is to give a qualitative and quantitative overall picture of its action. The two presidents of the Council are also heard by the Law Commission of the Senate on this subject.

- **The CSM of Italy** informed about full and fruitful institutional cooperation with the other State Powers. **The Italian CPGA** stressed that the relations of the Council with the other State powers are good and stable.

- **The Latvian Judicial Council** reported that the main even causing concern was the non-election of the Supreme Court judge Prof. Sanita Osipova in February 2022. This issue has been already covered by Rule of Law Report 2022.

  It is positively evaluated the new Declaration of Cabinet of Ministers (12.2022.) contains a following article: *30. We will strengthen the status and functions of the Judicial Council in matters that related to the judiciary's budget, personnel policy, work organization and infrastructure.*

- **Teisėjų Taryba/The Judicial Council of Lithuania reported as follows:**

  The representatives of the Judicial Council are delegated to the working group established by the Decree No. 25 of the Prime Minister on the 3rd of February 2022. The working group is tasked with making proposals and assessing possible measures that could improve the efficiency of court activities and regulate the workload of courts. In the opinion of the working group, to achieve evenness of judges' workload, greater specialization of judges, a balanced system of district courts/court chambers, and more efficient management of court infrastructure the optimization of court activities should be implemented.

  However, it should take place gradually, in several ways and stages, and the complete abandonment of court chambers could only take place gradually after solving the financing and organizational problems of the courts. A hasty review of the court (court chambers) network may create an atmosphere of legal uncertainty in the courts (change of personnel, etc.), cause public doubts about the availability of the constitutional right to judicial defence, which would have a negative impact on both the duration of the process and the quality of the administration of justice.

  An analysis of the data on the geographical location of courts, the distribution of cases between courts (and their chambers), the workload of judges and their changes according to the predicted areas of operation (judiciary) of district courts/court chambers as well as methods and criteria for the optimization of district courts was carried out.

  If the discussed district courts, chambers, and their areas of activity are combined, the areas of district courts' activities and their chambers would be larger, thus the workload of the district courts and their chambers would be balanced, cases in specific courts or chambers would be distributed to a larger number of judges, the absolute majority of judges would have opportunities to specialize, and this would ensure a higher qualification of judges as well as faster and more efficient handling of cases.

  The proposed changes should increase the efficiency of the use of funds allocated for the maintenance of the courts. Moreover, the planned reorganization, taking into account the workload of the courts and their chambers, should allow for a reduction in the number of judges in district courts. It should be mentioned that by combining the district courts and their chambers and increasing the efficiency

of the court hearings, individuals would not only be able to get court decisions faster but also access to the court should be ensured. Also, the infrastructure and workplaces for judges should be maintained in part of the existing courthouses, so the court hearings should be able to take place close to a person's place of residence or the registered office of the legal entity. In cases where, according to the new territories of the courts and their chambers and the rules of the judiciary, the case will be assigned to a judge whose work is more distant from the person's place of residence or registered office of the legal entity, the judge is expected to go to hear the case in the court chamber or court infrastructure that is closer to the person's place of residence or the registered office of the legal entity. Although moving the judge to another place to hear the case shall require additional funds from the state budget, nevertheless, it is expected that the overall result of the judicial reform shall help to save financial resources.

On 1 May 2022, the Order No. 1R-171[8] of the Minister of Justice entered into force. It was established that 11 out of 12 district courts hear cases based on applications for the issuance of a court order. The District Court of Vilnius City no longer examines this type of case initiated after submitting a statement electronically due to an extremely large number of pending cases. In this way, it is aimed to ensure the operational efficiency of the process of these cases, as well as to create conditions for a faster examination of other cases and to solve the problems of the uneven workload of the courts. Implementing the aforementioned Order of the Minister of Justice, the procedure for the allocation of such applications to the courts which ensures a random and even allocation of cases among the district courts, has been approved by the Judicial Council (Resolution[9] No. 13P-80-(7.1.2.) of 29 April 2022).

On 30 June 2022, the amendments[10] to the Civil Code of the Republic of Lithuania and the amendments[11] to the Code of Civil Procedure of the Republic of Lithuania have been adopted, and these amendments shall come into force on 1 January 2023. The amendments aim to relinquish certain functions that are not typical for courts such as the approval of divorce and separation by mutual consent of the spouses when the spouses do not have minor children, validation of the issuance of a marriage contract, issuance of permits for real estate transactions that are family property, issuance of permits to parents to conclude transactions related to the property of a minor child, recognition of paternity where there is no dispute between the parties concerned. These functions shall be transferred to notaries while ensuring their proper performance of them. The issue of renewing the execution document of the missed deadline shall be transferred from courts to bailiffs. Also, the court's permissions have been relinquished in some cases related to capital repairs of the rental property.

In letter No. 36P-114-(7.1.10.) of 13 September 2021, the Judicial Council submitted to the legislator proposals to supplement the Code of Criminal Procedure and the Code of Administrative Offences with provisions allowing the entity exercising administrative supervision of a court (presidents of regional courts or the president of the Lithuanian Court of Appeal) the right to allocate cases not yet assigned to a particular judge (judicial panel) by a ruling, selected randomly, for hearing to judges of another court. Such a right could be used by such entities when discerning the possibility of speeding up proceedings in cases where due to the different flow of cases in individual courts, the workloads of judges and courts differ significantly. Because of the objectives pursued (to address the unequal workload and the related length of court proceedings and the lack of human resources in the courts), the legal framework proposes certain safeguards to ensure the rights of persons involved in court proceedings and the status and independence of judges, i.e. to envisage that upon finding by a president of a higher court, based on objective data, a significant difference in workload, the judges of the other court could be allocated a group of randomly selected cases (not individual cases) not yet assigned to individual judges and, in the first instance, cases regarding criminal and administrative offenses dealt with by written procedure could be assigned to another court. It should be noted that

[8] The Order is available on the link: https://www.e-tar.lt/portal/lt/legalAct/2dbd9bd0c63511ec8d9390588bf2de65
[9] The Resolution is available on the link: https://www.e-tar.lt/portal/lt/legalAct/aac7fb50c79511ec8d9390588bf2de65
[10] The amendments are available on the link: https://www.e-tar.lt/portal/lt/legalAct/e9fdd7a0034411edb32c9f9d8ba206f8
[11] The amendments are available on the link: https://www.e-tar.lt/portal/lt/legalAct/bf5d9910035111edb32c9f9d8ba206f8

in principle the analogous provisions are set out in the current Code of Civil Procedure, in practice, they are applied and assessed as an effective means of regulating workloads. The aforementioned proposals are still being considered by the legislator.

On 16 September 2022, the General Meeting of Judges, which is the highest institution of the self-governance of courts, took place and the Resolution[12] on the situation in the courts of the Republic of Lithuania was adopted. With this Resolution, the judges aim to draw the attention of the representatives of the political authorities to the remuneration issues of the judicial system and call for their solution. By this Resolution, the Seimas of the Republic of Lithuania, the President of the Republic of Lithuania, and the Government of the Republic of Lithuania are encouraged (1) to focus and in the near future solve the issue of insufficient and inadequate funding of the judicial system with joint efforts to ensure the proper performance of judicial functions and the salaries of judges and persons working in courts that would be appropriate for their current positions, (2) to sign a national agreement of authorities aimed at solving the problems of funding and development of the Lithuanian justice system, (3) to establish a financing model of the court system that meets European standards and is based on objective principles in the laws regulating the organization of the courts' works and the formation of the state budget.

On 28 October 2022, the members of the Judicial Council met with the representatives of the Lithuanian Business Confederation, the Presidency of the Republic of Lithuania, the Government of the Republic of Lithuania, and the Ministry of Justice of the Republic of Lithuania. The largest business uniting organization and its members expressed concern about the existing problems in the courts and fears about the inadequate funding of the courts, which poses a threat to business. Long legal disputes reduce the growth of the Lithuanian economy and investments in the country. Businessmen are worried that judges are leaving the courts because of the low salaries. During the meeting, insights on possible legislative initiatives aimed at simplifying and speeding up judicial processes, which would be beneficial to both businesses and residents were shared, with the expectation of positive changes as early as next year, when changes to the law should come into force, which will give up functions that are not typical for courts.

On 3 November 2022, the Law No. XIV-1481[13], amending Article No. 3 of the Law on State Pensions of Judges of the Republic of Lithuania No. IX-1011, has been adopted (will come into force on 1 January 2023) and established that the right to receive a judge's state pension is granted to persons who are dismissed from the duties of a judge due to health conditions when they get an incurable or other long-term disease that prevents them from performing the duties of a judge. Before the amendment to the aforementioned law, such persons could not receive the state pension of judges until they reached the social insurance retirement age.

On 8 November 2022, the Judicial Council in its letter No. 36P-129-(7.1.10.Mr) provided information to the European Commission on the situation in the Republic of Lithuania concerning the remuneration of judges and other members of the judiciary and asked the European Commission to take this situation seriously, to monitor it closely and to take measures to help resolve it.

It was emphasised, that the Judicial Council has repeatedly addressed the legislative and executive authorities of the Republic of Lithuania on the remuneration of judges, stressing the need for the State to have a systematic approach to the remuneration of state authorities, officials, and law enforcement bodies. However, it is regrettable to note that, unfortunately, the principles of systematicity, proportionality, adequacy, transparency, and other principles of remuneration continue to be ignored. The adoption of the draft amendment to the Law on Remuneration of Judges of the Republic of Lithuania No. X-1771 attempting to address the issue of the salaries of judges of the courts of general jurisdiction and specialised courts in Lithuania has been continuously delayed and has not been

[12] Resolution on the situation in the courts of the Republic of Lithuania is available on the link: https://www.teismai.lt/lt/teismu-savivalda/visuotinis-teiseju-susirinkimas/rezoliucija-del-situacijos-lietuvos-respublikos-teismuose/9715.
[13] The Law is available on the link: https://www.e-tar.lt/portal/lt/legalAct/1e02e33064b411edbc04912defe897d1

addressed for years for unclear reasons. Such a situation may have a negative impact on the independence of the Lithuanian judiciary as it is commonly accepted that appropriate remuneration guarantees are a constituent part of judicial guarantees, which have an impact on the overall judicial independence and fair trial guarantees enshrined in Article 47 of the Charter of Fundamental Rights of the European Union and Article 6 of the European Convention of Human Rights. The jurisprudence of the Constitutional Court of Lithuania also clearly states that the material and social guarantees of a judge must correspond to the judge's constitutional status and ensure the dignity of the judge. The duty to provide these guarantees rests on the State.

The Judicial Council has repeatedly stressed the importance of systematic, proportionate, adequate, and transparent remuneration and of ensuring the independence of the judiciary. Because of the economic growth trends in the country in recent years and the political initiatives implemented to selectively and substantially increase the remuneration of prosecutors and various law enforcement officials and civil servants, the Judicial Council has noted a clear political reluctance to address the issue of judges' remuneration similarly, based on a variety of arguments, from declared intentions to substantially change the system of remuneration of public-sector employees to what are, as to be expected, individual public political statements concerning the already allegedly high salaries of judges.

The high qualifications required of judges, the heavy burden of responsibility, and the inadequate remuneration make the judicial profession less prestigious and unattractive. This is confirmed by the fact that, unlike in most EU countries, the best Lithuanian lawyers do not pursue a career as a judge. This tendency is visible in the selection procedures for the judicial office, which do not take place due to the lack of suitable candidates. Moreover, a new and worrying trend is emerging: judges with many years of experience are voluntarily leaving the judiciary. Over the last two years, the Judicial Council has witnessed 16 judicial resignations, and remuneration has been listed by several judges as one of the motives to step down from the judicial office before the term. According to the data of 7 November 2022, there were 74 vacant judicial positions in Lithuania, out of 786, which results in a higher workload for judges on the bench, but also means longer adjudication periods for the parties. The seriousness of this issue is also reflected in the answers of Lithuanian judges to the recent ENCJ survey on the independence of judges, where 61 percent of the responding judges indicated remuneration as a factor affecting their independence.

These worrying signs indicate that in the long term, the courts and the political authorities will have to deal not only with the workload of judges or with adequate pay but also with the quality of the administration of justice, which cannot be measured in financial terms alone. It is also a question of trust in one of the public authorities. Adequate remuneration for the judicial profession is one of the effective means of ensuring the efficiency of the administration of justice in all its aspects.

Another pressing issue that the Judicial Council is trying to overcome is the need to ensure that the judiciary is financed sufficiently, based on objective criteria, as a prerequisite for the independence of the judiciary and the effective functioning of the judicial system.

Although on 25 November 2021 the amendments[14] to the Law on Judges' Remuneration have been adopted, the issues raised by the judicial system regarding the remuneration of judges have not been solved yet.

On 24 November 2022, the amendments[15] to the Law on Courts regarding the implementation of the reorganization of specialized regional administrative courts have been adopted. The reform of the regional administrative courts should be implemented from 1 January 2024. The Regional

[14] The amendments to the Law on Judges' Remuneration are available on the link: https://www.e-tar.lt/portal/lt/legalAct/64add1a0540711ec862fdcbc8b3e3e05

[15] The amendments to the Law on Courts are available on the link: https://www.e-tar.lt/portal/lt/legalAct/e24255e0778411edbc04912defe897d1

Administrative Court, operating in the entire territory of the Republic of Lithuania, instead of two regional administrative courts has been established.

According to the provisions of the Law on the Reorganization of Administrative Courts, which regulates the reorganization of courts, the judges, appointed to all chambers of the Vilnius Regional Administrative Court and the Regional Administrative Court until 31 December 2023, that are being reorganized and participating in the reorganization, are considered to be appointed to the Regional Administrative Court. Judges who worked in the Vilnius Regional Administrative Court after the reorganization are considered to be appointed to the Vilnius Chamber of the Regional Administrative Court. After the reorganization, the judges of the Regional Administrative Court are considered to be appointed to the same chamber of the Regional Administrative Court to which they were appointed in the Regional Administrative Court. Thus, due to the reorganization, the workplace of the judges would not change.

On 8 March 2022, on the initiative of the Judicial Council, a meeting with the head of the Special Investigation Service and representatives of this institution, and the head of the Lithuanian branch of Transparency International was organized. "Lithuanian corruption map 2021" was presented to the participants of the event and the creation of an unfavourable environment for corruption in the courts was discussed.

On 14 March 2022, the Lithuanian judicial community met remotely with the Deputy Minister of the Ministry of National Defence of the Republic of Lithuania. During the meeting, the situation regarding ensuring national defence, identification of threats, and reliability of information sources were discussed.

In 2019, the Special Investigation Service of the Republic of Lithuania conducted a corruption risk analysis in the areas of allocation of cases to judges, formation of judicial panels and selection panels in the Supreme Court of Lithuania, and on 31 July 2019 presented the Conclusion on Corruption Risk Analysis in the Areas of Judicial Activities (hereinafter – the Conclusion) with the recommendations to the National Courts Administration, Lithuanian courts and the Judicial Council. The Judicial Council and the National Courts Administration actively implemented the recommendations, and on 6 January 2022 informed the Special Investigation Service about the progress of their implementation (in addition to that, the representative of the Special Investigation Service has been informed on 26 August 2022). It should be noted that the recommendations provided in the Conclusion are related to the improvement of the legal regulation and technical measures for the allocation of cases to judges and their implementation takes time. Therefore, the implementation of the recommendations will be continued in 2023.

On 25 February 2022, the branch action plan for the prevention of corruption in the Lithuanian judicial system for 2022–2025 and a plan for measures for its implementation for 2022–2023 have been approved by the Judicial Council resolution No. 13P-46-(7.1.2.). The central entity responsible for the creation of an environment resistant to corruption in the entire judicial system has been established by the above-mentioned resolution of the Judicial Council. The central entity operates in the National Courts Administration from the 1st of March, 2022.

In cooperation with the Ministry of Justice of the Republic of Lithuania, the Judicial Council, the Lithuanian Bar Association, and other related institutions, the amendments to the Description of the Procedure for the Use of Video Conferencing Technology in Criminal Cases[16] and the Description of the Procedure for the Use of Video Conferencing and Teleconferencing in Civil and Administrative Cases[17] have been approved by Order of the Minister of Justice of 23 February 2022. These amendments set

[16] The amendments are available on the link: https://www.e-tar.lt/portal/lt/legalAct/198631c0948c11ecaf3aba0cb308998c
[17] The amendments are available on the link: https://www.e-tar.lt/portal/lt/legalAct/a0504470948c11ecaf3aba0cb308998c

out how the publicity of the court hearing is ensured when the court hearing takes place using video conferencing and/or teleconferencing technologies.

According to the amended legal regulation, when a public court hearing takes place using video conferencing technologies and it is not possible to allow individuals to watch this court hearing directly in the courtroom or other place of hearing, it can be observed and/or listened to by one of the following remote methods available to the court: by rebroadcasting the sound of the court hearing and, if possible, video into a separate, public courtroom or other room in the court building; by joining a video conference.

The court hearing the case decides on the use of specific tools during the court hearing, after assessing the circumstances, which are significant for ensuring a safe environment of the court, the protection of personal data, and the requirements for the implementation of the provisions of the relevant legal acts.

A person wishing to observe a public court hearing and/or listen to it shall inform the court hearing the case about this usually at least 3 working days before the day of the court hearing, except in cases where the date of the court hearing is publicly announced with a shorter deadline.

By Resolution No. 13P-162-(7.1.2.)[18] of the Judicial Council of 20 December 2021 the Resolution No. 13P-46-(7.1.2) of the Judicial Council of 25 May 2018 "On Approval of the Description of the Procedure for the Use of Technical Means during the Announcement of a Judgment" was amended by supplementing it with the provisions detailing the rules on publicity in court proceedings; also, regulations related to ensuring the publicity of court proceedings were established: the procedure for submitting and examining a request to a court by a person willing to observe a public remote court hearing was established, the essential aspects of practical implementation was defined (by supplementing them, *inter alia*, with more modern solutions), which may be relevant for the uniform organisation of the court activities, enabling individuals to observe public hearings at a distance, and for informing the public.

Implementing these legal requirements, on 28 February 2022 certain updates have been implemented in LITEKO: when a court staff enters data about newly scheduled hearings into LITEKO, the attribute "Remote" can be selected. On the website https://www.teismai.lt/lt, in the "Public schedule search" section, information about the court hearing has been added with a new "Remote" section, and next to a publicly announced court hearing with the corresponding attribute, it is possible to select the "Register" function.

After the interested person selects this function, LITEKO provides a data entry form, in which, after specifying the data provided for in the aforementioned legal acts, the system automatically forms a request in the approved form, which is submitted to the court where the case is being heard via court's general e-mail address.

In addition, interested persons who have completed the request form published on the website can submit it to the court in other ways: by using LITEKO Public Electronic Services subsystem as well as by delivering it to the court physically. Also, a request might be filed in court.

The request is registered according to the procedure established by the court and transferred to the judge (judicial panel) hearing the case. The person who has submitted the request is informed about the decisions made as well as about technological possibilities created (at the same time the person is informed about the prohibition of disclosing personal data that becomes public through the court hearing and other duties established in the legal acts and responsibilities for not complying with them). In addition, this information is explained before the start of the court hearing when the court staff responsible for organizing the court hearing check whether the person who has submitted the request

[18] The Resolution is available on the link: https://www.e-tar.lt/portal/lt/legalAct/36a90bb0630411eca9ac839120d251c4

has arrived or joined to observe the public court hearing and whether there are no legal obstacles to allowing the person to observe the public court hearing.

As the migrant crisis continues, the Judicial Council and the National Courts Administration continue to cooperate with the Migration Department under the Ministry of the Interior of the Republic of Lithuania and the State Border Guard Service. During the meetings of these institutions, the issues concerning work organisation and judicial practice are discussed.

- **The Raad voor de Rechtspraak of the Netherlands**, reported as follows:

  General: The relationship between the Council with the other state powers is generally to be described as good in the Netherlands. One of the Councils tasks is to give legislative advice to the government and the Council is considered as a serious partner in that. The Council defends the democratic rule of law and appeals to the other state powers when this is at stake.

  Childcare allowance case: 2021 was the year of the childcare allowance affair. It came out that over the years thousands of parents were unjustly accused of fraud, causing many families to go into debt by ordering them to repay childcare allowances. In this case government, parliament as well as the Judiciary were criticized to uphold a system in which laws and judgments were too strict for citizens to achieve justice. In reaction a working group of Dutch administrative judges has reflected on the affair in a report (only in Dutch). One of the conclusions is that when a judge from second instance interprets the law in a certain way, the judges of lower instances should feel more free to go against this when legal protection is in jeopardy. In order to avoid injustice in the future legal protection of citizens should be more important than unity of law and legal certainty according to the working group. In 2022 family law judges started a reflection process as well. As it was speculated that one of the effects of the child care allowance affaire might have been the out-of-home placement of children. The report on this matter will be published at the beginning 2023.

  Constitutional review: The Council was requested by Minister of the Interior and Kingdom Relations and the Minister for Legal Protection to formulate an opinion on constitutional review. The Netherlands is currently one of the few countries in the world that prohibits constitutional review. In April 2022 the Council submitted its opinion, favouring a decentralised constitutional review which means each individual judge has the authority/jurisdiction to conduct a constitutional review.

  Financing of the judiciary: The budget for the judiciary for the upcoming three years was announced medio 2022. The judiciary will receive about 1 billion euros per year. In comparison with the previous years, it will get 155 million euros extra per year. This is the result of the negotiations between the Council for the Judiciary and the Minister for Legal Protection. The extra money is intended for, among other things, extra judges, investments in digitisation and innovation, and cases related to subversive crime.

  Continued dialogue between the three state powers: The Council for the Judiciary finds it important to have a continued dialogue between the three state powers regarding, among other things, any threats to the rule of law or disbalance in separation of powers. It believes that such a dialogue will contribute to an efficient cooperation between the state powers making them act in the perspective of a common interest: a strong rule of law for a dynamic society.

- **Conselho Superior da Magistratura of Portugal** stated the following:

  During 2022 the JHC kept a very high level of institutional cooperation, collaborating with the Government and Parliament whenever called upon to do so, in particular by issuing opinions on legal diplomas relating to judicial organization and on matters relating to the administration of justice.

  However, some important aspects need to be improved, and these are dependent on the Government's action:

  - The approval of the revision proposal presented by the Judicial High Council to the Ministry of Justice of Law no. 36/2007, of 14 August, which adopts the organization and functioning regime of the Judicial High Council. The Law no. 36/2007 is misadjusted to reality, given the amendments to the composition, operation and competences of the JHC as the management body of the courts. It has become imperative to realign the organization and operation of the JHC with Law no. 67/2019, of 27 August, which approved the amendments to the Statute of Judicial Magistrates, with effect from 1 January 2020. It should be noted that there was an interregnum as a result of the dissolution of Parliament on 5 December 2022, with a new Government taking office on 30 March 2022. Since then there have been no further developments, despite contacts made by the JHC.

  - The financing system of the courts and of the Judicial High Council, namely with the process of allocation of budgetary credits, whose amounts have systematically proved to be lower than the needs, ultimately conditioning the Courts and the Council activity.

  - The number of judicial officers in the current system is extraordinarily low in relation to the existing volume of service, with the aggravating factor that the average age of the officers is over 50 years old. The government's initiatives to address this issue have proved to be insufficient.

  -The difficulties related to equipment, where, for example, the delay in the preparation and installation in the courts of internet network structures compatible with the mass use of electronic transmissions is worrying.

  - The degradation of much of the justice system's buildings, which requires urgent intervention. Many courts are operating in undignified buildings or in provisional facilities, without the minimum conditions for those who work there.

  The problem of the ownership and control of the digital platform for the electronic management and processing of legal proceedings in the judiciary also needs to be addressed. This platform (which houses all the procedural data of the judicial courts) continues to be owned and controlled exclusively by the Ministry of Justice, a situation that conflicts with the principles of separation of powers and independence of the judiciary.

- **The Superior Council of Magistracy of Romania** stressed the following:

  During 2022, as well, the Superior Council of Magistracy was actively involved in matters concerning the judicial authority, in accordance with the regulations concerning the judiciary and in direct cooperation with the other powers envisaged by the rule of law.
  The relations of the Superior Council of Magistracy with the Romanian Parliament have mainly resulted in issuing opinions/endorsements on legislative proposals that were in the procedure of parliamentary debate and in issuing/expressing certain opinions/points of view on a number of legislative proposals, both by the Plenum and through the specialized committees.

It is also worth mentioning the participation of some representatives of the Council in the meetings of the specialized commissions of the two chambers of the Parliament where the normative acts concerning the judiciary were discussed, as well as in the meetings of the Joint Special Committee of the Chamber of Deputies and of the Senate for the examination of legislative initiatives in the field of justice, established by Decision No 22/2022 of the Romanian Parliament.

As regards the relations of the Superior Council of Magistracy with the executive power, it must be highlighted the cooperation with the Ministry of Justice from the perspective of the legislative process, collaboration where the Council exercised its powers in terms of endorsements/issuing opinions on normative acts concerning the activity of the judicial authority, provided for in Article 38(3) of Law No 317/2004, republished, as subsequently amended and supplemented (Article 39(3) of Law No 305/2022 on the Superior Council of Magistracy).

Another important component of these relations concerns the referrals sent to the Ministry of Justice through the Plenum or through its specialized committees, in the context of the cooperation between these institutions and of the need to ensure the proper functioning of the judicial authority. Moreover, at the request of the Ministry of Justice, the specialized commission of the Superior Council of Magistracy has sent a number of points of view on adopting, amending or supplementing some/several normative acts.

Regarding the collaboration with the executive power, the Superior Council of Magistracy has also issued/expressed points of view at the request of several ministries (other than the Ministry of Justice) or of other public authorities.

Last but not least, there should be mentioned the participation of the Council's representatives in the activities of the various inter-institutional working groups set up at the level of the Superior Council of Magistracy, the Ministry of Justice or, where appropriate, at the level of other institutions, on issues relating to the judiciary. Also, representatives of the Superior Council of Magistracy have participated in several working meetings organized by the Ministry of Justice.

As regards the relationship of the Superior Council of Magistracy with the President of Romania, this falls under the provisions of Article 134 of the Romanian Constitution, republished, of the Law No 317/2004 on the Superior Council of Magistracy, republished, as subsequently amended and supplemented, and of the Law No 303/2004 on the status of judges and prosecutors, republished, as subsequently amended and supplemented. Thus, the decisions of the Sections of the Superior Council of Magistracy on the proposals for appointment to and release from the positions of judge and prosecutor were submitted to the President of Romania.

Some relevant aspects should be mentioned in this context about the Project on "TAEJ-Transparency, Accessibility and Legal Education by improving public communication at the level of the judiciary" (SIPOCA code 454/code MySMIS 118765), financed under the Operational Programme Administrative Capacity, implemented by the Superior Council of Magistracy in partnership with the National Institute of Magistracy, National School of Clerks, Ministry of Justice, the Judicial Inspection and the Prosecutor's Office attached to the High Court of Cassation and Justice, whose general objective is to improve and uniformly address public communication at the level of the judiciary in order to strengthen its image, ensure greater transparency inside and outside the system, as well as improve access to justice by increasing information, raising awareness of citizens' rights and developing legal/judicial culture.

With reference to the outcome proposed in the project, on the transparency and clarification of the relationship of the judiciary with the executive and legislative power, including in the light of the recommendation of the European Commission, in order to ensure clear prerequisites for mutual respect among institutions and respect for the independence of the judiciary, steps were continued for the bilateral approval of the Guide on good practices in the relationship of the judiciary with the

executive and the Guide on good practices in the relationship of the judiciary with the legislative power, with conferences to disseminate these deliverables to be organized in 2023.

With regard to possible challenges to the independence of the judiciary, it should be noted that in 2022 there was no request/referral to defend the independence of the judicial authority as a whole, and no concrete situation was brought before the Council on the existence of an impairment of the independence of the judiciary.

At the same time, the Section for Judges admitted a single request to defend the independence, impartiality and professional reputation of a judge, but the established factual situation did not concern a possible interference of the other powers of the state in the judicial activity, the judge concerned being dissatisfied with the injurious statements of a lawyer.

- **Sudna Rada, the Judicial Council of Slovakia** underlined that The Judicial Council of the Slovak republic has standard relations with other State powers within the exercise of its constitutional powers and statutory powers (regulated in the Act No. 185/2002 on Judicial Council of the Slovak republic, Act No. 385/2000 on the Judges and Lay Judges and Act No. 757/2004 on Courts).

  There are not any challenges coming from the legislative and executive branch to independence of the judiciary.

- **Sodni Svet, the Judicial Council of Slovenia** stressed the following:

  Systemic incomparability in salaries of judges to those of officeholders in the other two branches of government, and within the public sector as a whole, continues to be the most pressing issue related to judicial independence. Since 2018 and together with the Supreme Court of the Republic of Slovenia,

  the Judicial Council has been supporting the Slovenian Judges' Association’s efforts to redress the pay disparities, but to no avail. As these efforts have so far been unsuccessful, the situation of judges has only worsened; to the point of violating the principle of separation of powers, the principle of independence of judges and the principle of equality, and thus the principle of the rule of law. Therefore in 2021, the Judicial Council lodged a request for the review of constitutionality of legislation governing judges' salaries, in particular the Public Sector Salary System Act. In 2022, the Judicial Council lodged an additional request for a review of constitutionality relating to several articles of the Fiscal Balance Act, governing the reimbursement of expenses relating to work and certain other emoluments of judges. The requests have not yet been decided upon.

  Nonetheless, these efforts were immediately brought before the newly established Government. The Judicial Council organized meetings with the Minister of Justice and the President of the National Assembly. Also, a discussion with the President of the Supreme Court was held. Both the Minister of Justice and the President of the National Assembly expressed their support for the Judicial Council’s efforts. But apart from the promise of future deliberations, nothing has been done, much to the discomfort of the judges. The drafting of legislation to regulate the status of judges has again been pushed back well into next year, although Slovenian Judges' Association, the Supreme Court and the Judicial Council have always been clear that the elimination of pay disparities should be immediate and made specific proposals to regularise the situation at least temporarily.

Additionally, the Judicial Council has submitted other requests for a review of the constitutionality of laws affecting the status of judges. The requests listed below were submitted to the Constitutional Court in 2021 and have not yet been resolved, even though they continue to affect the principle of

independence. The first request relates to Article 16(4) of the Public Sector Salary System Act, according to which judges are being treated unequally with regard to the deferred effect of the acquisition of the right to a higher salary on the basis of promotion.

The second request relates to Article 71 of the Courts Act which regulates the manner, procedure, and conditions for the assignment of judges to specific areas or sub-areas of law by means of an annual work schedule adopted by the President of the Court. Based on this provision of the law, judges are also assigned to different judicial posts in different courts. The assignment of judges, which gives effect to this article, is a matter of judicial administration. The Judicial Council considers that the provision of this article does not contain constitutionally consistent rules and restrictions, which in turn allows for constitutionally impermissible interference with judicial independence.

In January 2021, the Constitutional Court declared the Parliamentary Inquiries Act and the Rules of Procedure on Parliamentary Inquiry to be incompatible with the principle of judicial independence since the legislature failed to regulate the legal protection of judicial independence in the framework of the procedure for ordering parliamentary inquiries. It required the National Assembly to remedy the established unconstitutionality within one year following the publication of its decision in the Official Gazette of the Republic of Slovenia. Although it is now approaching the second year since the publication of this decision the unconstitutionality has not yet been remedied. It should be noted as well, that the 2022 Rule of Law report recommended to Slovenia to ensure that rules on parliamentary inquiries contain adequate safeguards for independence of judges (and state prosecutors), taking into account European standards on judicial independence.

- **The General Council for the Judiciary of Spain (CGPJ)** informed that in Spain, the **independence of the Judiciary is guaranteed by sufficient means of control of legality**, in order to guarantee the same. There has not been any judicial or sanctioning pronouncement in which the violation or disturbing attempt against the judicial independence or against any Judge or Magistrate in particular has been found to have undermined their independence.

  However, the renewal of the CGPJ is essential, since the current situation of an expired mandate after more than four years may affect the public perception of a lack of independence of the judiciary.

  On the other hand, **in recent months there have been disqualifications of the Judiciary by political leaders**, including some members of the Government, both as a result of the appointment process of the judges of the TC, as well as on the occasion of the application of a law reforming the Penal Code concerning crimes against sexual freedom.

  From 1978 onwards, and throughout the nine years in which this Council has exercised its functions, and also during the year 2022, **important legal reforms affecting the judiciary were not submitted to the opinion of the CGPJ**, since the Organic Law of the Judiciary establishes that only in the case of draft laws is there an obligation to request this opinion if the project is promoted by the executive, but not if the initiative or legal proposal comes from the Parliamentary Groups or from the Parliament itself. This was the case, for example, of the organic laws 5/2022, of June 28 and 8/2022, of July 27, which reformed the LOPJ or the Organic Law proposal of transposition of European directives and other provisions for the adaptation of the criminal legislation to the EU order and reform of the crimes against moral integrity, public disorder and smuggling of dual-use weapons. The CGPJ is also not obliged to be consulted on reforms established by royal decree-laws or amendments introduced in the Senate during the legislative procedure.

However, it should be noted that this practice is not new. Important reforms of the Judiciary, such as the very broad reform of Organic Law 4/2018 that affected the very structure and functioning, as well as the Statute of the Members of the CGPJ, were not submitted to the opinion of the Council. This situation has been repeated since 1978 and more specifically, throughout the last ten years, regardless of the existing Government at any given time.

3. Rule of law recommendations/challenges identified in the 2022 report

- To answer the question **Conseil Supérieur de la Justice/ Hoge Raad voor de Justitie** and **Teisėjų Taryba/The Judicial Council** refers to their respective answers to the previous questions.

- **The Supreme Judicial Council of Bulgaria** has already received a request for information from the Ministry of Justice and has presented its input on the actions taken, the progress made and the development of the topics covered by the relevant country chapters of the European Commission Rule of Law Report, as well as on other significant changes that occurred after January 2022.

- The 2022 Rule of Law Report recommended, in relation to the **Finish National Court Administration** "*Continue developing initiatives by the National Courts Administration to support the work of courts*." The NCA has continued its work.

  However, the level of funding of the judiciary (including NCA) is a challenge. This is also noted in the Report on the operational conditions "oikeudenhoidon selonteko" which was published on 17 November 2022. It was issued by the Government and addresses to the Parliament. The need to increase the funding of the courts to a sufficient level was one of the core messages of the Report. The NCA has participated in the making of this report. The effect remains to be seen.

- **The Conseil Supérieur de la Magistrature of France** reported that the Council has no jurisdictional competence and no direct competence in the implementation of public policies, including in the field of justice.

  Thus, of the recommendations resulting from the Rule of Law report, the last three do not fall within its competence at all (fight against corruption, rules on lobbying activities, media organisation) and on the first two (digitisation of procedures and HR), the Council remains very vigilant on these issues, the second being particularly at the centre of its actions and thoughts. Thus, in this area, the Council maintains close contact with the Minister of Justice and makes maximum use of its prerogatives in issuing its assent (or non-assent) or favourable (or unfavourable) opinions, in the appointment of magistrates.

- **The Judicial Council of Latvia** recalled the recommendation made in the 2022 Rule of Law report:

  Initiate a process in view of ensuring adequate safeguards against undue political influence in the appointment of Supreme Court judges, taking into account European standards on judicial appointments.

  Since the publication of the Rule of Law report the new Saeima elections were held. Therefore, the discussions about the challenges and solutions in order to strengthen the independence of judiciary have been developed since the start of the work of new Saeima members and Cabinet of Ministers.

The new paradigm of the Minister of Justice Inese Lībiņa – Egnere gives a good ground for positive future solutions and development of independence of judiciary. The issue of the appointment procedure of Supreme Court judges is one of the topics seriously taken into account.

- The **Raad voor de Rechtspraak of the Netherlands** reported that the appointment procedure of members of the board of the courts has been altered. Discussions about the appointment procedure of the Members of the Council are still ongoing.

- **Conselho Superior da Magistratura of Portugal** reported the following:

I - Recruitment of technical advisers for Court Offices.

As mentioned in the previous report, on 22 October 2021, the JHC opened a new competition to fill 30 vacancies for advisors, to exercise functions in the Support Offices for Judicial Magistrates of the Courts of First Instance, aimed primarily at candidates with degrees in Accounting or Finance or Economics, despite the existence of four vacancies for holders of a degree in Psychology and two vacancies for law graduates.

The competition procedure was finalised in March 2022, resulting in the admission of 6 advisors. Also in this competition, most of the candidates did not meet the requirements for the performance of the desired functions, resulting in the admission of fewer advisors than the number of vacancies available.

Meanwhile, on 27 May 2022, a new competition to fill the remaining 24 adviser vacancies was opened and is expected to be completed by the end of the first quarter of 2023. Following consultations with the Presidencies of the First Instance Courts still awaiting the placement of assessors, further vacancies have been reserved for law graduates. The procedure is expected to be completed by the end of the first quarter of 2023.

The difficulty in recruiting the number of advisers foreseen is largely due to the applicable legal framework, which greatly limits the universe of candidates eligible for competition and makes the function unattractive, since:

- Recruitment must be from among workers with a public employment contract appointed for an indefinite period and who have at least four years of professional experience in the respective career.
- The function does not correspond to a career position, but is exercised in a commissioned service regime, for three years, renewable for the same period only once.
- The salary corresponds to a fixed salary corresponding to the 4th salary position in the general career of senior technician, level 23 of the Single Remuneration Table, which corresponds to a basic remuneration of 1,632.82€ (one thousand, six hundred and thirty-two euros and eighty-two cents), without prejudice to the application of the general rule of option for the remuneration held in the position of origin.

II – Provisions on judicial impediments

It is worth noting, as positive, the reversal of the new grounds for judicial impediments established by Law 94/2021, which led the Parliament, on 1 August 2022, to amend Article 40 of the Code of

Criminal Procedure and other clearly inadequate legal provisions, thereby avoiding serious entropies in criminal jurisdiction.

- **The Superior Council of Magistracy of Romania** informed that in the 2022 EC Rule of Law Report — Chapter on the rule of law situation in Romania, one of the recommendations aimed to ensure that the review of the justice laws strengthens the guarantees of judicial independence, including as regards the reform of the disciplinary regime for magistrates, and to take action to address outstanding issues related to the investigation and prosecution of criminal offences in the judiciary, taking into account European standards and relevant opinions of the Venice Commission.

  In this respect, we would point out that on March 11th, 2022 the Law No 49/2022 on the dismantling the Section for Investigating the Criminal Offences within the Judiciary, as well as amending Law No 135/2010 on the Code of Criminal Procedure was published in the Official Gazette of Romania, Part I, No 244/2022. Prior to the adoption of this law, the draft legislative act was submitted for approval to the Superior Council of Magistracy, being endorsed, by the Decision No 1/2022 of the Plenum of the Superior Council of Magistracy.

  Also, on 16.11.2022 the new 'Justice Laws' were published in the Official Gazette of Romania, Part I, No 1102, No 1104 and No 1105, namely Law No 303/2022 on the status of judges and prosecutors, Law No 304/2022 on judicial organization and Law No 305/2022 on the Superior Council of Magistracy. These laws entered into force on 16.12.2022.

  Prior to the parliamentary procedure, by Decision No 115/2022 the Plenum of the Superior Council of Magistracy approved the draft law on the status of judges and prosecutors, as well as the draft law on judicial organization and the draft law on the Superior Council of Magistracy, with the observations set out in the annex which forms an integral part of this decision.

  As mentioned above, the meetings of the Joint Special Committee of the Chamber of Deputies and the of the Senate for the examination of legislative initiatives in the field of justice, established by Decision No 22/2022 of the Romanian Parliament, were also attended by representatives of the Superior Council of Magistracy.

  The 3 normative acts were subject to the a priori constitutional review, the objections of unconstitutionality being rejected by the Constitutional Court by Decisions No 520/2022 and No 521/2022 (published in the Official Gazette of Romania, Part I, No 1100 of 15.11.2022) and Decisions No 522/2022, No 523/2022, No 524/2022 and No 525/2022 (published in the Official Gazette of Romania, Part I, No 1101 of 15.11.2022).

- **Sudna Rada, the Judicial Council of Slovakia** stressed the following:

  Recommendations in the Rule of Law report 2022:

  Ensure that the members of the Judicial Council are subject to sufficient guarantees of independence as regards their dismissal, taking into account European standards on independence of Judicial Councils.

  For time being there is within the National Council of the Slovak Republic the amendment to the Constitution according to which members can be removed from their offices only on the basis of legally defined reasons. It is only proposal, prepared by the MPs of the ruling coalition parties.

  What will be the result of this legislative iniciative is unclear because the legislative process has been only recently started (January 2023)

  Ensure that sufficient safeguards are in place and duly observed when subjecting judges to criminal liability for the crime of "abuse of law" as regards their judicial decisions.

There are some safeguards in place. The power of the Judicial Coucnil to refuse approval of the charge of a judge for bending the law. Second mesure for protecting the judge is Article 363 of the Criminal Procedural Code according to which the General Prosecutor is empowered to anull the charge of a judge if before charging him investigators or prosecutors have breached legality of criminal proceedings. Finally, whether a judge has or has not committed the crime of bending the law can be decided only by the independent judiciary.

In spite of these guarantees The Judicial Council has several time persisted for repealing the crime concerning bending of the law.

- **Sodni svet, the Judicial Council of Slovenia** acknowledged that concerning the Judicial Council, the 2022 Rule of Law report recommended to Slovenia to ensure requisite safeguards for budgetary autonomy of the independent bodies.

  The 2022 budget rebalancing adopted at the end of 2021, which was proposed by the Government and accepted by the National Assembly, significantly reduced the funding for the Judicial Council's operations in 2022. The additional recruitments, planned for by the National Council's staffing plan, could therefore not be implemented. Also, the Judicial Council had to find an alternative solution for the payment of its seconded judges, whose working expenses were to be covered by the Judicial Council from 2022 onward. However, in Autumn 2022 the Government proposed amendments to the 2023 budget. More funds were allocated to the Judicial Council than in the previous year, complementary to the Council's proposal. The National Assembly accepted the proposed amendments in November 2022, which suggests that the Judicial Council should be able to organize its work and implement its decisions.

- **The General Council for the Judiciary of Spain (CGPJ)** recalled that in the **2022 RoL Report** the European Commission recommended Spain to "proceed with the renewal of the Council for the Judiciary as a matter of priority and initiate, immediately after the renewal, a process in view of adapting the appointment of its judges-members, taking into account European standards". None of these recommendations have been implemented.

  In relation to the **renewal of the CGPJ**, it should be noted that following the resignation of the President of the Supreme Court and the CGPJ on October 12, 2022, talks were resumed between the two representatives of the majority parliamentary groups to try to reach an agreement that would allow such renewal. However, negotiations broke down on October 27.

  As the Council is currently unable to appoint a new president and, moreover, since October 2019 the position of vice-president has been vacant, the Plenary at its meeting of October 13, 2022 agreed that the oldest member would preside over the Council, by substitution. The Supreme Court (hereinafter SC) is currently presided over by the oldest Chamber President in accordance with the provisions of Article 208.1 of Organic Law 6/1985, of July 1, 1985, on the Judiciary (hereinafter LOPJ).

  With regard to the **reform of the system of election of the judicial members of the CGPJ**, on December 30, 2022, the popular parliamentary group in the Congress has presented an organic bill regarding the amendment of the LOPJ to change the model of election of the members of the CGPJ and the strengthening of judicial independence.

  This proposal proposes a return to the system of election of the 12 members of the CGPJ by the judges.

The Spanish Minister of Justice stated in her appearance before the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, in its session of January 12 of this year, her rejection of this modification in the terms in which it is proposed, defending the current Spanish legal model, which has been in force for more than thirty-seven years.

There are also other legislative initiatives being processed in Parliament on the election model and unblocking the renewal of the CGPJ, presented by the Socialist and Podemos Groups, and Más País and Equo, among other groups, which means that this issue will be part of the debates in the Spanish Parliament throughout this year.