



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

# Annual Report 2016 - 2017



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THE ENCJ ANNUAL REPORT COVERS THE ACTIVITIES FROM JULY 2016 TO JUNE 2017

## WORD FROM THE PRESIDENT

**DEAR READER,**

*The Rule of Law is at the core of the European Union. It is one of the fundamental values upon which the EU is founded, together with democracy and fundamental rights. More than ever before, the ENCJ has felt the need to speak out in public to reiterate these common shared values in the past year.*

*Developments across Europe, but in particular in Turkey and Poland, have dominated the ENCJ agenda and will most probably continue to do so in the months to come.*

*I believe the ENCJ has and will come out of this as a stronger organisation. I full heartedly support the following words of one of my predecessors, Lord Justice of England and Wales, Sir John Thomas, in his address to the ENCJ General Assembly in Paris in June 2016:*

*“Councils for the Judiciary should support any judiciary that is under severe attack, as the ENCJ has done in the cases of Poland and Turkey. It is important that Councils for the Judiciary in other states do what they can to influence their executives and legislatures to support the action they are taking. Judiciaries need to support each other.”*

*Europe needs independent judges, Europe needs resilient justice systems, that can withstand external pressure on the one hand, but that have the ability to adjust to the changing needs of society, on the other. Councils for the Judiciary have a pivotal task in letting society know that judges play a key role in the defence of democracy, fundamental rights and the Rule of Law.*

*It is with great pleasure that I present to you the 2016-2017 ENCJ report.*

**Nuria Díaz Abad**

**President of the ENCJ**



## ENCJ ACTIVITIES

### General Assembly

#### 1.1 General Assembly Paris 7-9 June 2017



The 2017 General Assembly took place in the Cour de Cassation in Paris from 7-9 June 2017. The central theme of resilient justice was discussed and the Paris declaration was adopted. In it the ENCJ calls upon the European Institutions and Member States to guarantee judicial independence in accordance with the Rule of Law, and, furthermore, it calls upon Councils for the Judiciary and Judges at all times to be resilient in the face of the challenges which face them. The Lord Chief Justice of England and Wales and former ENCJ President Lord John Thomas addressed the assembly. His central message was that it is absolutely central that the judiciary stand up and be resilient in fighting for justice itself. The judiciary has to be ready to defend the rule of law and the independence of the judiciary. Two guest speakers looked at the resilience of the judiciary when faced with pressure from the media and from the other state powers.

The General Assembly also adopted the ENCJ Strategic plan 2018-2021. The amended ENCJ Vision is as follows

The ENCJ will be:

A unique body representing the judicial perspective to European Institutions;

The center of a vibrant forum for the judiciary across Europe;

The main support for independent Councils for the Judiciary in their mission to promote and preserve an independent, accountable and high quality judiciary.

All to enable the judiciary to optimize the timely, impartial, and effective delivery of justice for the benefit of all.

For the next years the ENCJ has set three strategic objectives to be achieved



## 1.2 Extraordinary General Assembly The Hague 8 December 2016

An extraordinary meeting of the General Assembly took place on 8 December 2016 in The Hague to discuss and decide on the position of the Turkish High Council for Judges and Prosecutors (HSYK) in the ENCJ. The HSYK took the opportunity to explain their actions at the meeting.

The General Assembly issued a statement that it is no part of the function of the ENCJ to take a position on the internal political situation in Turkey. However, taking into account the failure of the HSYK to satisfy the ENCJ that its standards had been complied with, the statements of the HSYK, as well as information from other sources including the reports and statements of the European Parliament, the

European Commission, the Human Rights Commissioner of the Council of Europe and Human Rights Watch and the Venice Commission, the ENCJ decided that the actions and decisions of the HSYK, and therefore the HSYK as an institution could not be seen to be in compliance with European Standards for Councils for the Judiciary. Therefore, the HSYK did not comply with the ENCJ Statutes and was no longer an institution which is independent of the executive and legislature ensuring the final responsibility for the support of the judiciary in the independent delivery of justice.

The General Assembly accordingly resolved to suspend, with no Council voting against, the observer status of the HSYK. Therefore, the HSYK is, for the time being, excluded from participation in ENCJ activities. The ENCJ also stated that it is however open to staying in contact with the HSYK and is prepared to offer its assistance and guidance in setting out and compliance with the European Standards for Councils for the Judiciary.

## Executive Board

### 2.1. Meetings

The Executive Board met in July and November 2016 and an informal meeting took place in September 2016 in Rome on the first day of the Joint Meeting. In 2017, the Board met twice on 13th February and 8th May. Written reports of most of the meetings were sent to the Members and Observers of the Association.

### 2.2 Results

#### Partnership agreement and Operating Grant

The Partnership Agreement providing a financial framework between the ENCJ and the European Commission for 2015-2017 was signed in June 2015. The ENCJ has been awarded a subvention for 2017.



## **Relations with the Members and Observers**

The past year the Board has had to deal with the developments in Turkey and later in the year with Poland. With a view to current developments in Europe and beyond, the Board decided to issue the following statement on 25 March 2017, the day that the EU celebrates the 60th anniversary of the signing of the Treaty of Rome.

*“On the day that the European Union is celebrating the 60th anniversary of the signing of the Treaties of Rome, the ENCJ, which unites the Councils for the Judiciary and similar autonomous bodies from the EU Members States, would like to reiterate the following*

*The rule of law is at the core of the European Union. It is one of the fundamental values upon which the EU is founded, together with democracy and fundamental rights. These common values have been debated and settled in legislations and laws, enabling peaceful cooperation for the last 60 years. Respect for the rule of law is a prerequisite for the protection of all fundamental values listed in the Treaties, including democracy and fundamental rights.*

*To uphold and protect the rule of law is a responsibility for both the judiciary and other state powers. The ENCJ calls on the Member States to respect fair and impartial courts, as the key institutions of an independent judiciary. For the effective implementation of the rule of law, independent and accountable justice systems are needed.*

*The ENCJ strongly believes that today the network is of vital importance to the further development of judiciaries in Europe. The ENCJ will continue its efforts to promote effective judicial systems in terms of efficiency, quality, independence and accountability for the benefit of all.”*

## **Poland**

The Board also followed developments in Poland closely. The President was invited to address a conference in Warsaw in September 2016, which brought together Polish judges. In January 2017, the Board received a request for co-operation and it drafted an opinion on the draft-legislation on the reform of the Polish National Judicial Council.

On March the Presidents of the ENCJ, the Network of Presidents of the Supreme Courts of the EU and the Association of Councils of State and Supreme Administrative Jurisdictions (ACA-Europe) were invited for a meeting with the First Vice-President of the European Commission, Mr. Frans

Timmermans. The aim of the meeting was to discuss the situation in Poland with regard to the Rule of Law. The networks expressed their solidarity with the Polish judicial authorities and offered their support to the European Commission in its efforts to uphold the Rule of Law and promote fair and impartial courts for the benefit of all.

An ENCJ delegation met a group of representatives of the Polish judiciary in April 2017 and was informed about the ongoing reform of the judiciary by the governing party. After hearing about the legislation under consideration and the reports of regular attacks upon the judiciary in the media by the executive and intimidation of individual judges, the Board published an additional statement expressing its grave concern about the developments.

Almost all ENCJ Members endorsed the statement of the Board and issued their own statement expressing concern about the planned judicial reform and its potential effects on the independence of the judiciary.

The President of the ENCJ attended the lawyers conference in Katowice on 2 May 2017 to express ENCJ's solidarity with the Polish legal professions. Over a 100 lawyers and judges gathered for a congress to discuss the reform of the judiciary and the state of the rule of law in Poland. The congress was organised by the Association of Polish Judges Iustitia, the Supreme Bar Council and the National Council of Legal Advisers. The President of the ENCJ Ms Nuria Diaz Abad addressed the audience and explained ENCJ's position and actions in relation to the planned judicial reform in Poland.

## **Turkey**

The Board continued its discussions with the Turkish High Council for Judges and Prosecutors on developments in Turkey. Immediately after the attempted coup in July when the first course of action of the High Council for Judges and Prosecutors was the suspension of more than 270 judges and prosecutors the ENCJ Board issued a statement. The board condemned the attempted coup in Turkey but also expressed its grave concern as that there was reason to believe that a further purge of the judiciary was taking place under the pretext of the failed coup attempt. The Board reiterated its call to the Turkish Authorities to respect fully the main principles that guarantee the independence of judges and the principles of due process for all those affected. The Board followed developments and attempted to stay in a dialogue with the Turkish Council. Eventually the Board felt that the only solution left was to propose to the General Assembly the suspension of the Observer Status of the High Council for Judges and Prosecutors of Turkey. The ENCJ also received many letters from individual

judges that were suspended, dismissed and detained. The ENCJ has kept in close contact with the European Commission (DG NEAR and the Cabinet of Commissioner Hahn) to monitor developments.

### **Other**

The Board was represented at conferences in Riga in the framework of the Project on Supreme Courts as guarantee for effectiveness of judicial systems in the European Union and in Slovakia for a conference marking the 15th anniversary of the Judicial Council.

### **Relations with EU, Council of Europe and partners**

#### **Relations with the European Commission**

A number of formal and informal meetings with European Commission representatives were held. Throughout the year there were informal contacts with the Commission in relation to the developments in Turkey and Poland.

On 19<sup>th</sup> September 2016, the ENCJ participated in an informal brainstorm session, which was organised and hosted by the European Commission. The session aimed to discuss the Quality and Independence of the Justice Systems. Besides the European Commissioner Ms. Vera Jourova and the staff of DG Justice, the participants were representatives of the three main judicial networks ENCJ, ACA- Europe (Councils of State) and the NPSJCEU (Presidents of the Supreme Courts).

The ENCJ was represented by the President Ms Nuria Diaz Abad, the former President Lord Justice Geoffrey Vos, Mr Damir Kontrec (State Judicial Council of Croatia) and Ms Monique van der Goes.



The discussion focused on the need to increase public confidence in a changing society. There was a particular focus on the EU Justice Scoreboard and the need to develop indicators for the Quality of Justice and to evaluate the effectiveness of the safeguards for the Independence of the Judiciary.

The discussions with the Commission on the further development of the Justice Scoreboard also continued with a focus on the use of the work done by the Network on the Independence Indicators and the Survey among judges. The ENCJ Members provided the relevant data for the 2017 Justice Scoreboard.

### **Relations with the European Parliament**

A telephone conference was held with MEP Int Veldt (LIBE committee) on the Pact on Democracy, Rule of Law and Fundamental Rights and the general state of the Rule of Law in Europe. The ENCJ expressed its concern and its willingness to work with the European Parliament on these issues.

On 22 June 2017 the President of the ENCJ was invited to address the interparliamentary LIBE meeting



with the national parliaments of the Member States on the EU Mechanism on Democracy, Rule of Law and Fundamental Rights. In her speech she reflected on the role of the national parliaments in safeguarding the independence of the judiciary.

### **Relations with CJEU**

In October 2016 the President and director of the ENCJ visited the Court of Justice of the European Union with the aim to strengthen the ties with the Court. The CJEU is officially an observer in the ENCJ Meetings took place with the President, Mr Koen Lenaerts, and with the registrar of the Court. The

main outcomes of the discussions were that a representative from the CJEU joined the project on Independence, Accountability and Quality of the Judiciary, the possibility for CJEU to send questionnaires to the ENCJ Members and Observers (CJEU used this instrument on the topic of broadcasting of court hearings) and the promotion of the use by national judges of the preliminary rulings.

## **The Fundamental Rights Agency**

On 17<sup>th</sup> March the President of the ENCJ, Nuria Daz Abad and the director of the ENCJ Office Monique van der Goes, had a meeting with the Director of the Fundamental Rights Agency of the European Union, Michael O'Flaherty, and with Jonas Grimheden of the Freedom and Justice Department.

The aim of the meeting was to search for synergies between the work of the two organisations and to discuss possible co-operation. Areas for cooperation identified during the meeting were; the Rule of Law, raising public awareness for fundamental rights including access to justice, in particular as regards disabled people, and enhancing the participation of the judiciary in the bi-annual Fundamental Rights Forum organised by the FRA.

## **Cooperation with the Council of Europe**

The ENCJ was represented at the meetings of the CCJE and the CEPEJ. The ENCJ kept the Venice Commission informed of its actions in relation to Turkey and Poland

## **Cooperation with EJTN (European Judicial Training Network)**

The ENCJ was represented at the EJTN General Assembly in Amsterdam in June 2016.

The cooperation with EJTN and the implementation of the blueprint for co-operation continued. The Board felt that an evaluation of the current co-operation is necessary as the current project where ENCJ is acting, as a training-provider does not fit the remit of ENCJ. Nonetheless, at an event in Rome on 15-16 May 2017 the ENCJ principles were introduced to the audience that consisted of court leaders.

## **European Law Institute (ELI)**

The joint project between ENCJ and ELI that was established to consider concerns that arise from the growth of different forms of alternative dispute resolution (ADR). There are many types of ADR, including mediation, early neutral evaluation, arbitration, online dispute resolution (ODR), and ombudsman determination, continued its work. The joint project team held meetings in September (Brussels) and May (Vienna). A consultation paper was produced within the framework of the project and has been sent to the ENCJ Members and other stakeholders for input.

The expected outcomes of the project at the end of 2017 are

1. A statement of European best practice in relation to the approach that courts and judges should adopt in interacting with all types of ADR processes.

2. A statement of European best practice in relation to the approach that those responsible for all types of ADR processes should adopt in interacting with courts and judges..
3. Recommendations as to the best European models that could be developed and applied for coherent access to DRPs in respect of different types of dispute, and towards which Member States might wish to progress.

### **Cooperation with CCBE (Council of Bars and Law Societies of Europe)**

The President and a Board representative attended the CCBE conference on innovation and the future of the legal profession in Paris on 21 October 2016. The President delivered an address on the future of Justice from the judicial perspective.

The ENCJ and the CCBE have taken the next step in the joint-project to take stock of the views of lawyers on the independence of the judges. The board has drafted and submitted a set of proposed questions, based on the survey among judges. The CCBE expects to run the survey in June 2017 and aims to present their findings in the autumn of 2017.

### **Contacts with other organisations**

#### **UNODC (United Nations Office on Drugs and Crime)**

The UNODC was invited to the meeting of the project on Independence, Accountability and Quality of the Judiciary to present a new initiative that they are launching. They are setting up a Global Integrity Network which aims to connect judges to support each other in upholding judicial integrity and preventing corruption within the justice system. By bringing together Chief Justices, members of judicial disciplinary bodies and judicial training institutions as well as other stakeholders inside and beyond the justice system from across the world, it will create the first ever, global platform dedicated exclusively to this issue. The network will be launched in August 2017.

#### **IEEE (European Expertise and Expert Institute )**

The attended the Board meeting in May to explain their work and future projects. Their aim is to analyse the role of expertise in contemporary society. They hope that the results of their work could be disseminated through the ENCJ.

### Project 1 Independence, Accountability and Quality of the Judiciary

#### **Project 1 Independence, Accountability and Quality of the Judiciary**

In 2013 the ENCJ started the first independence and accountability project. The project focused on the development of indicators for the independence and accountability of EU judiciaries and the development of an ENCJ vision on independence and accountability. Since then, the ENCJ has successfully developed a normative vision on the independence and accountability of the Judiciary and an analytical framework identifying the essential constituents of the (i) independence and (ii) accountability of the Judiciary.

A set of quantifiable indicators covering the essential constituents identified under the framework was developed, tested and applied in all judiciaries that participated in the project. At the General Assembly in Rome in 2014, it was noted that judges had never been asked how they perceive their own independence. This led to a blank spot in the indicators about subjective independence, and it was decided to develop and conduct a survey among European judges.

This survey was conducted in 2015, and results for indicators and survey were reported to the General Assembly in 2015. Data from the survey have been incorporated in the 2016 EU Justice Scoreboard ([Figure 57](#)). In addition a pilot dialogue group was conducted in which representatives of four judiciaries discussed the outcomes for their countries and developed ideas how to build on strengths and remedy weaknesses.

In the next year (2015/2016), the set of indicators and the survey were improved, making them ready for application in the following year. Also, four dialogue groups were held. In addition, the scope of the independence and accountability project was broadened by making a start with the development of indicators for the quality of justice.

Parallel indicators have been developed about the independence and accountability of the prosecutors in member states where the Councils for the Judiciary were responsible for prosecutors as well as judges.

Between September 2016 and June 2017, two broad topics have been addressed:

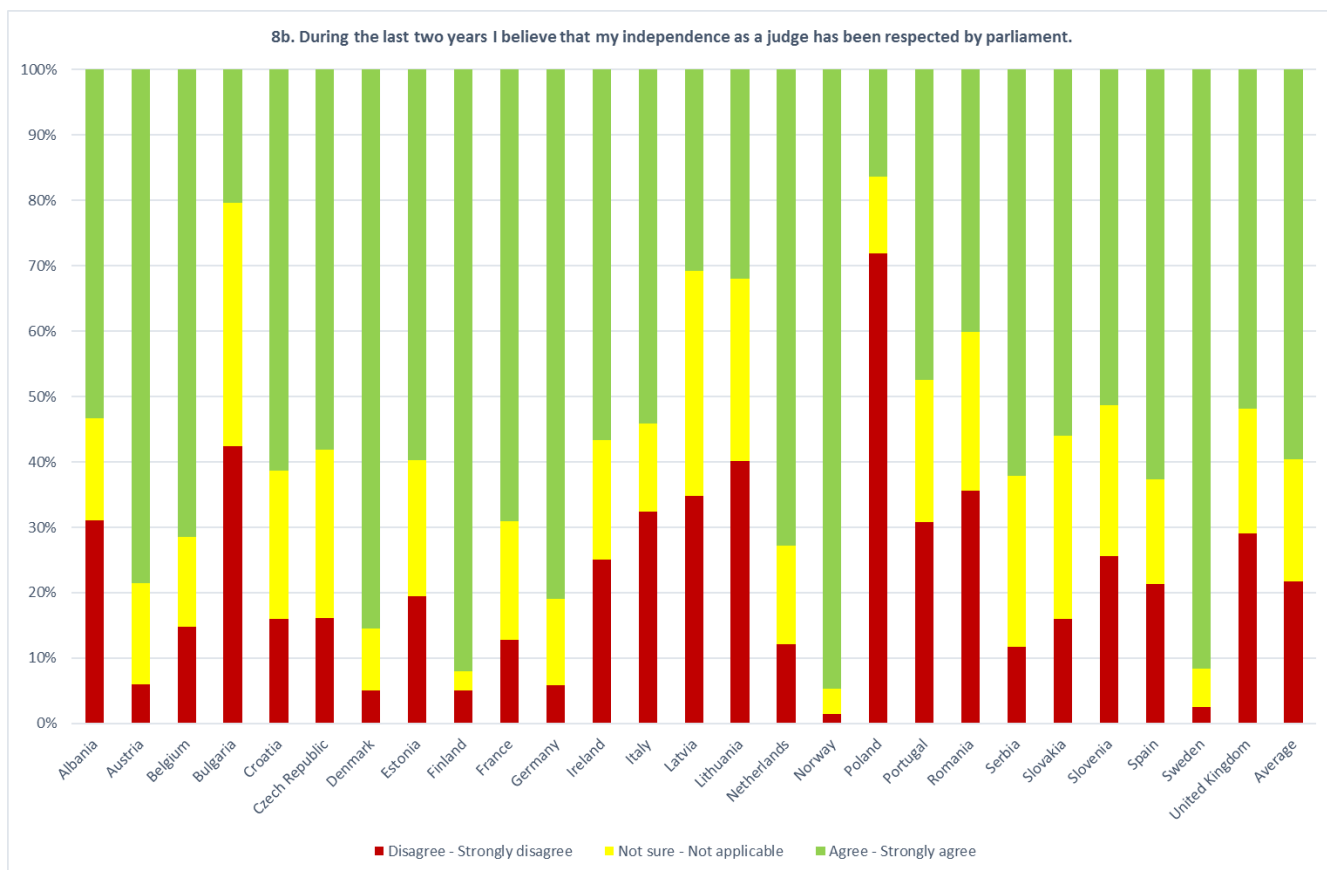
First, the improved set of indicators has been applied by 18 members and observers of the ENCJ, and also the improved survey among judges was held again. It was the second time that ENCJ gave judges in Europe the opportunity to express their opinion on their own independence. Austria, Croatia, the Czech Republic, Estonia, Finland, France and Germany joined the survey for the first time, leading to a total of 11.712 judges participating in the survey.

The second topic which has been worked on is the development of quality indicators, with a start being made to develop standards, guidelines and best practices based on these indicators. The project team has also considered how Councils for the Judiciary and equivalent bodies might evaluate the quality of decision-making. It should be noted that the work on quality is still in an explorative phase and results must be used with caution.

The application of the ENCJ Independence and Accountability indicators show that there is still room for improvement in this field. The perspective of court users is largely lacking, whilst the perception of corruption persists. Funding of the judiciary is generally not well arranged, and judiciaries are dependent on discretionary decisions by governments. Court management is still often in the hands - directly or indirectly - of Ministries of Justice. On a more positive note, judges are generally positive about their independence and in nearly all countries trust in the judiciary is higher than trust in the other state powers.

The 2016/2017 ENCJ survey among judges shows that, on average, judges rated their own independence as being 8.out of 1and the independence of judges generally in their own country as being 8.3. The survey also revealed a number of other important issues. These included a perception by judges across Europe that judges have been appointed and/or promoted on grounds other than on capacity and experience; a perception that judicial independence is not adequately respected by other state institutions; a perception that judges are under pressure from a media which similarly does not respect their independence; and, finally, a perception on the part of substantial number of judges that their Council lacks appropriate mechanisms and procedures to defend judicial independence effectively.





An example of one of the questions and results of the 2016-2017 ENCJ Survey among judges

## Project 2 ADR and the Judicial Domain

The idea for the Project resulted from the fact that there are a number of ongoing changes to the ways in which civil, family and even some administrative disputes and criminal cases are being resolved across the EU. The increasing caseload of traditional courts, rising costs of litigation, time delays, desire for confidentiality and the desire of parties to have greater control over the selection of the individual or individuals who will decide their dispute, contributed to the fact that many countries have started to consider alternative dispute resolution techniques (ADR). All of these developments call into question how the European dispute resolution scene is changing, and whether the changes are desirable. Moreover, they raise the issue whether the basic article 6 ECHR (right of the citizen to a fair trial) in such cases is respected.

The Project Team focused on the relationship and mutual interaction between court proceedings and ADR proceedings, conducted in the context of judicial proceedings in civil law cases. The work of the Project Team was not easy since the dimensions of the ADR (in the context of judicial proceedings) are still relatively unknown to the judiciaries in EU, although different ADR techniques are present in all participating countries.

The minimum standards that were identified as necessary for Court related ADR in civil proceedings are:

1. The basic procedural safeguards in Court related ADR in civil proceedings should provide, the right to an equal position/equality of arms; that the solution reached within the ADR proceeding is truly the reflection of real and true will of the participants; protection from disclosure of data revealed in ADR in further judicial proceeding; the principle of confidentiality.

2. In order to support the above mentioned procedural safeguards: Only those with training accredited by an appropriate professional body should be allowed to lead an ADR procedure. Appropriate training should be available to all judges to recognise the advantages and risks together with the potential need for ADR procedure.

3. A judge who has led an ADR procedure should not play the role of judge in the following trial, unless in accordance with the domestic law, both parties express the wish to continue to proceed with the same judge and the judge considers the circumstances of the case are such that it would be appropriate for him/her to do so, taking in to account the need for objective independence and impartiality.

4. Parties should be adequately informed with regard to the rules and procedures of ADR.<sup>5</sup>

Following the completion of an ADR procedure the settlement may, if approved by a Court, be formally enforced.<sup>6</sup> Parties should have the opportunity once the ADR is finalised, of reopening the case, but only in exceptional circumstances defined by domestic law. The minimum standards that were identified as necessary for Court related ADR in civil proceedings are:

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impartiality.

4. Parties should be adequately informed with regard to the rules and procedures of ADR.
5. Following the completion of an ADR procedure the settlement may, if approved by a Court, be formally enforced.
6. Parties should have the opportunity once the ADR is finalised, of reopening the case, but only in exceptional circumstances defined by domestic law.

### Project 3 Digital Justice Seminar

On 31 March the ENCJ organised a Digital Justice Seminar in the District Court of Amsterdam. The aim



of the meeting was to identify the role and position of Councils and/or the Judiciaries in the Digital Justice Age. In many countries the judiciaries are not, or not sufficiently involved in the development of new e-justice applications. Participants explored what the position of the judiciary is, or should be, in the whole digitisation process. The seminar also served to identify the ENCJ Strategy in this field.-

The programme was organised around discussions on 4 themes:



1. Access to Justice in a Digital Age --presentation Merit Kolvart, Ministry of Justice Estonia
2. Big Data --presentation Bart van der Sloot, Tilburg University
3. IT systems from being supportive to running the system
4. European e-Justice Strategy

### Project 4 Regional Timeliness Seminar

On 28-30 November 2016 ENCJ organised a regional Timeliness seminar in Madrid for the South Western countries. The seminar was the last in a series of 4 seminars. Participants came from the Judicial Councils and judicial authorities of France, Italy, Portugal and Spain. The CEPEJ and the European Commission also attended and addressed the participants. The meeting was chaired by ENCJ coordinator Mr Niels Grubbe of Denmark and hosted by the Spanish CGPJ.

The aim of the seminar was to increase awareness for the issue of Timeliness, to deepen the understanding of causes and remedies, and to discuss the recommendations and the cooperation between stakeholders, and thus to further the implementation of the recommendations. It was deemed appropriate to organise the seminars with participants from countries within a region with comparable legal cultures and traditions.

## REPORTS BY THE ENCJ MEMBERS

### BELGIUM



**CONSEIL SUPERIEUR DE LA JUSTICE (CSJ)  
HOGE RAAD VOOR DE JUSTITIE (HRJ)**

**HIGH COUNCIL OF JUSTICE**

#### Reform and/or changes to the Council

On 4 March 2016 the Belgian judges and prosecutors elected the 22 judicial members of the High Council. Subsequently, the Senate appointed the 22 civil members of the High Council. The mandate of the new members of the High Council began on 12 September 2016.

On 26 January 2017 the High Council has adopted a multiannual plan (2016 – 2020) containing an overview of the projects which the Council wants to realize in the next four years. All these projects are integrated in two programs. The first program focuses on the attention that the judiciary needs to give to citizens (e.g. access to justice, clear language, ...). The objective of the second program is to contribute to a judiciary that is modern, efficient and transparent (e.g. acquire expertise in the field of management contracts, offer methodological assistance in the field of internal control, analyze the use of tools for workload measurements,...).

#### Judicial reform

In 2014 several important reforms have been approved by the legislator (for example: reduction of the number of judicial districts from 27 to 12, increased mobility for judges and prosecutors and the creation of a framework for autonomous management for the judiciary). Almost all these reforms have been implemented in the course of 2015 and 2016. The autonomous management has not yet been realized. The judiciary has recently proposed a blueprint to the minister and negotiations continue.

The High Council continues to follow closely several other important reforms initiated by the minister of justice:

the rewriting of the criminal code and the code of criminal procedure;

A thorough reform of civil procedures;

The modification of the procedure for the review of criminal cases;

Reform of the “cour d’assises” (jury).

#### Main challenges faced/main results achieved

The implementation of the autonomous management of the judiciary continues to be one of the major concerns as it will have an important impact on the role of the High Council in the human resources policy of the judiciary and in the external control on the functioning on the judiciary.

#### Other



On 28 June 2017, His Majesty the King of Belgium has honored the High Council with a working visit.



## **Висш съдебен съвет**

### **SUPREME JUDICIAL COUNCIL**

**РЕПУБЛИКА БЪЛГАРИЯ**  
**ВИСШ СЪДЕБЕН СЪВЕТ**

#### **Reform and/or changes to the Council**

In the beginning of 2017, after conducting General Assemblies of the prosecutors, a member of the Prosecutor's College was elected to replace a suspended member of the Council. In May and June 2017, as a result of the General Meetings of Judges, Prosecutors and Investigators, the members of the professional quota of the new Supreme Judicial Council (six judges, four prosecutors and one investigator) were elected by direct election of their colleagues. In September, members of the SJC were elected from the quota of the National Assembly, respectively six members of the Judicial Council and five members of the Prosecutor's Office. The new SJC will take office in early October 2017.

#### **Judicial reform**

##### **Reform of the Judicial Map**

In addition to the work on reporting and regulating the workload of the courts, continues the work on conducting the necessary analyses, reports and actions related to the progress on the change of the judicial map - a goal that is pursued throughout the mandate of the current SJC with the necessary gradual implementation of a number of previous stages. Measures have been taken to broadly discuss the need to consolidate the courts, especially at the regional level.

As part of this activity, the SJC and the Managing Authority of the Operational Program "Good Governance" signed a contract for the implementation of the project "Creation of a Model for the Optimization of the Judicial Map of the Courts and Prosecution Offices and Development of a Unified Information System for the Courts". The project aims to create a model for the reorganization of the judicial map of the regional courts and prosecution offices. It is envisaged to draw up a roadmap for rationalizing more generally the courts and prosecution offices at all levels in order to increase the quality and efficiency in general, including reallocation of resources, where appropriate, to study good practices and applied methodologies in other EU Member States that have conducted or are currently



finalizing a reform of the Court of Justice, taking into account national specificities. In addition, a survey will be carried out on the current state of the regional, district and administrative courts and their effectiveness and efficiency, taking into account the characteristic socio-economic particularities. Based on the comparative approach and the analyses made, criteria for change in the territorial structure at the level of the regional court / regional prosecution will be defined and motivated models for reorganization will be proposed. The prepared models will be publicly discussed to select a specific model of optimization. The deadline for implementation of the project is 36 months and will end in the mandate of the next SJC.

### **Assessment and disciplinary activities**

The SJC implements also another project under the Operational Program "Good Governance" with the subject "Improving the procedures for attestation and improvement of the disciplinary practice in the judicial system". The project focuses on the implementation of measures related to motivation and self-evaluation of magistrates, formation of remuneration and additional benefits and conducting of disciplinary proceedings. It is envisaged the introduction of a model for an individual evaluation plan, allowing the planning of the personal development while taking into account the necessity to improve the professional qualification and competence. An integral part of the process is the creation of an effective model for the formation of remuneration and additional benefits of magistrates, setting objective rules and stability and predictability in their formation. The main priority of the project is the development and implementation of an individual development plan, which will allow for the planning of the personal development of the magistrate, including the need for specific individual training to improve the professional qualification in a specific subject, which is in direct relationship with the new legal regulations. It is also envisaged the creation of an effective model for the formation of the remuneration and additional benefits of magistrates, which sets clear and objective rules, creates prerequisites for stability and predictability in the formation of remuneration, which is one of the mechanisms for overcoming corruption practices in the judiciary. A key element of the project is the realization of an assessment of the disciplinary proceedings, based on the established deficiencies and after a study of the European practice it is envisaged the development of a standard for carrying out the disciplinary proceedings. A basic prerequisite for effective reform is the assessment of disciplinary proceedings as a basis for developing a standard for disciplinary productions in line with the international standards.



By a decision of the Supreme Judicial Council of March 16, 2017, the Rules for Amendment and Supplement of the Rules for the Election of the President of the Supreme Court of Cassation, Chairman of the Supreme Administrative Court and Chief Prosecutor were approved. On September 11, 2017, a President of the Supreme Administrative Court will be elected, as the seven-year mandate of the current SAC President expires in November 2017. Under the provisions of the JSA, in early 2017 the SJC adopted several ordinances related to its activities. With a decision of the SJC Plenum of 09.02.2017, Ordinance No. 1 on conducting competitions of magistrates and for the election of administrative heads in the bodies of the judiciary was adopted. The Ordinance was issued on the basis of Art. 194d of the JSA and regulates the terms and conditions for conducting: competitions for the appointment of junior judges, junior prosecutors and junior investigators; Competitions for the initial appointment of judges in the regional, district, military and administrative courts and the specialized criminal court, prosecutors in the regional and district prosecution offices, as well as investigators in the district investigation departments; Transfer competitions and competitions for the promotion of judges, prosecutors and investigators; Elections of administrative heads, with the exception of the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court, the Prosecutor General and the Director of the National Investigation Service, who is also the Deputy Chief Prosecutor of the Investigation.

Pursuant to Article 209b of the JSA and by decision of the SJC Plenum of 23.02.2017, Ordinance No. 2 on the Indicators, the Methodology and the Procedure for the Attestation of Judge, Chairman and Deputy Chairperson of Court was adopted. It regulates the criteria, indicators, competent authorities, order and manner of appraisal of the judge, chairman and deputy chairman of the court, as well as the documents to be drawn up in the attestation. Its provisions are applicable to all judges except the judges and presidents of the Supreme Court of Cassation and the Supreme Administrative Court. The Ordinance is fully in line with the changes introduced by the LASJSA (in force as of 09.08.2016) regarding the types of assessment, including the acquisition of irremovability status, the purpose of which is the carrying out of objective assessment of professional qualification and compliance with the rules of the relevant Code of Ethics after the completion of a 5-year period of office as a judge. The particularities of the assessment for acquiring status of judge's irremovability are taken into account in the methods and evaluation mechanism and the data sources for analysis, as well as in the content of the complex assessment.

Pursuant to Art. 209b of the JSA and by a decision of the SJC Plenum of 23.02.2017, Ordinance No. 3 on the performance indicators and methods and the criteria for reporting the workload of prosecutors, investigators and of administrative heads and their deputies was adopted. It regulates the indicators, the competent authorities, the order and the way of assessment the prosecutor, the investigator, the administrative head and the deputy of the administrative head, the criteria for reporting the workload in the bodies of the judiciary, the order and the documents, which should be drawn up in the assessment. Its provisions are applicable to all prosecutors, investigators, including the prosecutors, junior investigators, administrative heads and deputies of administrative heads in the bodies of the judiciary, with the exception of the Supreme Prosecutor's Office of Cassation, the Supreme Administrative Prosecutor's Office and the National Investigation Service.

#### Impact of the ENCJ reports and activities on national level

There is a section on the SJC official website expressly dedicated to the work of the ENCJ, where strategic documents related to network activities, as well as the reports of the participation of representatives of the Bulgarian judiciary in the events of the Network are published. All the reports are brought to the attention of SJC members and are promoted among magistrates and the general public by being published on the official site of the Council in translation into Bulgarian.



### CONSEIL SUPERIEUR DE LA MAGISTRATURE

#### Reform and/or changes to the Council

A constitutional reform of the French CSM has been announced by the government. Its aim would be to give more independence to the prosecutors. The appointment and the discipline power of the Council regarding prosecutors would be the same as its power over sitting judges. This reform was first proposed in 2013 by the precedent government and it is the wish of the entire judiciary to see it approved as quickly as possible.

#### Judicial reform

The Justice 21 law about modernization of Justice, dated November 18<sup>th</sup> 2016, is supposed to favor justice-citizen understanding, to improve the justice organization and functioning, to define class action in France and to adapt commercial justice to the economic reality of the actual exchanges. The point of this law is to make justice more efficient and more accessible.

#### Status of Judges

The organic law n°2016-1090 of the of August 8<sup>th</sup> 2016 about statutory guarantees and judges' and Council's ethical commitments created new positions for judges, modified the recruiting proceedings to facilitate direct integration of judges, formulated the obligation for appeal court chiefs to define the aims of their action and make report about it.

This law also created an ethical college to prevent interest's conflicts and an obligation for judges and members of the Council to declare their interests. The decree confirming the creation of this body had been published the 9<sup>th</sup> of May 2017. It is supposed to deal with the analysis of the interests' declaration judges have to make. The college can also be seized of ethical matters by a judge or by a chief of jurisdiction and render written opinion about these ethical matters.

It also modified rules linked to judges' discipline: they can now request the suppression from their file of any unsuccessful proceedings, the term of limitation for a warning from hierarchy is 2 years and 3 years for disciplinary proceedings, the Council has to give a decision within 12 months after referral.

### Main results achieved

Since the 1st of June 2016, the Conseil offers an ethical monitoring service to all magistrates with personal ethical issues. Three former members of the Conseil compose the service. For secrecy reasons, they are not working for the judiciary anymore.



They can be reached through a phone call or an email to the Conseil secretariat. They answer very quickly, by phone, without giving a formal answer but trying to provide some pedagogical support. All the questions addressed to this service are confidential.

Since its creation, the service answered to 62 requests from judges and prosecutors about conflicts of interests, jurisdiction organization, activities outside the judiciary and relationships between judges and other justice professionals.

It remains distinct from the ethical college because it guarantees anonymity, flexibility and celerity and does not produce any written document.

The ethical questions posed by its consultation are reported to the Conseil after their anonymization in order to improve the repository of ethical obligations for magistrates. The Council wants to update the repository of ethical obligations before the end of its tenure and the service is a great tool to do so because it can highlight very actual ethical issues.

### Impact of ENCJ reports and activities on national level

A working group from the French Cour de cassation, led by the Professor Bouvier, presented its conclusion to the Law Commission and the minister of Justice the 11th of September 2017. This work, entitled "What budgetary independence for the Judiciary?" had been inspired from the ENCJ report about financing the judiciary.

## GREECE

**ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΙΚΟ ΣΥΜΒΟΥΛΙΟ ΠΟΛΙΤΙΚΗΣ  
ΚΑΙ ΠΟΙΝΙΚΗΣ ΔΙΚΑΙΟΣΥΝΗΣ**

**SUPREME JUDICIAL COUNCIL OF CIVIL AND  
CRIMINAL JUSTICE**

**ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΙΚΟ ΣΥΜΒΟΥΛΙΟ  
ΔΙΟΙΚΗΤΙΚΗΣ ΔΙΚΑΙΟΣΥΝΗΣ**

**SUPREME JUDICIAL COUNCIL FOR  
ADMINISTRATIVE JUSTICE**

### Reform and/or changes to the Council

There has been no reform or change to the Council since June 2016.

### Judicial reform

In February 2017 a legislative Committee has been appointed by the Minister of Justice, Transparency and Human Rights to provide recommendations concerning the Code of Organisation of Courts and the Status of the Judiciary, which is expected to finish its work at the end of the year. The members of the Committee come from civil, criminal and administrative courts, prosecution offices as well as members of the Hellenic Bar Association and members of the Hellenic Federation of Judicial Clerks. Therefore, we are unable to provide further information concerning the work of the Committee.

### Impact ENCJ reports and activities on national level

Our Council has recently become a member of ENCJ. Our delegate to ENCJ reports to the President of the Supreme Judicial Council and the Minister of Justice, Transparency and Human Rights about the proceedings and the outcomes of ENCJ meetings, the latter being responsible to initiate reforms.



*An tSeirbhís Chúirteanna*  
Courts Service

## THE COURTS SERVICE OF IRELAND

### Reform and/or changes to the Council

The Bill providing for the establishment of a Judicial Council and for a formal mechanism for investigation of complaints regarding conduct of individual judges was initiated in Parliament on the 30th May 2017, when the Government presented the Bill in Seanad Éireann (the Senate). The Bill envisages that membership of the Judicial Council will consist of all holders of judicial office. The Chief Justice will be chairperson of the Council and the President of the Court of Appeal vice-chairperson. The proposed functions of the Council are to promote and maintain:

- (a) excellence in the exercise by judges of their judicial functions,
- (b) high standards of conduct among judges, having regard to the principles of judicial conduct requiring judges to uphold and exemplify judicial independence, impartiality, integrity, propriety (including the appearance of propriety), competence and diligence and to ensure equality of treatment to all persons before the courts,
- (c) the effective and efficient use of resources made available to judges for the purposes of the exercise of their functions,
- (d) continuing education of judges,
- (e) respect for the independence of the judiciary, and
- (f) public confidence in the judiciary and the administration of justice.

The Bill provides for the establishment of a Judicial Conduct Committee, also chaired by the Chief Justice, with 7 other judicial members, including the Presidents of the other court jurisdictions, and 5 lay members.

The general remit proposed for the Committee is to promote and maintain high standards of conduct among judges, having regard to the principles of judicial conduct requiring judges to uphold and exemplify judicial independence, impartiality, integrity, propriety (including the appearance of

propriety), competence and diligence and to ensure equality of treatment to all persons before the courts. The Committee's powers and functions will include :

- consideration of complaints and their referral for resolution by informal means or the undertaking of investigations into the conduct of individual judges, and the taking of action in relation to complaints considered, where deemed necessary, for the purposes of safeguarding the administration of justice,
- the preparation of draft guidelines concerning judicial conduct and ethics for adoption by the Council,
- the giving of advice and recommendations to an individual judge or to judges generally on judicial conduct and ethics as it sees fit.

## Judicial reform

Significant amendments to the procedural rules in the High Court became law in October 2016. These measures, inter alia :

- confer various case management powers on the High Court in non-jury civil proceedings to ensure that such proceedings are prepared for trial in a manner which is just, expeditious and likely to minimise costs and
- address problems associated with expert evidence (which evidence frequently adds significantly to cost and delay in litigation) by containing the scope of expert evidence, codifying the duties of expert witnesses and providing new mechanisms for more efficient adducing of such evidence.

The jurisdictional threshold of the Circuit Court (the intermediate first instance jurisdiction) in disputes concerning immovable property was revised in January 2017 by substituting the market value of a property for its notional value for municipal rating purposes - €3,000,000 market value being set as the new threshold. This reform facilitates the litigation of property-related disputes in a lower-cost jurisdictional instance.

## Status of Judges

The Bill to establish a Judicial Appointments Commission was initiated in Parliament on the 30th May 2017, when the Government presented the Bill in Dáil Éireann (the House of Representatives). The Bill envisages replacement of the existing Judicial Appointments Advisory Board with a new Judicial Appointments Commission, consisting of the Chief Justice, the President of the Court of Appeal, the

President of the High Court, the Attorney General, a practising barrister, a practising solicitor and 7 lay members. The Chairperson of the Commission is to be a lay person.

The proposed general remit of the Commission is to select and recommend persons to the Minister for Justice and Equality for appointment to judicial office, and that purpose to approve for publication statements of selection procedures and of requisite skills and attributes for various judicial offices.

#### **Main challenges faced/main results achieved**

The Judicial Appointments Commission Bill seeks to address perceptions of political influence over the appointment of judges. Engagement between the Judiciary and the Government on aspects of the Bill, relating to participation by the Judiciary in the Commission to an extent which reflects international standards, is continuing.

#### **Impact ENCJ reports and activities on national level**

In the current communications in relation to the Judicial Council Bill and the Judicial Appointments Commission Bill, the ENCJ reports and the international opinions and protocols referred to therein have been brought to the attention of the Government.



## LATVIA

### TIESLIETU PADOME

### JUDICIAL COUNCIL

#### Reform and/or changes to the Council

In February 13, 2017 the Judicial Council adopted its strategy for 2017-2019. The following three strategic aims and objectives - independence of the judiciary, efficient judiciary and public confidence in the judiciary – are set as priorities by the Council. The document also sets out the most important tasks envisaged in order to achieve these objectives.

In January 2017 the Secretariat of the Council (4 employees) was established as a new division of the Supreme Court.

Draft amendments to law «On Judicial Power» are being discussed in the Parliament. The amendments inter alia focus on strengthening the powers of the Judicial Council in the following areas:

- extension of competence of the Judicial Council regarding taking decisions on the career of judges after their first appointment as a judge;
- procedure of selection of new judges.

#### Judicial reform

The reform of Latvian judicial system by transition to a clear three-instance system of courts was completed in 2016. The appellate instance within the Supreme Court – the Chamber of Civil Cases – has ceased its activity. Since January 1, 2017 the structure of the Supreme Court has changed and it is the cassation instance where cases are heard by three departments – the Department of Civil Cases, the Department of Criminal Cases and the Department of Administrative Cases.

In June 13, 2017 the Council supported the project for reorganization of district (city) courts in the courts' districts of Riga, Kurzeme, Vidzeme and Zemgale. The concept paper, according to which the territorial reform of courts in Latvia will be completed in 2018, was prepared by the Ministry of Justice. At the end of the reform, there will be nine first instance courts of general jurisdiction in Latvia.

## Main challenges faced and main results achieved

In December 2016, based on application by the Council, the Constitutional Court instituted proceedings in case concerning the remuneration system of judges. As the Council pointed out in its application, current system of remuneration can no longer be regarded as compatible with the principles enshrined in Article 83 of the Constitution (Judges shall be independent and subject only to the law) and Article 107 of the Constitution (Every employed person has the right to receive, for work done, commensurate remuneration[...]). Judgment is to be expected in October 2017.

In 2017 there was a limited increase in court employees' salaries.

## Other News

In June 2017 the Parliament has adopted amendments to the law providing that the name of a judge in a disciplinary decision will no longer be anonymized.

In June 2017 the State Audit Office has published an extensive report "Have the measures of judicial reform development increased the effectiveness of courts?" ("Vai tiesu iekārtas attīstības pasākumi ir veicinājuši tiesu darbības efektivitāti?"). The State Audit Office has assessed whether the measures taken by the Ministry of Justice for improvement of efficiency of judiciary system from 2009 to 2015 were successful and whether the outstanding issues of the judiciary system have been addressed. The summary of the Report is available in English: <http://www.lrvk.gov.lv/en/state-audit-office-work-shall-continued-improve-efficiency-court-operations/>

In 2016 – 2017, the Supreme Court managed an EU co-funded project "Supreme Courts as guarantee for effectiveness of judicial systems in the European Union" with partners from Supreme Courts of Lithuania, Spain and Hungary, and Universities of Antwerp (Belgium) and Ljubljana (Slovenia). As a result, Best Practice Guide for Managing Supreme Courts is published in May 2017. The Best Practice Guide contains a chapter on Judicial Councils in Europe. It is available online.

In March 2017, Strategy of external communication of the judicial system of Latvia (approved by the Judicial Council in 2015) got high appraisal in the most prominent competition of the Baltic States in the communication sector "Mi:t&Links. Baltic Communication Awards 2017" - the gold award in the category of "Issues and Crisis Management" and the silver award in "Public Affairs".

The project “Justice for development” with co-funding of European Social Fund is being implemented by the Court Administration (subordinate to the Minister of Justice). The activities of the project are planned until 2022 and costs of the project are 11 028 343 euro. An overall evaluation of the Latvian justice system has started (CEPEJ experts).

## LITHUANIA



**LITHUANIAN  
COURTS**

Judicial Council

**TEISĖJŲ TARYBA**

**JUDICIAL COUNCIL**

### Reform and/or changes to the Council

On the 11<sup>th</sup> of November, 2016 The General Meeting of Judges elected members for the new composition of the Judicial Council. The Judicial Council is composed of 23 members: Mr. Rimvydas Norkus, Mr. Algimantas Valantinas, Mr. Ramūnas Gadliauskas, Mr. Egidijus Laužikas, Mr. Algis Norkūnas, Mr. Artūras Pažarskis, Mr. Vigintas Višinskis, Mr. Gintaras Pečiulis, Mr. Aloyzas Kruopys, Mr. Gintaras Kryževičius, Mr. Artūras Drigotas, Mr. Arūnas Sutkevičius, Ms. Neringa Švedienė, Mr. Zigmas Pocius, Mr. Nerijus Meilutis, Mr. Vytautas Kursevičius, Mr. Artūras Ridikas, Mr. Žanas Kubeckas, Mr. Darius Kantaravičius, Ms. Loreta Braždienė, Ms. Audra Ežerskė, Mr. Arūnas Bartkus and Ms. Irena Vapsvienė.

Mr. Rimvydas Norkus, the president of the Supreme Court of Lithuania, was elected as a president of the Judicial Council; Mr. Algimantas Valantinas, the president of the Court of Appeal of Lithuania was elected as a vice-president, and Mr. Ramūnas Gadliauskas, judge of the Supreme Administrative Court of Lithuania, was elected as the secretary of the Judicial Council.

7 committees of the Judicial Council were formed: Budget and Investment Committee, Committee on Evaluation of Drafts of Legal Acts, Training and International Relations Committee, Courts Administration Committee, Communication Committee, Information Technology Committee, and Vote Counting Commission.

The term of office for the Judicial Council is 4 years.

### Judicial reform

From the 1<sup>st</sup> of January, 2018 there will be 22 courts in Lithuania: 12 district courts (instead of 49 district courts), 5 regional courts, 2 regional administrative courts (instead of 5), Supreme Administrative Court of Lithuania, Court of Appeal of Lithuania and the Supreme Court of Lithuania. Each of these courts will consist of one central place of residence and several courthouses (instead of the current courts).

The model for the territorial breakdown was drafted taking into account the geographical location of the relevant courts, their premises, possibilities of communication with institutions and persons, the current territories of the local police and regional prosecution offices. The case load, number of judges and their workload were also taken into account. The territories of the consolidated courts are created from the territories of the currently active courts (they are not divided).

The consolidation of courts would create the preconditions for more even workload of the judges, specialization possibilities based on the specific categories for the cases, branches and sub-branches or institutes of law. The access to justice of citizens will be easier, e.g. the cases which are heard in written procedure could be allocated to all the court houses of the court, but the cases that are heard in oral procedure could be allocated according to rules *mutatis mutandis* applicable to the rules for territorial jurisdiction.



The Judicial Council of Lithuania



**de Rechtspraak**

Council for the Judiciary

**RAAD VOOR DE RECHTSPRAAK**

**COUNCIL FOR THE JUDICIARY**

## Judicial reform

### **Agenda of the Judiciary 2015-2018**

Quality is a priority in the Agenda of the Judiciary of 2015-2018. The quality of the Judiciary can mean several things. In addition to the core values independency, impartiality and integrity, quality means: a fast, accessible and professional judiciary. These three quality aspects are the spearheads of the Agenda of the Judiciary 2015-2018. The following objectives were set in the Agenda:

1. In 2018 court proceedings will take 40% less time than in 2013
2. In 2018 at least 70% of all parties and professionals are satisfied with the comprehensibility of procedures and the digital accessibility of the judiciary.
3. In 2018 the judiciary will be more professional

### **Multi-annual plan 2015-2020**

The Netherlands Council for the Judiciary and the presidents of the courts have adopted a Multi-annual plan to execute the Agenda of the Judiciary for 2015-2018. To realize the objectives of the Agenda, the Judiciary has to become more efficient and cost effective (also in view of increasing Information Technology costs), while improving performance and quality aspects. The four main topics are:

- Implementation of the program 'Quality and Innovation'
- Implementation of Professional Standards
- Changing responsibilities of management and leadership: Less focus on monitoring and controlling employees, more steering towards personal development and results.
- Unifying and reducing the size of the operational management

## **2016/2017:**

### **The program Quality and Innovation**

In July 2016 important Quality and Innovation laws have been adopted by the parliament and senate, which made it possible to start with digital litigation. To test the system and to collect feedback from users, in 2016 digital litigation has been extensively experimented. In the coming years digital litigation will be gradually implemented in different jurisdictions. The results of Quality and Innovation (faster and accessible justice) program will therefore be realized in the coming years. The cost savings the program aims to deliver will be realized at a more gradual pace than initially foreseen.

### *Realized in 2016/2017*

- The implementation of digital communication and working methods between courts and professional administrators in all supervisory tasks of the sub district judge resulting from the Civil Code.
- On 12 June 2017 digital litigation became compulsory within asylum and detention cases

### **Quality in criminal law:**

In 2016 professional standards in criminal law were implemented and the establishment of the standards for other jurisdictions was realized. Professional standards are quality norms judges and appeal judges have developed. In 2016 the courts started to implement the professional standards in the area of criminal law. For example, judges now motivate their decisions about extending temporary custody more explicitly. For the suspect and for society it now becomes clearer why a temporary custody will be extended or not.

### **Netherlands Commercial Court**

The Netherlands Commercial Court (NCC) is a new commercial court for settling commercial disputes with an international dimension. The court will start operating in July 2018. On 24 February 2017 the Council of Ministers has agreed on the legislative bill and afterwards the Council of State has given an advice on the bill. Now it lies in the parliament for further debate. After the bill has been adopted the NCC can start.



## Main challenges faced/main results achieved

### Duration of proceedings

The reduction of the duration of court proceedings is an important goal for the judiciary in the Netherlands. As mentioned before, it is part of its Quality of Justice program. Although the judiciary finds it of the utmost importance to reduce the duration of proceedings, the results in 2016 were limited. At district courts progress has hardly been made. At the courts of Appeal there was a slight improvement. The reasons for this lack of success depend on the type of case and differs between the courts. In 2017 the reduction of proceedings have an extra priority. The Council for the Judiciary has made management agreements with the courts and in 2017 a mid-term evaluation is taking place of the Multi-annual plan of the Judiciary 2015-2020.

## Impact of the ENCJ reports and activities on national level

The results of the Independence & Accountability Project have been shared on a national level. The goal is to promote and facilitate a discussion about the outcomes of the report and to see where improvements can be made. The method of allocation of cases is being reconsidered to bring it in line with ENCJ recommendations. Also, a proposal of law is developed on the request of the Council to change the way the judicial members of the Council are nominated.



The four members of the Council for the Judiciary





## KRAJOWA RADA SĄDOWNICTWA

## NATIONAL COUNCIL OF THE JUDICIARY

KRAJOWA RADA SĄDOWNICTWA

### Reform and/or changes to the Council

In 2016 the Government presented the draft of the amendments to the Act Law on the National Council for the Judiciary, which foreseen that the 15 judges within the KRS would be selected by all judges in direct elections (up to now they have been elected by peers).

In January 2017 the Government withdrew from this proposal and presented some changes, which were in contradiction with the provisions of the Constitution:

- interruption of the term of office of the present members of the KRS selected from among judges (although their four-year term of office is specified in the Constitution and cannot be shortened by means of the legal act),
- introduction of the principle of selection of 15 members of the KRS out of judges by the Sejm (lower Chamber of the Parliament),
- passing the primary competence of the KRS to consider and comment applications of judges to the newly created Council bodies: the first Assembly of the Council (composed of the Minister of Justice, 4 members of parliament, 2 senators, person appointed by the President as well as the first President of the Supreme Court and the President of the Supreme Administrative Court) and the second Assembly of the Council (which is supposed to consist of 15 judges elected by the Sejm) – which affects the collegial nature of the Council, as the single authority consisting of 25 members.

These proposals lead to subordination of KRS to the Sejm and the departure from the constitutional principle that judges constitute the effective majority of Council's composition.

The Parliament passed those amendments in July 2017.

The President of the Republic of Poland vetoed the Act on the National Council for the Judiciary and declared to present within the 2 months (till September 25<sup>th</sup>) Presidential Drafts in these matters.

### **The Organization of the courts**

The President signed the amendments to the Act Law on Common Courts. Based on the changes, the Minister of Justice has right solely decide about the appointment and dismissal of the presidents of all courts. Both the National Council for the Judiciary and judicial self-government authorities will be deprived of the possibility of issuing opinion on a candidate for court president (although, according to case-law of the Constitutional Tribunal, the participation of the representatives of judges in this procedure is a condition for the constitutionality of the very competence of the Minister of Justice to appoint court presidents). In addition, during the transition period (6 months), the Minister is able to dismiss all court presidents currently in office, interrupting their statutory tenure. The changes also apply to the qualifications of candidates for Court Presidents; after the amendment, the judge of the circuit court (2nd level) is eligible to become a president of the court of appeal (3rd level), and the judge of the district court (1st level) is able to apply for a president of the circuit court (2nd level) function. First changes on the post of courts presidents have been done.

The act also reduces the requirements for candidates for the position of judges of the courts of appeal. Minister of Justice also is to gain wider powers to influence the selection of judicial inspectors (judges who supervise other judges' activities). The act also provides for the possibility of the inspection or vetting in the courts by judges delegated to the Ministry of Justice, who - in terms of activities performed in the framework of the delegation - are subject to supervision of the Minister of Justice as other civil servants. It is the Minister of Justice who can, in practice, decide who of the judges will be authorized to evaluate the performance of the judicial function of other judges, which in turn can have a decisive influence on the course of the career of judge.

The act provides for a number of changes relating to the retirement of the judges. It grants the Minister of Justice the power to decide whether a judge who has reached the retirement age, is able – upon his/her request – to remain in active service. In practice, therefore, the Minister will independently decide which judge will continue to fulfill his/her duties. The project also provides for women holding the office of judge to retire at the age of 60 and male judges - at the age of 65.

### **A. The access to the judicial office**

Changes to the rules governing the access to the office of the judge were included in the law of May 11th, 2017 amending the law on the National School of the Judiciary and the Public Prosecution, Law on common courts and certain other laws. The Act was adopted without amendments by the Senate and signed of the President of the Republic.

On the basis of these provisions, the powers of the Minister of Justice have been expanded in relation to the operation of the National School of Judiciary and Public Prosecution, which is responsible to the training of candidates for the service of the judiciary and the prosecution. The Minister will now have a decisive influence not only on the appointment of the management of the School, but also on the composition of the Program Board and selection of lecturers. The Act also changes the organization of the judicial apprenticeship.

The essential objection is raised with regard to a provision in this Act according to which the President of Poland was deprived of the power to appoint assessors (trainee judges) in the common courts at the request of the KRS and this competence was transferred to the Minister of Justice.

### **B. Brief summary of a parliamentary draft law on the Supreme Court**

The Supreme Court exercises the supervision over the activities of the common and military courts in the field of judgments, clarifies doubts about the content of the law, and the discrepancies appearing in the case law. The Supreme Court recognizes electoral protests and controls the validity of national elections and referenda. The Supreme Court recognizes the legal measures related to the functioning of political parties and supervises disciplinary cases concerning judges and lawyers. The strong position of the Supreme Court requires that the rules governing its operation guarantee the distinctness and independence of the Supreme Court from other authorities and enables the judges to remain independent in office.

In July 2017 the Parliament passed the brand new Act Law on the Supreme Court, which imposes a mandatory retirement to those of current judges of the SC whom the Minister of Justice shall not designate for further judicial service. The Minister was also to designate the temporary First President of the Supreme Court and - at Minister's request - the President was to appoint Presidents of the Supreme Court directing the work of particular chambers of the Court, despite the fact that the Constitution of the Republic of Poland excludes the participation of members of the Government in these appointments. The new law vested the Minister of Justice with strong supervisory powers over the judges of the reformed Supreme Court – he was to determine the rules of procedure, the

jurisdiction of individual chambers and the number of judges in the Supreme Court. Only the Minister of Justice was to be entitled to nominate a candidate for the judicial position in the first selection procedure – the role of the National Council for the Judiciary was to be reduced to an advisory role and the candidature was not to be a subject to assessment of qualifications. The new law has minimized the requirements for candidates for Supreme Court judges. In the Supreme Court, the changes would undermine the position of the First President of the Supreme Court who in practice was not to supervise the President of the Supreme Court directing the work of the Disciplinary Chamber, which were created as almost independent body. Most of the competences previously performed by the First President or the President of the Republic of Poland shall be obtained by the Minister of Justice.

The Act Law on the Supreme Court also introduced new solutions for disciplinary proceedings against judges. It strengthened the role of the Minister of Justice (executive authority organ), who was to be empowered to: appoint disciplinary officers (prosecutors in disciplinary proceedings) for a term of office from among judges and ad hoc from among prosecutors; issue binding instructions to disciplinary officers and disciplinary courts; appoint members (judges) of disciplinary courts in common and military courts; request disciplinary proceedings against judges; oblige the disciplinary officer to conduct disciplinary proceedings even against his will; have access to the court files of disciplinary proceedings and ask the court to clarify the deficiencies found, before the judgment in the case. Further changes included: (-) the possibility for the President of the Disciplinary Chamber of the Supreme Court to request disciplinary proceedings against a Supreme Court judge and to appeal the decisions of a disciplinary officer, which appeals would be heard by the Disciplinary Chamber he directs; (-) publication of disciplinary judgments on the Internet in every case, which constitutes an additional sanction for the judge next to the disciplinary penalty (only exceptionally the sentences would be anonymized); (-) to certain extent, the right of the defendant judge to defend shall be limited; (-) the possibility to use disciplinary evidence from the operational activities of the special services including those who have been found to be obtained in violation of law. The Minister of Justice was also to be entitled to apply for a resumption of any disciplinary action against the judge, validly completed by the disciplinary officer before the proposed amendments enter into force if he considers that it is required by the interests of justice. These changes undermined the essence of the democratic rule of law, the separation of judicial power, the independence of judiciary and judges, and the right to an impartial court.

The President of the Republic of Poland veto the Act Law on Supreme Court and declared to present within the 2 months (till September 25<sup>th</sup>) Presidential Drafts in these matters.

## Impact of the ENCJ reports and activities on national level

The translation of the ENCJ documents concerning the situation in Poland and extracts of the ENCJ reports pointing out the standards for the Judiciary and council for the judiciary were very broadly disseminated, also to the President of Poland and the Parliamentarians, so we would like to think that their impact was very significant.

## PORTUGAL



### CONSELHO SUPERIOR DA MAGISTRATURA JUDICIAL HIGH COUNCIL

#### Reform and/or changes to the Council

- The payroll processing services of 1st instance judges was transferred from the DGAJ (Directorate-General for Justice Administration – a body within the Ministry of Justice) to the Judicial High Council. (DGAJ is the service of the Ministry of Justice tasked with ensuring operational support to the courts)  
This transfer was legally previewed since 2008.
- The procedure to establish the f Communication Department's was finalized
- Implementation of the communication plan approved in 2015.

#### Judicial reform

- The 2014 judicial reform was concluded, in its main features, especially in what concerns the first instance courts managing model.
- In the geographic distribution part of the reform, a new legislative intervention (January 2017) addressed some issues by reopening some of the previously closed courthouses and redesigning de Family and Juvenile Courts configuration.
- The JHC organized an intervention in the commercial and enforcement sections of the courts with the highest case movement. This intervention, coordinated by the JHC, includes Ministry of Justice representatives for issues regarding equipment, facilities and clerks.

#### Status of Judges

- The legal revision procedure of the judges statues is still ongoing, the CSM has present several new contributions.
- The project's public hearing called for by the Ministry of Justice, has begun on 13 September 2017. The JHC is currently preparing a new analysis of the Project and new proposals.

### Main challenges faced/main results achieved

- Budgetary issues – the JHC is facing limitations as a result of the budget rules regarding freezing of funds and public contracting
- The JHC is looking to change its budget legal framework in order to work with budget rules more suitable to the JHC current responsibilities and mission.
- The JHC continues to develop a higher participation on European co-financed projects in justice matters. In this field the JHC has several ongoing projects with national and international projects.
- The JHC has support programs for the countries within the Community of Portuguese Language Countries – namely training judges and judicial inspectors from Guiné, Timor, São Tomé e Príncipe.
- First and Second Instance Courts coordination (ongoing training of Presiding judges, monitoring case movement, etc.
- The EU's General Data Protection Regulation and practical implications when implementing its recommendations.
- The JHC's responsibility as constitutional body and guarantor of the independence of Courts.
- Internal organization in registry, computerized and information management systems

### Impact ENCJ reports and activities on national level

- The JHC has published the reports and spread out the reports to all Portuguese judges
- In its daily activities the JHC takes them into account
- The ENCJ reports and conclusions are used as reference in the JHC participation in legal procedures regarding the judiciary design.

## SLOVAKIA

### SÚDNA RADA SLOVENSKEJ REPUBLIKY

#### JUDICIAL COUNCIL

##### Reform and/or changes to the Council

In may 2017, there were elections to Judicial Council. Eight out of 9 members (those who are elected by judges) were changed because of the end of their term along with the President and Vice – President of the Council.

In September, another 3 members will be changed to because of the end of their term (2 new members will be appointed to Council by the government and 1 member will be elected to Council by the Parliament)

Since 1<sup>st</sup> of July 2017, after quite big judicial reform, the Judicial Council these 4 major and new competences:

- a) the Judicial Council supervises the entire disciplinary procedure; organizes and coordinates the activities of the Disciplinary Boards (until 1<sup>st</sup> of July, the Council only voted members of the Disciplinary Boards);
- b) the President of the Judicial Council announces collective selection procedure for a judge of the Slovak republic at least once a year (until 1<sup>st</sup> of July, it was the President of the court who announced the selection procedure);
- c) the Council can propose a Minister of Justice the adoption of law regarding the Slovak judiciary (so it's not proposing directly to Parliament, but just to Minister of Justice and then Minister of Justice after discussions could propose law/changes of the law to Parliament), until 1<sup>st</sup> of July, Judicial council could just comment the proposals of laws regarding the judiciary;
- d) the Council will be responsible for creating the special evaluation committees for the evaluation of judges

One minor change regarding the composition of the Council, it was adopted in law that Council's members who are **not elected by judges** ( those who are appointed by the President of Slovakia, Government and those who are elected to Council by Parliament) **should be non – judges**. In practice it could happen that even ½ half of the members of the Council could be non-judges.



## Judicial reform

Two major changes after 1<sup>st</sup> of July:

- a) selection procedure for judges in Slovakia will be more centralized, i.e. the selection procedure is not organized separately at particular courts and whenever during the year, but since the reform, the selection procedure will be announced by the President of the Judicial council at once (maximum twice) a year and will be done at 8 regional courts at the same time;
- b) establishing of special evaluation committees that will evaluate judges in Slovakia; committees will be composed of 3 members – judges who will not perform their duties as judges but they will only evaluate their colleagues; there will be 8 evaluation committees (each for one region in Slovakia) which will evaluate colleagues from the other part (region) of Slovakia; they will be paid as usual (as judges are paid) but they will not be engaged in court proceedings; the evaluation committees will be elected by elected by the Judicial Council

## Status of Judges

After judicial reform (since the 1<sup>st</sup> of July), the negligence will be enough for the judge's responsibility for the disciplinary offence.

## Main challenges faced/main results achieved

In May 2017, Judicial Council of the Slovak republic celebrated its 15 anniversary by organizing an international conference for the first time. It was a great success. Representatives of the Executive Board of the ENCJ, European Commission, General Court of the EU, presidents of the Judicial Council of Hungary and Poland were among those who accepted the invitation and gave a speech as well.



The new premises of the Sudna Rada on the main square in Bratislava

## SLOVENIA



**REPUBLIKA SLOVENIJA, SODNI SVET**

**JUDICIAL COUNCIL**

### Reform and/or changes to the Council

The position of the Slovenian Council has for 26 years been regulated in a special chapter of the Courts Act and other sectorial laws. In 2017 this has changed. On 25 April 2017 a new Judicial Council Act (hereinafter referred to as ZSSve) was adopted in the parliament. ZSSve entered into force on 20 May 2017 and will begin to apply from 20 November 2017 on.

Although the ZSSve hasn't brought "revolutionary" changes to the concept of the Council in the Slovene constitutional system, it enhanced its current role with new responsibilities and ensured its financial autonomy with a separate budget allocated to the Council.

The most important changes that the ZSSve brought are:

- new responsibilities:
  - carrying out the disciplinary procedures against judges,
  - making a preliminary opinion in the procedure of determining the number of places for judges in a particular court,
  - making a preliminary opinion to the scheme of the organizational units of the courts;
- for easier, faster and more efficient functioning of the Judicial Council the regulated access to information is provided for in the new act; The Judicial Council is now enabled unrestricted access to personal and other protected data relating to the efficiency and quality of the work of the courts and the efficiency and effectiveness of the work of judges;
- the Judicial Council has also acquired the status of an applicant in the procedure for the assessment of the constitutionality and legality of regulations/laws, which intervene in the constitutional position and rights of the Judiciary, before the Constitutional Court;
- the president and vice-president of the Judicial council are now elected for the term of three years;
- a novelty is also the obligation of the Judicial Council to report annually on its work to the National Assembly.

## Judicial reform

A judicial reform, which is already preparing for some time now, and upon which it is envisaged to unite the existing two-tier court system into a one-tier system of first instance courts, of which we were reporting in the last Annual Report, hasn't been adopted in the parliament yet.

Instead quite a substantial number of acts / laws, which affect the functioning of the courts, have been adopted or/and amended in the year 2016 and 2017, and many more are in the legislative procedure. For example, the Court Rules were amended in a way that the public monitoring of court hearings in all proceedings is now expanded (inter alia judges can now be photographed and filmed in the court room at the beginning and at the end of the hearings). A new Family Law Act has been adopted which expanded the court's jurisdiction and imposed new responsibilities upon courts. The Civil Procedural Act has also been amended in the direction of ensuring better case management; revising system of extraordinary legal remedies; limiting the possibility of annulling first instance judgments by higher courts.

## Status of Judges

If the reform of the judicial map is implemented in a legislation, the existing different status of first-court judges will also be united since at the moment there is a distinction between the position of a local-court judge and district-court judge mainly in terms of what cases (less or more complex) they adjudicate and the salary they are entitled to.

## Main challenges faced/main results achieved

According to the EU Justice Scoreboard data there is a positive trend concerning the length of court proceedings, reducing the number of unresolved cases, a high number of judges per capita and quite high costs of court proceedings, for the past few years. However, there are still many challenges before us all. The judicial map reform could contribute to reducing costs of the court proceedings. Another great challenge we are facing for several years now is to increase public confidence in courts and the judiciary. To that end a special strategy should be adopted within the entire judiciary and the Judicial Council in order to tackle this problem.

## Impact of ENCJ reports and activities on national level

The ENCJ's reports, their findings and results, are consistently published on the Council's website, although not in Slovene translation for the Council lacks sufficient funds to do that, however, Slovene judges are drawn attention to examine these reports and the language barrier is not that high in our country. The Council also draws attention of the judges and the general public to some of the most important activities (as well as statements/positions) of the ENCJ.



Consejo General  
del Poder Judicial

## CONSEJO GENERAL DEL PODER JUDICIAL

### GENERAL COUNCIL FOR THE JUDICIARY

#### Judicial reform

In March 2017 it has been implemented the **appellate instance in serious criminal cases** (those punished with penalties of prison of 5 years or more). In 2015 was introduced in the criminal procedure law the regulation of the appeal against criminal sentences of provincial courts (which have the competence to judge serious criminal cases) to the Superior Courts of Justice of the Autonomous Communities. The effectivity of this procedural regulation needed an organic reform of the Superior Courts of Justice in order to create specialized sections in criminal appeals (until this reform the criminal sentences of provincial courts could be impugned in cassation to the Supreme Court). This organizational measure was adopted by a Royal Decree of 10 March 2017. In that way Spanish law fully accommodates with article 14.5 International Covenant on Civil and Political Rights and article 2 of Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

#### Status of Judges

In December 2016 the Spanish Council for the Judiciary has endorsed a set of **principles of judicial ethics** elaborated by a working group on judicial ethics established by the Council itself (composed by members of the council, experts on judicial ethics, practicing judges and representatives of judicial associations). The document contains 35 ethical rules in the fields of basic judicial principles such as independences, impartiality, integrity and transparency. The principles of judicial ethics do not envisage any kind of direct sanctions for the infringement of those rules or principles and are not, therefore, linked to judicial discipline. It is foreseen the establishment of a commission on judicial ethics with interpretative and consultant functions, which resolutions have mere indicative value. Its members will be elected directly by members of the Judiciary among them.



### JUDGES' COUNCIL OF NORTHERN IRELAND

**JUDGES' COUNCIL  
OF NORTHERN IRELAND**

#### Reform and/or changes to the Council

The Council is represented at ENCJ meetings by Mr Justice Horner and by Presiding District Judge Isobel Brownlie. Membership of the Council has changed slightly in that during the reporting period Ms Nicola Carruthers was appointed as Presiding Lay Magistrate and has replaced Mr David Moore on the Council. Ms Andrea Kells was appointed as Chief Commissioner of the Planning/ Water Appeals Commission and has replaced Deputy Chief Commissioner, Trevor Rue on the Council.

#### Judicial reform

A single legal jurisdiction was created on 31 October 2016 in accordance with the legislative provisions contained in the Justice Act (Northern Ireland) 2015. The Lord Chief Justice published a practice direction on the same date setting out the details of how court business will be distributed in the Magistrates' Courts and County Court in Northern Ireland under the new arrangements. The jurisdiction of County Courts and Magistrates' Courts are no longer determined by reference to County Court Divisions and Petty Sessions Districts. Instead these courts are able to exercise jurisdiction throughout Northern Ireland.

The Review of Civil and Family Justice continued during this period and the Review Group produced its second draft report, on civil justice, to allow all interested organisations and individuals to submit their views before publication of the final report. (The formal launch of the final reports took place outside of this reporting period on 5 September 2017.)

#### Status of Judges

The major reforms to judicial pension schemes which have had an adverse impact on the pensions of the youngest 25% judges, as well as anyone becoming a judge for the first time, continue to affect

morale. There is growing concern that this may cause difficulties with recruiting judges of the highest calibre, especially at senior tiers.

The Fee Paid Judicial Pension Scheme was established on 1 April 2017 to deliver the litigation remedy to eligible office-holders in the case of O'Brien v MOJ and related litigation, including Northern Ireland. The scheme was created following the consultation process and parliamentary approval of the Judicial Pensions (Fee-Paid Judges) Regulations 2017.

A major review of judicial salary structure commenced during this period and is expected to report in June 2018.

A review of judicial security commenced during the reporting period contributing to the low morale amongst the judiciary (Judges in Northern Ireland, because of the political unrest, have Close Protection Cover).

#### **Main challenges faced/main results achieved**

The main challenge faced during this period continues to be the environment within which the courts and judiciary operate. This includes political instability, which has a particular impact on dealing with the past and legacy inquests (such as deaths during the Troubles, or some cases involving agencies of the state), as well as a difficult financial climate and a requirement to deliver significant savings. As referenced above, challenges have also been presented by major reforms in Judicial Pensions, judicial morale, judicial security concerns and potential difficulties with recruitment.

The Presiding District Judge (Magistrates' Courts) has led a project exploring the potential to extend the criminal jurisdiction of the magistrates' court and a report on this was published in June and issued to interested stakeholders. The Lord Chief Justice has sought views on the proposals contained in the report.

The principles which were applied to cases in the Indictable Cases Pilot which operated during 2015 have been rolled out to other offence types during this period. The pilot included intensive case management, earlier engagement and proportionate case preparation. It saw the time taken to process cases drop significantly - by 252 days on average. The key 5 features of this approach have now been applied to murder and manslaughter cases and, since May, to a range of other offences.

#### **Impact of ENCJ reports and activities on national level**

All ENCJ reports or developments during this period have been reported to the Judges' Council, and circulated to the judiciary. ENCJ matters are also a regular agenda item at Council meetings.

#### Other

The Judges' Council in Northern Ireland encourages continued co-operation and communication between our Judicial counterparts in England and Wales, Ireland and Scotland.



## JUDICIAL COUNCIL FOR SCOTLAND

### Judicial reform

#### **Sheriff and Jury Reform**

Sheriff Principal Bowen published his Independent Review of Sheriff and Jury Procedure on 11 June 2010. The Scottish Government's commitment to implement Sheriff Principal Bowen's recommendations was supported by a motion of the Scottish Parliament. These recommendations were included in a subsequent Criminal Justice Bill, which was granted Royal Assent in January 2016 (Criminal Justice (Scotland) Act 2016).

The Bill takes forward and develops as a package those of Sheriff Principal Bowen's recommendations which require primary legislation. This comprises provisions in the following areas:

- A requirement for the prosecutor and the defence to engage in advance of the first hearing;
- A case will be indicted to a first diet and will only proceed to trial when a sheriff is satisfied that it is ready;
- Increasing the time period in which an accused person can be remanded before having been brought to trial from 110 days to 140 days; and
- Removal of the requirement for an accused person to sign a guilty plea.

Various commencement orders are implementing these legislative changes throughout 2017 and are ongoing.

#### **The Courts Reform (Scotland) Act 2014**

The sheriff court now has exclusive competence in actions where the total value of orders does not exceed £100,000. As intended, sheriffs are now dealing with an increased number of complex actions that would have previously called within the Court of Session. Due to this shift in business - the number of Judges in the Court of Session appointed to the Inner House was been reduced by one, with that resource now being used in the Outer House, first instance.

The Act of Sederunt (Simple Procedure Rules) 2016 was made on 9 June 2016. Training for sheriffs took place early in November 2016 with simple procedure coming into force on 28 November 2016. Simple procedure is designed to provide a speedy, inexpensive and informal way to resolve disputes

involving sums of £5,000 or less. The new rules require a problem-solving or interventionist approach by the sheriff. The sheriff must identify the issues and specify to parties exactly what the court will wish to hear or see by way of evidence.

The introduction of summary sheriffs continues (the post of Summary Sheriff was created to ensure that cases in Scotland's courts are heard at the appropriate level in the court Sheriff Court structure), with the newest tranche now in post and operational as of June 2016. There are now 34 summary sheriffs in post throughout Scotland.

### **Scottish Tribunals**

A 2008 report on tribunals in Scotland by an expert group chaired by Lord Philip, a retired senior judge, found that:

- The tribunal system in Scotland was extremely complex and fragmented;
- There was no standard system for appointing tribunal chairs and members;
- Many of the tribunals worked in isolation, leading to duplication, a variation of standards and performance, and a lack of good value.

Since the 2008 report, the Scottish Government implemented legislation to reform the devolved tribunals system "the Tribunals (Scotland) Act 2014". The 2014 Act creates a new, simplified statutory framework for tribunals in Scotland, bringing existing jurisdictions together and providing a structure for new ones. The Act created two new tribunals, the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland.

The 2014 Act designates the Lord President as the head of the Scottish Tribunals and has established the office of President of Scottish Tribunals. It is the responsibility of the Lord President to assign a judge of the Court of Session to the office and he assigned the Rt Hon Lady Smith to that role.

Each of the First-tier Tribunal and Upper Tribunal consist of ordinary, legal and judicial members. Judicial members will be those members of the courts judiciary. Legal members are solicitors or advocates and ordinary members comprise persons with such other qualifications, experience or training as are necessary for the Tribunals to exercise their functions (for example, doctors, surveyors, teachers or other lay persons). All members of Scottish Tribunals are granted full judicial independence.

The First-tier Tribunal is organised into a series of chambers covering specific subject matters.

From 1 December 2016, the Housing and Property Chamber was established and took on the functions of the former Home Owner and Housing Panel and the Private Rented Housing Panel.

From 24 April 2017, the Tax Chamber was established and took on the functions of the former Tax Tribunals for Scotland.

The transfer of devolved Tribunals into this new system of Scottish tribunals will continue on a phased basis with the final transfers taking place in 2022.

The Upper Tribunal for Scotland hears appeals on decisions of the chambers of the First-tier Tribunal.

### **Devolution of Reserved Tribunals**

Following the Scotland Act 2016, the devolution of UK reserved tribunals to Scotland is now being considered. All powers over the management and operation of all reserved tribunals which includes administrative, judicial and legislative powers. The laws providing for the underlying reserved substantive rights and duties will continue to remain reserved.

### **Status of Judges**

No change, other than as a consequence of the reforms described above.

With the addition of floating summary sheriffs and additional resources throughout the Sheriffdoms, we have been able to accommodate more requests from salaried judiciary to alter working hours. We now have 7 sheriffs on part-time working hours with 2 more planned transitions in 2018.

### **Main challenges faced/main results achieved**

The main challenge is continuing to provide a fair and efficient justice system with reduced resources.

### **Impact of ENCJ reports and activities on national level**

Judicial office holders have been provided with links to ENCJ reports.

## LIST OF ENCJ MEMBERS on 1 June 2017

		Members
COUNTRY	MEMBER INSTITUTION	
Belgium	Conseil Supérieur de la Justice / Hoge Raad voor de Justitie	
Bulgaria	Висш Съдебен Съвет / Supreme Judicial Council	
Croatia	Državno sudbeno vijeće / State Judicial Council	
Denmark	Domstolsstyrelsen	
France	Conseil supérieur de la Magistrature	
Greece	ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΙΚΟ ΣΥΜΒΟΥΛΙΟ / Supreme Judicial Council of Civil and Criminal Justice	
Greece	Ανώτατο Δικαστικό Συμβούλιο Διοικητικής Δικαιοσύνης / Supreme Judicial Council for Administrative Justice	
Hungary	Országos Bírói Tanács / National Judicial Council	
Ireland	An tSeirbhis Chúirteanna / Courts' Service	
Italy	Consiglio Superiore della Magistratura	
Italy	Consiglio di Presidenza della giustizia amministrativa	
Latvia	Tieslietu padome	
Lithuania	Teisėjų Taryba	
Malta	Commission for the Administration of Justice	
Netherlands	Raad voor de Rechtspraak	
Poland	Krajowa Rada Sądowictwa	
Portugal	Conselho Superior da Magistratura	
Romania	Consiliul Superior al Magistraturii	
Slovakia	Súdna rada Slovenskej republiky	
Slovenia	Republika Slovenija Sodni Svet	
Spain	Consejo General del Poder Judicial	
United Kingdom	Judges' Council of England and Wales	
United Kingdom	Judges' Council of Northern Ireland	
United Kingdom	Judicial Council of Scotland	

## LIST OF ENCJ OBSERVERS on 1 June 2017

### Observers

COUNTRY	OBSERVER INSTITUTION
European Union	Court of Justice of the European Union
Albania	Këshilli i Lartë i Drejtësisë / High Judicial Council
Austria	Ministry of Justice
Cyprus	Supreme Court
Czech Republic	Ministry of Justice
Estonia	Ministry of Justice
Finland	Ministry of Justice
FYROM	Sudski Sovetna Republika Makedonija / Judicial Council
Germany	Ministry of Justice
Luxembourg	Ministry of Justice
Montenegro	Sudski savjet Crne Gore/Judicial Council
Norway	Domstolsadministrasjonen / National Courts Administration
Serbia	Високи савет судства / High Judicial Council
Sweden	Domstolsverket / National Courts Administration

## ENCJ meetings July-December 2016

4 July	Meeting Executive Board	Madrid	Spain
26-27 September	Joint meeting project teams	Rome	Italy
9-10 November	Regional Timeliness seminar	Bucharest	Romania
21 November	Meeting Executive Board	ENCJ Office	Brussels
28-30 November	Regional Timeliness Seminar	Madrid	Spain
8-9 December	Meeting Project 1 Independence and Quality	The Hague	Netherlands
8 December	Extra-ordinary General Assembly	The Hague	Netherlands
12-13 December	Meeting Project 2 Judicial Domain	Bratislava	Slovakia

## ENCJ meetings January-June 2017

13 February	Meeting Executive Board	ENCJ Office	Brussels
14 February	Meeting Project 1 Independence and Quality	ENCJ Office	Brussels
13-14 March	Meeting Project 2 Judicial Domain	Ljubljana	Slovenia
16-17 March	Meeting Project 1 Independence and Quality	Vienna	Austria
31 March	Digital Justice Seminar	Amsterdam	Netherlands
13 April	Co-ordinators meeting PT 2 Judicial Domain	ENCJ Office	Brussels
8 May	Meeting Executive Board	ENCJ Office	Brussels
<b>7-9 June</b>	<b>General Assembly</b>	<b>Paris</b>	<b>France</b>

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