



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Annual Report 2017 - 2018



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CONTENT

- WORD FROM THE PRESIDENT.....5
- ENCJ ACTIVITIES.....6
- INFORMATION FROM ENCJ MEMBERS22
- LIST OF ENCJ MEMBERS AND OBSERVERS.....61
- CALENDAR.....63

THE ENCJ ANNUAL REPORT COVERS THE ACTIVITIES FROM SEPTEMBER 2017 TO AUGUST 2018

WORD FROM THE PRESIDENT

DEAR READER,

It is with great honour that I address you here. I have only recently started my mandate as the President of the ENCJ and therefore I would like to start with expressing my gratitude for my predecessor Nuria Díaz Abad. She has led the ENCJ through a particular challenging time. She has done an excellent job with as result the ENCJ is now stronger and more relevant than ever before. As a president I very much want to build on this strength and unity.

I strongly believe that the rule of law, the separation of powers and the independence of a strong judiciary is essential to the well functioning of society. Lately this view is under attack in Europe, but I believe that without these the rights and freedoms of citizens individually or society as a whole are at stake.

Society is changing, and this has influence on the role of all our judiciaries. Together we must find a way to redefine that role, because the principles of the Rule of Law and the independence of the judiciary are well worth defending.

The core of the ENCJ is cooperation between Councils of the judiciaries. The first goal of this cooperation is to learn from each other, because every judicial tradition has something of interest to the others, even though the circumstances of each judiciary differ. To learn from each other we must establish an atmosphere of mutual trust: this implies good relations on an individual and institutional level. It also means recognition that the system of one judiciary is not necessarily better than that of an other and that we have to work together.

An other important goal is to be united , because we can only be an important power in the European theatre when we stand together. To put it in French: l'union fait la force.

It is with great pleasure that I present to you the 2017-2018 ENCJ report.

Kees Sterk

President of the ENCJ



ENCJ ACTIVITIES

General Assembly

The ENCJ General Assembly took place from 30 May to 1 June 2018 and was excellently hosted by the Conselho Superior da Magistratura. The grandeur of the venue, the Academy of Sciences, added to the positive atmosphere of the event.

Elections

On the 30 May 2018 the ENCJ Members gathered in Lisbon to elect a new President and 4 new Board Members. Mr. Kees Sterk, member of the Netherlands Council for the Judiciary, was elected to succeed Ms Nuria Díaz Abad as President of the ENCJ. His mandate started on 1 June 2018 and lasts two years.

The Hoge Raad voor de Justitie (HRJ/CSJ) of Belgium, the Consiglio Superiore della Magistratura (CSM) of Italy, the Judicial Council of Lithuania (TT) and the Consejo General del Poder Judicial of Spain were elected into the Board for two years. The Dutch, Romanian, Scottish and Slovenian Councils for the Judiciary ended their mandate as Board member.

ENCJ Lisbon Declaration

The General Assembly of the ENCJ adopted the Lisbon Declaration on Leading Positive Change. The declaration states that Councils for the Judiciary should initiate and lead a process of positive change and focuses on two aspects: the internal aspect in the sense of the engagement of stakeholders and in the external sense of the judiciary's relationship with other state powers and strengthening the role of the judiciary within the State.

The Declaration also contains paragraphs that deal with the situation in Poland and Turkey.

In particular that the presence at the General Assembly of representatives of the KRS of Poland does not mean that the ENCJ accepts that its Member status within our association will be maintained.

Adoption of reports

At the General Assembly in Lisbon, the ENCJ approved the reports that were prepared by the various project teams. The reports can be found on the relevant pages in the section topics and projects.

- [Independence, Accountability and Quality of the Judiciary 2017-2018](#)
- [Public Confidence and the Image of Justice 2017-2018](#)
- [Digital Justice](#)
- [ELI-ENCJ Statement on Alternative Dispute Resolution](#)

ENCJ Market

At the first ever organized ENCJ market in Lisbon on 1 June 2018, nine Members and Observers of the ENCJ presented their best idea which had been successful and have led to positive change.

A wide variety of ideas were presented in a traditional market setting. The Judicial Council of Lithuania won the ENCJ Award for Positive Change with their #courtscore programme. The Supreme Judicial Council of Bulgaria was a very close runner-up with their programme called Open Courts and Prosecutor's Offices.

The ideas presented on the market were:

- VSS Bulgaria -Open Courts and Prosecutors' Offices
- Judges Council England and Wales- Digitalisation of the courts and litigation services
- MoJ Finland -The payment of costs of presenting evidence
- CSM Italy - Creation of a website Best Practices
- TT Lithuania - Psychological well-being #courtscore.
- Rvdr Netherlands - Client satisfaction survey conducted in 2017 - Policy and practices regarding press judges - Conference of the state powers (trias politica debate)
- CSM Portugal - IUDEX- IT system of HJC (CSM) management support -Performance indicators system
- Sudna Rada Slovakia -Selection, evaluation and discipline of judges -Council legislative procedures & funding of the judiciary - Education of the public
- CGPJ Spain - Access to Justice and disabled people - Protecting judges' health: the work of the CGPJ in this field - The Observatory - Domestic and Gender-based Violence



TT Lithuania receives the ENCJ award for positive change.

Executive Board

The Executive Board met in Barcelona in September 2017 and Brussels in February, May and July 2018. Two telephone conferences were held in December 2017 and March 2018. When feasible reports of the Board meetings were sent to the Members and Observers

1.2.1 Finances of the Association

The Executive Board is responsible for the budgetary issues of the Association. In November 2017 the Framework Partnership Agreement with the European Commission for 2018-2021 was signed. In September 2017, an Operating Grant proposal for 2018 was submitted. The grant agreement was signed in March 2018.

The Board drafted and adopted an opinion on the next EU multi-annual budget (2021-2027) and submitted it to the European Commission within the framework of a targeted consultation. The main points put forward were:

“European co-operation between judicial authorities and the judiciaries is of high importance in maintaining the conditions necessary to enable the rule of law to prevail in member states. It needs continuous support by the EU Institutions and this should be reflected in the EU budget. An independent budget or separate budget chapter or article that would support continuous and long-term co-operation between the judiciaries of Europe, would acknowledge the central role of the judiciary in a democratic state governed by the rule of law. It would also recognise that the Rule of Law is one of the founding principles on which the EU is based. Financial support for judicial co-operation should not be dependent on political or policy priorities set by the other State Powers of EU Institutions.

....the ENCJ believes that a dialogue needs to be organised with the European Institutions and the member states about judicial co-operation, the responsibilities of each of the stakeholders (EU Institutions/ member states/ Judicial authorities/ European judicial networks) and the funding of activities that promote the rule of law, independent and accountable judiciaries and judicial co-operation such as judicial training, the exchange of best practices and the building of bridges between different justice systems. “

1.2.2 The Permanent Office

Staff

The Executive Board is responsible for the functioning of the ENCJ's Permanent Office. The office currently has a staff of 1.4 fte (Monique van der Goes 1 fte and Natalie Callebaut 0.4 fte) The Office organised all meetings of the ENCJ bodies: the General Assembly and the Executive Board. The Office also dealt with the financial management of the Association (EC Subvention/drafting budgets/preparing accounts/raising payments etc.) and assisted in the organisation of the ENCJ Projects.

Internship programme

The ENCJ's Internship Programme restarted after the summer in a slightly altered format. One intern (Dace Sulmane, TP Latvia) was welcomed to Brussels for two weeks in October 2017. In March 2018, two more interns came to Brussels (Mafalda Chaveiro from CSM Portugal and Gouda Pauzaite from the NCA of Lithuania). The ENCJ does not pay salary but a *per diem* is paid to cover accommodation and living expenses in Brussels. Travel to Brussels is also paid for by the ENCJ.

1.2.3 Relations and cooperation with Members and Observers

KRS Poland

The Board sent a letter to the new Members of the Polish National Judicial Council (KRS) on 5 April 2018, stating that:

“The National Council of the Judiciary of Poland (the ‘KRS’) is one of the founding members of the ENCJ and was, indeed, for a time represented on its Executive Board. The KRS therefore has always been regarded as a distinguished member of the European Network of Councils for the Judiciary.

However, the recent changes in the law concerning the KRS, forming part of broader judicial reforms, call into question whether the KRS in its current form can be seen as a continuation of the organisation that became a member of ENCJ or is, in effect, a different organisation given the nature of the changes which have been brought about. If the latter is the position, this gives rise to the further question of whether the KRS, in its new (and different) form, still adheres to the purposes and statutes of the ENCJ. If the (new) KRS no longer adheres, the next question is whether the KRS can continue as a Member of the ENCJ.”

The Board also suggested that a meeting would take place before the General Assembly in Poland.

On 16 May, the ENCJ Board sent an additional letter declining the invitation to Warsaw for a meeting on 25 May because neither the President nor the incoming President were available.

The Board also stated that:

“The question which arises, in such circumstances, is whether it would be appropriate for there to be representation from Poland at the General Assembly in view of the concerns, which have previously been expressed to you, (i) as to whether the KRS in its current form is, in truth, the same organisation that became a member of ENCJ or is, in effect, a different organisation given the nature of the recent changes which have been made as regards the KRS, and (ii) as to whether the KRS, in its new (and different) form, adheres to the purposes and statutes of the ENCJ. These concerns have not yet been allayed and will not be allayed in time for the General Assembly. On the contrary, they are, if anything, heightened by what we understand the new KRS to have done in recent weeks. This includes deleting content of the KRS website and starting disciplinary proceedings against a former member of the KRS.

It is for you to decide whether, in the circumstances, pending the meeting which needs to take place between the ENCJ and the KRS, it is appropriate for the KRS to attend the General Assembly.

What we do need to make clear, for the avoidance of any doubt, is that if the KRS does choose to attend the General Assembly, this is in no way to be regarded as implying an acceptance on the part of the ENCJ or its members that the new KRS is, indeed, the same organisation that became a member of ENCJ, nor that the new KRS adheres to the purposes and statutes of the ENCJ. This will be made clear by the President of the ENCJ in a statement at the start of the General Assembly, irrespective of whether the new KRS is represented. There will be no discussion of the matter whether the KRS is represented or not. A statement along these lines will also be introduced into the Lisbon Declaration that will be published after the closing of the event.”

On 21 June an ENCJ delegation consisting of the President Kees Sterk, Executive Board members Nerijus Meilutis and Luca Forteleoni and the director of the ENCJ Office, Monique van der Goes, visited Warsaw for a meeting with the Polish National Judicial Council, the KRS. The meeting with the KRS is part of a process that the ENCJ has announced in its Lisbon Declaration to review the position of the KRS in ENCJ. A number of issues that the ENCJ wanted to address were sent in advance of the meeting (see full list). Some of the issues were discussed during the meeting, but the KRS has promised to send

a written reply within three weeks at the latest (the replies of the KRS were received on Friday 14 July). Further meetings were held with the President of the Supreme Court, representatives of the main judges' associations and with the Polish Ombudsman.

On 4 July 2018, the Executive Board published a statement in which it offered wholehearted support for the judges in Poland in these difficult times and stated that judges must speak out if judicial independence and the Rule of Law are threatened. The Board of the ENCJ supports the judges of Poland who are fulfilling this duty.

On 16 August 2018 the ENCJ Board informed the Polish KRS that it would convene an Extraordinary General Assembly on 17 September 2018 in Bucharest, to decide on the position of the KRS in the ENCJ. The Board has proposed to the Members of the ENCJ to suspend the membership of the KRS as it no longer meets the requirements of ENCJ that it is independent of the Executive and Legislature so as to ensure the Independence of the Polish Judiciary ([link to the position paper of the Board](#)).

Taking into account the replies of the KRS and after having studied all other relevant materials (i.e. [the position of the Polish Judges Associations](#)) the Board considers that the KRS no longer fulfils the requirements for Membership of the ENCJ.

OBT Hungary

On 9 and 10 July an ENCJ delegation travelled to Hungary for a courtesy visit to the Hungarian National Council for the Judiciary. Meetings were held with the members of the Council and Kees Sterk, the President of the ENCJ, gave an [address on topics such as self-governance and the role of Councils for the Judiciary](#).

The delegation also met the Minister of Justice, who explained that he has been tasked with two important issues: the assessment of the administration of the judiciary and setting up the new administrative court system. The ENCJ Board delegation offered its support to the members of the OBT and promised that the Board would continue to monitor developments in Hungary.

Communication

The ENCJ website was renewed. The promised new features that will be introduced including the possibility to develop ENCJ wiki-pages containing detailed information on the functioning of the judicial systems in Europe still need to be developed.

The third annual ENCJ report was slightly delayed but was eventually published. Paper copies will be available at the joint meeting of the project teams in September 2018.

Media

The ENCJ Presidents (former President Nuria Diaz Abad and the current President Kees Sterk) have been giving interviews and statements to various media outlets, both national (Spain, Netherlands, Poland and Hungary) and international (Reuters). The interviews related to the situation in Poland and to the state of the Rule of Law in general.

Requests for Assistance

The Board has adopted opinions on the situation in Poland in [October](#) and [December](#) 2017. All opinions were shared with the ENCJ Members and relevant stakeholders.

Request for Information

The sharing of information and best practices between the Members and Observers of the ENCJ is an important feature of the network. A number of questionnaires were shared within the network upon the request of ENCJ Members. Topics covered were judicial pensions and assets declarations, judges and social media, enforcement of decisions, speech recognition software and GDPR implications for Councils. A new website tool to share information more effectively is yet to be developed.

Advocacy and awareness raising

The ENCJ, and in particular the Executive Board, will continue its efforts to provide support for the independence, accountability and quality of judiciaries in Europe and to promote understanding of and respect for judicial independence. The ENCJ President spoke in the European Parliament in June 2017, at a MEDEL conference in Krakow and at a conference of the Croatian Judges Association.

1.2.4 External relations and cooperation

The ambitions set out in the Strategic Plan 2018-2021 will need to be put into practice by the Executive Board. The first priority will be how to initiate a dialogue on the Rule of Law and the role of the judiciary in a democratic state. The idea to discuss this issue was launched with DG Justice. The Dutch Minister of Justice also seemed open to this idea.

The Board followed developments that could affect the co-operation between the judiciaries in Europe such as the establishment of a Network of European Inspection Services and the initiative of the CJEU to create the European Judicial Network consisting of the Constitutional and Highest national Courts. The ENCJ President and Director attended the first meeting of the European Judicial Network in which the ENCJ has a status of observer. The European Network of Inspection Service is taking shape and is developing its first activities. ENCJ is not involved in the network.

European Commission

The ENCJ continued to invest in its relations with the European Commission. Regular formal and informal contacts took place to discuss the state of the Rule of Law in Europe and in particular with regard to the situation in Hungary and Poland.

The first Vice-President of the European Commission, Mr Frans Timmermans, had initially agreed to address the GA in Lisbon, but was later forced to cancel.

The ENCJ Board statements on the draft laws of the Polish government were used in the European Commission reasoned proposal in accordance with article 7(1) of the treaty on European Union regarding the Rule of Law in Poland¹.

EU Justice Scoreboard

The questionnaire for the 2018 Justice Scoreboard was sent to the ENCJ Members. All Members have replied. The Board had several meetings with the European Commission to discuss the further development of the Justice Scoreboard.

European Parliament

Further links will be developed with the JURI and LIBE committee of the European Parliament through the secretariats of these committees and in contacts with specific MEPs. The ENCJ will follow the developments in relation to the Pact on Democracy, Rule of Law and Human Rights.

Court of Justice of the European Union

The CJEU is an observer to the ENCJ. The President will develop further ties and areas of cooperation will be identified. An ENCJ delegation met the President of the CJEU in September 2017 and discussed the state of the Rule of Law in Europe.

¹ COM(2017) 835 final, 20/12/2017

Council of Europe

The ENCJ is represented in the **CCJE** meetings as an observer, and contributes to its annual CCJE opinions. ENCJ is an observer in **CEPEJ** and participates in their Quality Working Group. The ENCJ President attended the anti-corruption conference of the CCJE in November 2017. The President also participated in the Solemn Opening of the ECHR in January 2018.

The CCJE as well as the head of unit of the Council of Europe in charge of Justice and Legal Co-operation took part in the workshop on Independence and Accountability on 14 March 2018.

The CEPEJ participated in the Digital Justice Seminar in Amsterdam and presented their work in this field.

European Judicial Training Network - EJTJN

The EU is a Union of shared values. This also applies to the judiciaries. Each judge needs to have a thorough understanding of these shared values in the field of justice. To achieve this objective the co-operation with EJTJN will be continued to promote training on non-substantive issues such as judicial ethics and knowledge of justice systems of other Member States.

The President attended a meeting of the EJTJN Steering Committee in Barcelona in September 2017.

The ENCJ Board has appointed a representative for the Rule of Law project that EJTJN co-ordinates. The project aims to design and organise training-modules for judges, prosecutors, court leaders and members of Judicial Councils. The topic of the trainings are the causes that lead to the creation of Rule of Law challenges and cover the very practical and very precise areas in the judiciary of the EU Member States, and focus on the judiciary as well as on the citizens and their expectations. The trainings will promote the values of access to justice, effectiveness of the judiciary, effective judicial protection by increasing the understanding of what is the role and daily obligations in private and professional duties of judges and prosecutors.

The European Commission opened a public consultation on the Judicial Training Strategy 2019-2025. The ENCJ Members were informed about this and invited to give their opinion.

European Law Institute - ELI

The ELI-ENCJ project team finalised its work in 2017. The project team has produced a draft statement of European best practice in relation to the approach that courts and judges should adopt in interacting with all types of ADR processes. They also drafted a set of recommendations as to the best European models that can be developed and applied for coherent access to DRPs in respect of different types of dispute, and towards which Member States may wish to progress. The final report has been adopted by the ELI Council. The ENCJ Members should adopt it as well. Geoffrey Vos will present the report at the General Assembly in Lisbon, after which formal adoption by the ENCJ could take place.

Council of Bars and Law Societies of Europe - CCBE

In the autumn of 2017, the CCBE presented the results of the [survey among lawyers on their perception of the independence of judges](#). Due to the limited replies received, a thorough study of the outcomes is not desirable.

According to the CCBE, the reason for the limited replies may be caused by the fact that the origin of the request was not sufficiently communicated and the lawyers were hesitant to comment on the judiciary. The CCBE would be willing to repeat the exercise.

UNODC

The ENCJ has lead a session at the launch of the Global Judicial Integrity Network of the UNODC in April 2018. Experts from Spain, Poland, Romania and the CJEU agreed to speak on the topic of drafting of ethical codes. The ENCJ President led the session.

ENCJ Projects 2017-2018

Project 1 Independence, Accountability and Quality of the Judiciary

In recent years the ENCJ has developed a framework and vision of independence and accountability of the judiciary and a set of indicators to assess the state of independence and accountability of EU judicial systems. In 2014 it was agreed the scope of the project would be extended to quality of justice. Independence is a prerequisite for quality of justice and that is the ultimate goal. To expand on the work previously undertaken, the project of 2017/2018 consisted of several activities in both the area of Independence and Accountability on the one hand and Quality of Justice on the other hand. This report presents the outcomes of the project and recommendations to the ENCJ.

Independence and Accountability of the Judiciary

Use of indicators 2016/2017

Although there is still room for improvement, the ENCJ methodology provides clear insights in what areas judicial systems are lagging and where they are at the forefront. This year, therefore the goal was set for the individual councils to use these insights to develop concrete action plans to improve the judicial systems on a national level. To discuss the issues per country, five dialogue group meetings were organised in which 4 Members/Observers participated each time. The most important topics of discussions were the relationship with the other state powers and with the general public, the appointment and promotion procedures and the influence of the media. Furthermore the indicators bring to light that most judiciaries lack insight in the perceptions about the independence of the courts by people that have first-hand experience with the courts.

Validation of Indicators 2016/2017

The indicators of Independence and Accountability have been in development since 2013. This year the indicators were considered to be ready to be shared with external audiences. To that end, in the spring of 2018 two meetings were held with external audiences to discuss and validate the methodology and content of the indicators. In March a workshop with European institutions was organised and in April a scientific conference. The main conclusion of both seminars is that the work of the ENCJ is interesting and meaningful. The project is about the institutional design of the judiciaries

of Europe in their complicated interaction with the other powers of the state and with the judges and courts. There was broad support for indicators that can be acted upon, as part of an improvement cycle, while the indicators may also contribute to broader purposes such as the scientific discussion about formal and actual independence, the interaction of the two, and the impact on society and economy. Apart from practical suggestions to improve the indicators, it was suggested to externally validate the answers to the questionnaire, as self-evaluation is vulnerable. Also, the extension to perceptions of court users was seen as necessary. At a conceptual level it was argued that the ENCJ should think about extending the system to measures of 'real' independence beyond perceptions of independence. The desirability of cooperation of the ENCJ with the scientific field and European institutions was widely suggested.

Survey among lay judges

Lay judges play an important role in many of the European justice systems. In addition to the survey among professional judges that has taken place in 2014/2015 and in 2016/2017, this year, a survey among lay judges about their independence was conducted. In total 20,605 lay judges from 10 judiciaries participated. The survey highlights the various ways lay judges are involved in the judiciary. The main conclusion about independence is that lay judges in Europe generally do not experience inappropriate pressure to decide cases in a certain way. It should be noted that they are much less outspoken in their views and more uncertain about answers than professional judges. Although lay judges are much less critical, the overall rankings of their independence of lay judges and of professional judges is very similar, and largely coincides with the perceptions of the professional judges.

Quality of Justice

Vision

To guide ENCJ's work on quality, a vision on quality was developed. It addresses on the one hand the responsibilities of Councils and other governing bodies for quality of justice and on the other hand it discusses quality in relation to independence and accountability and in relation to timeliness and efficiency. Finally, it addresses the assessment of quality.

As to the responsibilities of Councils, even if these responsibilities in the area of quality have not been made explicit in the law, Councils affect the quality of justice in many ways and therefore need to define and maintain quality standards, together with and respecting the professional role of the judges and in consultation with the users of the courts. Such standards should be part of a quality framework.

It is recommended that Councils should, if not done so, develop a quality framework that at least includes:

1. Standards for courts defining quality of justice
2. Indicators to measure performance on these standards
3. Good practice guides for the courts how to implement the standards
4. Periodic reporting about the quality of justice
5. Creating conditions to avoid any interference with judges and the judiciary's independence.

Indicators

The set of quality indicators was applied by 23 Members and Observers. The Court of Justice of the European Union (CJEU) also filled in the questionnaire. The questionnaire proved more difficult to complete than the questionnaire on Independence and Accountability. As noted by the participants and the expert group, some indicators and their scoring need further discussion. As a result it was considered too early to publish country profiles on quality of justice at this stage. The average outcomes of the indicators have, however, been included in the report.

In as far as Members and Councils are able to ascertain the validity of the preliminary outcomes of the indicators, these can already be used to design practical improvements regarding quality of justice. In doing so, the councils are recommended to take into account the topics that on the basis of the preliminary findings are particularly effective and/or under-utilized:

- Timeliness: time standards for judges, possibility for summary procedures in appropriate cases and specialisation.
- Due process: proper legal representation and effectiveness of appeal procedures
- Quality of decisions: Reasoning and clarity of judicial decisions
- Public access to the law: access to case law and court communications

Project 2 Public Confidence and the Image of Justice

A transparent and accountable judiciary of integrity is one of prerequisites for a proper functioning of the rule of law and the right to a fair, timely, and efficient trial by an independent and impartial court established by law. The ENCJ is aware of that, so in its Strategic plan for 2018-2021 the ENCJ reiterates (among other things) that *Councils for the Judiciary or similar independent bodies, in order to maintain the rule of law, must do all they can to ensure the maintenance of an open and transparent system of*

*justice.*² Equally, an open and transparent system of justice is a further precondition for establishing and maintaining the Public trust in justice, which is a cornerstone of legitimacy of judiciary.

The ENCJ observes (according to the last public confidence surveys that were conducted in the light of the 2017 EU Justice Scoreboard) that low public confidence in the judiciary is still an issue, whereas the impact of media on the decisions of judges is increasing and is large in most countries (according to the 2016 Questionnaire among judges regarding their independence).

The ENCJ has therefore set up as one of its strategic goals for the period of 2018-2021 to promote understanding of and respect for judicial independence. The ENCJ believes that pro-active (educational) attitude of the judiciary itself is indispensable in this regard and so it will be a priority topic of the ENCJ. Therefore the ENCJ identified in its Work Plan 2017/2018³ the need for a project which would be a continuation of the work carried out by three former Working Project Teams that worked on Public Confidence and the relations of the Judiciary, Media and Society.

The project developed the following activities:

1. Researching and summarising any relevant information about previous approaches to this issue.
2. Collection of relevant information by means of a questionnaire addressed to the Councils for the Judiciary represented in the project team, and to other ENCJ Members and Observers.
3. Discussing and analysing the gathered information during several meetings.
4. Preparing a report on joint findings, best practices and possible recommendations.

The main conclusions of the project are that:

- Trust is the bedrock of any successful operation whether it be private or State. The Judiciary is not in competition with other branches of power but it is fundamental that trust is established and there is a recognition of its independence in the way it functions. Trust cannot be demanded, it must be earned in the way the Judiciary functions together with all other participants in the process including prosecutors and court officials.

²ENCJ Strategic Plane 2018-2021, page 2:

https://www.encj.eu/images/stories/pdf/GA/Paris/encj_4_year_plan_2018_2021_adopted_ga_2017.pdf

³https://www.encj.eu/images/stories/pdf/GA/Paris/encj_work_plan_2017_2018.pdf

- The objective and subjective independence of the Judiciary is closely related to public confidence as can be seen from the results of the ENCJ Project on Independence and Accountability. It is vital that it is fully understood that Independence of the Judiciary is not for the benefit of the Judiciary but is fundamental for the protection of the general public. It is an indispensable condition to ensure access to justice for all as is enshrined in the core message of the ENCJ.
- It is recognised that increasing and improving trust in the Judiciary is not fully possible in isolation but must be accompanied by building trust in institutions generally which is a path the Project recommends.

The project team proposed to continue its work in 2018-2019.

Project 3 Digital Justice Forum

The ENCJ Strategic Plan 2018-2021 mentions the following in relation to the second strategic objective: **To promote access to justice in a digital age (measured in terms of efficiency, cost and timeliness) for the benefit of all citizens in the EU.**

One of the ways to contribute to achieving the objective was the set up of an ENCJ Digital Justice Forum consisting of one representative of each ENCJ Member and the interested Observers. Through electronic exchanges and an annual seminar, the aim of the forum is:

- to promote Digital Justice and the modernization of justice and identify challenges and opportunities;
- to exchange best practices and developments on national level;
- to provide a judicial perspective on e-Justice to the European Commission

On May 2018 the ENCJ launched its Digital Justice Forum in Amsterdam. The seminar was attended by participants from almost all EU (candidate) Member States and brought together members of Councils for the Judiciary, judges and IT-specialists. Presentations were held by Dory Reiling and representatives of the European Commission, CEPEJ and the e-CODEX consortium.

The conclusions on the further development of the Forum were:

- Holding an annual meeting – the meeting needs to have a concrete purpose;
- Organize small group discussions - within or besides the annual meeting;
- Sharing best practices – working as an advisory group, generate recommendations and expressing the users perceptions;

- Setting shared values – guidelines, data ownership, recommendations;
- Study need for the set-up of Specialists groups
- Identify partners;
- Topics to be studied are: Promotion of training of judges; Sales pitch – promoting Digital Justice; Involving judges in IT development; ODR; Digital justice literacy

REPORTS BY THE ENCJ MEMBERS

BELGIUM



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

HIGH COUNCIL OF JUSTICE

Judicial reform

Towards the end of 2015 the minister of Justice set up two expert commissions:

(1) The commission for the reform of criminal law has been asked to draw up a new and modern criminal code. Drafts of the first and second book of a new criminal code have been approved by the council of ministers and have been submitted for advice to the Council of State. The Belgian High Council has already given an advice on the draft of the first book and is preparing one on the second book.

(2) The Commission for the reform of criminal procedure has been requested to reshape the Belgian criminal procedure. The Commission has proposed their guidelines for a reform to Parliament.

Both reforms involve debates on critical issues like the purpose of punishment and imprisonment, the role of the public prosecutor and the examining judge (juge d'instruction). As no bills have yet been introduced officially in Parliament, it is still an open question whether these reforms will be adopted within the current term of Parliament.

Status of Judges

The Belgian government intends to develop a social statute for magistrates. In this sense it wishes to complete the existing legislation. The High Council will provide an advice on this matter in the months to come.

Main challenges faced and main results achieved

Expansion of authority of the High Council concerning judicial enquiries which are in progress and disciplinary measures against magistrates. (GRECO)

Impact ENCJ reports and activities on national level

The High Council has contributed to the debate on the Polish judiciary. I has used its influence regarding these developments.



Висш съдебен съвет SUPREME JUDICIAL COUNCIL

РЕПУБЛИКА БЪЛГАРИЯ
ВИСШ СЪДЕБЕН СЪВЕТ

Reform and/or changes to the Council

The mandate of the seventh composition of the Supreme Judicial Council was completed in October 2017 and the current eighth composition of the SJC was constituted. It started its work with the intention of ensuring continuity of good practices, building on the results achieved and formulating new short and long-term goals, in order to ensure a management, engaged with the implementation of the judicial reform and providing an efficient judiciary in line with the public expectations and attitudes. For the first time since the constitution of the SJC, the election of its members from the quota of the judiciary was made by direct elections by the relevant General Assemblies - by secret vote on the spot with ballots, or remotely by electronic means.

The new members of the Supreme Judicial Council (SJC) took an oath on 3 October 2017 at a ceremony at the Palace of Justice in Sofia. The 22 new members elected by the magistrates (judges, prosecutors and investigators) and by the Parliament have been appointed for a five-year term, in addition to the three ex officio members – the heads of the Supreme Court of Cassation, the Supreme Administrative Court and the Prosecutor General.



One of the most efficient ways to tackle the problem of uneven workload among individual courts in the country is the introduction of electronic justice. In this relation, in February 2018, the Judges' College of the Supreme Judicial Council approved and adopted a Concept of the System of Centralized Electronic Processing of the Cases in Payment Order Proceedings, a Project Proposal and a Report on the activities performed by the Work Group created in December 2017 by a decision of the Committee "Judicial Map, Workload and Statistics". Upon a decision of the SJC Plenum in early June 2018 a request has been sent to the Ministry of Finance, as a Coordinating Unit of the European Union Program for Supporting Structural Reforms, for inclusion in the priority list of 2017 applications for support under the Program with the subject-matter "Reform of the Order for Payment Proceedings under the Civil Procedure Code through the Creation of a System for Centralized Electronic Processing of Order for Payment Cases". It aims at creating a centralized electronic system to overcome the uneven workload of regional courts (first instance) considering order for payment cases. It is envisaged that the measure will be implemented jointly with the Structural Reform Support Service of the EC.

In January 2018, the Plenum of the SJC adopted Rules amending and supplementing the Rules on the Administration of the Prosecutors' Office of the Republic of Bulgaria. The main purpose of the changes is to improve the organization of the administration of the Prosecutors' Office and to create prerequisites for increasing its effectiveness under the conditions of reforming the judicial map. The means to achieve this goal are: the proper allocation of resources in general (human, material, financial), the organization of work, as well as the determination of the functional tasks of the judicial officers in view of the forthcoming change in the judicial map of the Prosecutors' Office of the Republic of Bulgaria and the creation of territorial departments.

In March 2018, the Committee "Judicial Map and Workload of Prosecutors and Investigators" to the Prosecutors' College of the SJC adopted a report on the optimization of the judicial map of the regional prosecutors' offices and on changes in the territorial structure and the number of prosecutors' offices. In July 2018, under the proposal of the Prosecutors' Office, the Plenum of the SJC took a decision to optimize the structure of the regional prosecutors' offices and, as of 01.01.2019, closed 11 of the 113 regional prosecution offices, and at the headquarters of the closed regional prosecutor's offices opened territorial departments to the regional prosecutors' office in the respective district city and were defined the areas of operation of the regional prosecution offices to which the newly established territorial departments belong.

Relations with other State Powers in reporting period

In October 2018 the Judges' College of the Supreme Judicial Council adopted the document "Standards for the Independence of the Judiciary". The draft document was proposed by Boyan Magdlinchev – representative of the SJC and Tsvetinka Pashkunova - spokesperson of the SJC's Judges' College, and was drafted in compliance with a decision of the Judges' College.

The document "Standards for the Independence of the Judiciary" contains the criteria on which elements of the constitutional guarantees for the independence of the judiciary are outlined, as well as the criteria under which the authority and the independence are considered to be impaired. In drafting of the document the emphasis is put on the principle of separation of powers and special attention is paid to the freedom of speech and the freedom of expression. The elements of the independence of the judiciary and the guarantees provided by the Constitution and the statutory acts of the Republic of Bulgaria are outlined. The criteria whereby the authority and independence of magistrates are considered to be impaired are defined, as well as the concrete forms of impairment of their independence by the legislative and the executive powers, the media, the parties and participants in the court proceedings, as well as other representatives of the civil society. Specific recommendations have been made to the legislative, the executive and the judiciary, the media and the professional organizations in order to strengthen the independence of the judicial power and to increase the confidence in the justice.

When drafting the document the relevant case-law of the European Court of Human Rights was examined, as well as the experience of the European Network of Councils for the Judiciary, strategic documents and decisions of the Council of Europe, the Consultative Council of the European Judges and the Consultative Council of the European Prosecutors, the Venice Commission, the International Association of Judges and the United Nations.

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 and translated into Bulgarian.

On 27 October 2017 in Edinburgh, Scotland, at an official ceremony marking also the European Day of Justice, the Supreme Judicial Council of the Republic of Bulgaria was awarded a special mention in the “Crystal Scales of Justice” competition of the Council of Europe. The SJC participated in the competition with the presentation of the Education Program “Judiciary – Informed choice and public confidence. Open Courts and Prosecutors’ Offices”, implemented since 2014 jointly with the Ministry of Education and Science.

CONSEIL SUPERIEUR DE LA MAGISTRATURE

Reform and/or changes to the Council

The constitutional reform of the French CSM announced by the government is still in progress. It involves a constitutional reform and a meeting of both Senate and National Assembly in Congress that is not planned so far. The purpose of this reform is to give more independence to the prosecutors. The appointment and the discipline power of the Council regarding prosecutors will be the same as its power over sitting judges.

Judicial reform

The programming law for the Judiciary 2018-2022 was presented on 20 April 2018. It is supposed to improve citizen access to justice, to simplify the civil and criminal procedures, to strengthen care of juvenile delinquents, to increase relevance and efficiency of criminal sanctions, to improve the justice organization and functioning. The debates will take place in autumn 2018.

Status of Judges

The organic law n° 2016-1090 of 8 August 2016 about statutory guarantees and judges' and Council's ethical commitments 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 was published on 9 May 2017.

The members of the college were appointed on 19 July 2017. It is composed of five members : three magistrates (one appointed by the President of the Republic after the advice of the High Council for the Judiciary and two elected by their peers) and two qualified members (an administrative magistrate from the Conseil d'Etat and a professor of law appointed by the President of the Republic after the advice of the Premier president of the Cour de cassation).

This body 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. It gives a written opinion about these ethical matters. The ethical college has to present a report of its activity to the Council.

Main challenges faced and main results achieved

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

Since its creation to August 2018, the service answered to 101 requests from judges and prosecutors, about conflicts of interests, jurisdiction organization, activities outside the judiciary and relationships between judges and other justice professionals.

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

The theme of the ethical questions are reported to the Council in an anonymous way in order to improve the repository of ethical obligations for magistrates.

The Council will propose an updated version of the Compendium of the Judiciary's Ethical Obligation at the end of its mandate (January 2019).

Impact of ENCJ reports and activities on national level

ENCJ reports and activities are a source of reflection for the French CSM.

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

In October 2017 the Council of Ministers appointed a new President of the Supreme Civil and Criminal Court, assigned at the same time the Presidency of the Supreme Judicial Council for Civil and Criminal Justice. Moreover, after the end of June 2018, four new judicial members of the same Council were elected in replacement of equal number of members who retired.

Judicial reform

In 2016 the Minister of Justice set up two scientific committees and entrusted them with the task of drafting: a. a new “Code of Organization of Courts and Judges”, laying down the rules governing the organization of the courts and the conditions of employment of judges and b. a new “Code of Judicial Staff”, laying down the conditions of employment of judicial staff. Both committees comprise judges, academics and judicial staff and are presided over by Vice-Presidents of the Council of State. The Code of Judicial Staff committee submitted its final draft in July 2018, but the draft law has yet to be put for public consultation and then tabled to the Parliament for vote. The “Code of Organization of Courts and Judges” committee’s work is still in progress. It is expected to have submitted a final draft by the end of December 2018.

The new Code of Judicial Staff draft mainly:

- a. Revisits the rights and obligations of the judicial staff
- b. Redesigns the evaluation and promotion system
- c. Introduces two new staff sectors, one for the immediate assistance of judges by highly trained staff and one for the judicial communication by specialized staff.

The aforementioned changes in paragraph 2, introduced by the “Code of Judicial Staff” concerning the judicial communication by specialized staff, were entailed as a direct consequence of the report of Project 2 “Public Confidence and Image of Justice” and more specifically its part concerning the introduction of a spokesperson at the Courts.



An tSeirbhís Chúirteanna
Courts Service

THE COURTS SERVICE OF IRELAND

Reform and/or changes to the Council

A Bill providing for the establishment of a Judicial Council was initiated in the Houses of the Oireachtas (Parliament) in 2017 and is currently before Seanad Éireann (the Senate).

The Bill envisages that membership of the Judicial Council will consist of all holders of judicial office. It envisages that the Chief Justice will be chair of the Council and the President of the Court of Appeal will be vice-chair. The Bill provides that the Council shall be independent in the performance of its functions. The proposed functions of the Council are to promote and maintain:

- a. Excellence in the exercise by judges of their judicial function,
- b. High standards of conduct among judges, have 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 court,
- 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.

It is envisaged that the Council's powers and functions will include:

- 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.

The proposed Judicial Council will provide for continuing education, training and support of judges through a Judicial Studies Committee and Judicial Support Committees.

The Bill provides for the establishment of a Judicial Conduct Committee, the function of which will be 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 Judicial Conduct Committee would be chaired by the Chief Justice and include seven other judicial members, including the Presidents of the other court jurisdictions and five lay members.

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

Judicial reform

The Judiciary and Courts Service are currently engaged in a number of projects aimed at improving access to justice in the courts. These include:

- Improvement in the use of ICT in the courts, including the introduction of an online system of applying for leave to appeal to the Supreme Court, which is due to be introduced in January 2019 and the development of a new Courts Service and Supreme Court website. The Chief Justice has indicated that such initiatives are part of a larger plan of investment so as to increase the use of technology in the Courts;
- The undertaking by a Review Group on the Administration on Civil Justice chaired by the President of the High Court of a review of the procedural framework relating to civil litigation;
- A Review by a Committee of Supreme Court judges of the procedural rules and practice directions governing Supreme Court procedure;
- The introduction for the first time in 2018 of cameras in the Supreme Court which allowed for the broadcasting of judgments of the Court.

Status of Judges

A Bill to establish a Judicial Appointments Commission was initiated in Parliament in 2017 and is currently before Seanad Éireann (Senate) where amendments are being considered. 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 President of the Circuit Court, the President of the District Court, the Attorney General, a lay person who is a member of the Irish Human Rights and Equality Commission, a practicing Barrister, a practicing 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 for that purpose to approve for publication statements of selection procedures and of requisite skills and attributes for various judicial offices.

Main challenges faced and main results achieved

Engagement between the Judiciary and the Government on aspects of the Judicial Appointments Commission Bill, relating to participation by the Judiciary in the Commission to an extent which reflects international standards, is ongoing. The Bill envisages the replacement of the Chief Justice as chairperson of the proposed new appointments body with a lay chairperson accountable to Parliament and an overall lay majority. This is in contrast to the body which currently identifies persons and informs the Government of the suitability of those persons for appointment to judicial office. In its report on Ireland for the purposes of the 2018 European semester, the EU Commission reported on the current legislative proposals in respect of judicial appointments as follows at p.46:

"The proposed composition of the Judicial Appointments Commission... would not be in line with European standards (Paragraph 47 of Recommendation CM/Rec(2010)12 adopted by the Committee of Ministers of the Council of Europe on 17 November 2010), and was opposed by the Association of judges in Ireland." (Commission Staff Working Document Country Report Ireland 2018 Including an In-Depth Review on the prevention and correction of macroeconomic imbalances",

Another challenge faced is the absence of a dedicated training and professional development facility for the Judiciary. At present, judicial education is overseen by a Committee for Judicial Studies which is chaired by the Chief Justice and comprised of the President of each court jurisdiction and other nominated members of the Judiciary. The primary activities of the Committee are the organisation of four judicial conferences per year which are attended by members of the Judiciary from each level of court jurisdiction and the making of decisions following applications by members of the Judiciary for

funding to attend external events The proposed legislation which would establish a Judicial Council provides for the establishment of a Judicial Studies Committee which would facilitate the continuing education and training of judges with regard to their functions.

The Chief Justice has identified “access to justice” as a key challenge facing the Irish legal system. Some initiatives aimed at generating improvement in this area are noted under heading 2 above.

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.



Reform / changes to Council

In September 2018 started the **new CSM mandate**. Under Italy's Constitution the CSM is the self-government body of the judiciary; it is competent for recruitment, allocation, transfer, promotion, and disciplinary measures in respect of magistrates.

The CSM includes 3 ex officio members - namely, the President of the Republic, who also chairs the CSM, the President of the Court of Cassation, and the Prosecutor General at the Court of Cassation.

The CSM is made up of 24 elected members, of which 16 shall be career members (two magistrates from the Court of Cassation deciding on legitimacy issues; fourteen magistrates discharging prosecution/judicial functions on the merits) and 8 shall be lay members (elected by the two Houses of Parliament in joint sitting by secret ballot from out a shortlist of university professors in law and lawyers with at least fifteen years of professional seniority). Career magistrates are elected by majority voting in a single nationwide constituency for each of the categories to be elected.

The CSM members hold office for four years and may not be re-elected for the next term. The Council must elect, from among the lay members, a deputy-Chair, who will chair the Council plenary sessions whenever the President of the Republic is absent, or else upon the President's delegation, as well as chairing the Presidency Board; The Vice President is in charge of fostering the Council's activities, implementing the resolutions adopted by the CSM, and managing budgetary funds - given that the CSM is autonomous as for accounting and financial matters.

The Italian CSM elected from among its members Mr. David ERMINI as the new Vice-President on the meeting held on 27 September 2018.

The CSM Ninth Committee, dealing with the international affairs, is currently chaired by Prof. Filippo DONATI.

Internal Rules: the new CSM Internal Rules have been enforced after their adoption on 26 September 2016. This enhances the role of the Council as self-government body and autonomous institution of

the judiciary. At the same time it outlines more clearly its position in the Italian constitutional framework. Also the relationship between the CSM and the Ministry of Justice is determined according to the Art. 105 and 110 of the Italian Constitution. Furthermore, the new Internal Rules define the regulatory and discretionary powers of the Council.

Status of Judges

Currently there is a law project reform concerning the cut in salaries of judges/public prosecutors in case of disease, health reasons and sick leave from work, etc.

Main challenges faced and main results achieved

Relevant goals have been achieved in several fields:

- the adoption of the guidelines concerning the relationship between judiciary and the media, with reference to the EU opinions in these matters and the ENCJ Project Team's reports.
- the Council has been particularly involved in the field of international protection of migrants, adopting opinions and resolutions aiming at the promotion of the effectiveness and efficiency of the judicial offices in this specific kind of proceedings.
- adoption of guidelines for insolvency proceedings and property executions. This is in the line of a recognition of best practices with regard to a strong reduction of the civil cases backlogs.

Impact ENCJ reports and activities on national level

- guidelines on the judiciary and the media (as above mentioned)
- there's need to underline, however, the insufficient knowledge of the ENCJ Network and its fields of activity, projects and goals among judges and prosecutors on national level. So it is crucial to increase the efforts, also with the cooperation of the School for the Judiciary, to get them more acquainted.



LATVIA

TIESLIETU PADOME

JUDICIAL COUNCIL

Reform and/or changes to the Council

On 12 February 2018, amendments to the law "On Judicial Power" came into effect, which significantly increased the role of the Judicial Council regarding the career issues of judges, thus reducing the influence of the executive and legislative powers on these issues. The amendments to the law prescribe that the chairs of district (city)/regional courts shall be appointed, as well as released of the office by the Council and not by the Minister of Justice, as it has been until now. The *Saeima* will no longer decide on the transfer of judges to a higher or lower court. The Council, instead of the Cabinet of Ministers, will determine the procedure for selection of judges, traineeship and qualification examination. Furthermore, the Council, instead of the Cabinet of Ministers, will determine areas of activity and locations, as well as locations of district (city) courts and regional courts. The Council will also approve the content of training programs for judges, employees of courts and land registry offices.

Judicial reform

On 1 March 2018, with the reorganization of the Courts in the Zemgale Courts District, the territorial reform of the courts is completed, within which the number of courts and land registry offices in Latvia has decreased: in place of 34 courts in Latvia, there are nine district (city) courts. The aim of the reform is to promote uniform court practice in the handling of one type of case, to ensure the specialization of judges in particular categories of cases, accidental distribution of cases, as well as to equalize the workload of courts.

Status of Judges

On 26 October 2017, by the judgment of the Constitutional Court, in the case on the system of judges' remuneration, which was initiated following the application of the Council, it is established that the provisions stipulating judge's monthly salary are not in conformity with the Constitution. The Constitutional Court has recognized that the system of judges' remuneration established by the contested provisions does not ensure the actual value of the remuneration of judges, which would

guarantee their financial security, as well as the protection of the actual value of the remuneration of judges. The contested provisions have been declared invalid as of 1 January 2019. [The judgment of the Constitutional Court in case No 2016-31-01](#) is available also in English.

Impact ENCJ reports and activities on national level

The Judicial Council decided to convene Latvian Judges' Conference on 3 November 2017 and set the theme for the conference – the independence of judges.

Ivars Bickovics, Chair of the Council, substantiated the topicality of the theme on the results on the survey carried out by the ENCJ on the independence of judges, which reiterates that the self-assessment of Latvian judges on their independence is the lowest of all European countries. The conference was attended by 386 of 567 Latvian judges.

Moreover, an article “Independence of Judiciary in ENCJ Reports” was published in the Supreme Court Bulletin as a scientific source for the Judges' Conference (author – adviser of the Secretariat for the Judicial Council, Dr.iur. Dace Šulmane).

Other

On 23 April, 2018, the European Commission for the Efficiency of Justice (CEPEJ) presented its report on evaluation of the judicial system of Latvia. The Commission has not identified any problems in Latvia that are related to violations or non-compliance with standards of the European laws, at the same time the commission has pointed out a number of options for improving the judicial system of Latvia. The Commission has identified certain risks regarding the mechanism for distribution of cases introduced in Latvia – the transfer of them to other courts in order to reduce the accumulation of cases. The Commission also indicated possible risks to independence regarding the process of specialization of judges, and also pointed out the excessive amount of court fees in cases of large claims and the complicated mechanism for calculating them.

In February 2018, reacting on the criticism in media, the Judicial Council called on the Supreme Court to involve legal experts to collect and analyse various problematic cases on insolvency (2008 to 2014). The final evaluation was discussed in August 2018, and the necessary decisions were taken.

LITHUANIA



TEISĖJŲ TARYBA JUDICIAL COUNCIL

Judicial reform

1 January 2018 marks the date of judicial map reform in Lithuania. Based on the territorial principle, 49 district courts, which have been operating until now, are merged into 12 district courts' centres with 4-5 divisions (court chambers), namely: District court of Alytus, Kaunas, Klaipėda, Marijampolė, Panevėžys, Plungė, Šiauliai, Tauragė, Telšiai, Utena, Vilnius region and District court of Vilnius City. Five regional administrative courts are also merged into two regional administrative courts: Vilnius Regional Administrative Court and the Regional Administrative Court of Regions.

After the reorganization, the number of court chambers remains the same, however the administration of the reorganized courts is carried out from the main 12 courts' centres which leads to more efficient work administration and more effective management of financial resources. Nevertheless, all judicial services continue to be available in the same court areas and premises which means that court stays close to the people.

Main challenges faced and main results achieved

The main challenge was to implement the judicial map reform successfully (see section 1).

The main challenges of the reform:

1. To improve the speed of the court proceedings and, likewise, to balance the workload of judges and court staff.
2. To enhance the access to justice by creating an opportunity for litigants to submit their documents to court in more flexible way.
3. To use human and material resources of the courts more efficiently.
4. To expand the self-government of judges and to develop a new element of judicial self-government – a meeting of court judges.
5. To eliminate existing organizational obstacles to the handling of cases – to harmonize the areas of activity of courts and other law enforcement institutions.

The main results achieved:

- Easier way to initiate procedural documents;
- Less distance between courts and the participants of courts hearings;
- High quality services;
- Fluent court proceedings;
- Effective management of financial resources;
- Interinstitutional cooperation.

Impact ENCJ reports and activities on national level

The question regarding the broadcasting of Judicial Council session was raised in the meeting of the Judicial Council of Lithuania. The issue was left for further discussions and reflections.

Recommended Quality Standards for Court Decisions were approved by the Judicial Council of Lithuania. Standards contain recommendations on the form, content and structure of court decisions.



de Rechtspraak

Council for the Judiciary

RAAD VOOR DE RECHTSPRAAK

COUNCIL FOR THE JUDICIARY

Changes to Council

In the beginning of 2018 Mr. Frits Bakker, the Chairman of the Netherlands Council for the Judiciary, announced that he was not going to extend his first term. Mr. Bakker will start working as a judge again from 2019 on. Mr. Bakker will be succeeded by Mr. Henk Naves, the former President of the District Court of Amsterdam.

In May 2018, Mr. Kees Sterk has been elected President of the Executive Board of the ENCJ. This had as a consequence that Mr. Sterk his responsibilities as a Member of the Netherlands Council have been adjusted to enable him to fulfill his tasks as ENCJ President.

Judicial reform

Mission and vision

The mission of the Netherlands Judiciary is to ensure the integrity, timely and effective settlement of disputes and trial of criminal offenses by independent judges. The Judiciary contributes to the maintenance of the rule of law and the trust of citizens in the law. This mission is translated into a vision which is specified in the 'Agenda of the Judiciary 2015-2020'.

Agenda of the Judiciary 2015-2020

The Netherlands Judiciary has extended the period of its original strategic Agenda to 2020. Its original Agenda lasted until 2018, however it became apparent that not all objectives could be met in time. Improving the quality of the Judiciary is the main priority in the Agenda. The quality aspects the Netherlands Judiciary focusses on are swift, accessible and professional justice. This results in the following objectives:

1. In 2020 court proceedings will take 40% less time than in 2013.
2. In 2020 at least 70% of all parties and professionals are satisfied with the comprehensibility of procedures and the digital accessibility of the judiciary.
3. In 2020 the judiciary will be more professional.

The Agenda is executed by the 'Multi-annual plan 2015-2020'.

Multi-annual plan 2015-2020

To realize the objectives of the Agenda, the Judiciary has to become more cost effective, while improving its performance and quality aspects. The objectives will be met with the help of the programs below:

- **Realization of digital accessibility of administrative and civil law proceedings:** In the spring of 2018 the implementation of the 'Quality and Innovation' program has been reset. The goal of the program was to digitalize and automatize workflows to make the Judiciary more accessible and cost effective. The goals of the program have not fully been met, due to its complexity. Specifically the automatization goals have not been reached. As a result of the reset, the Judiciary decided to focus for the coming years on realizing the digital accessibility of administrative and civil law proceedings. Despite the difficulties that occurred, during this period more cases have been handled digitally than the period before, especially in asylum law, supervision order and criminal law.
- **Implementation of the 'Professional Standards' program:** Since 2015 quality and procedural standards have been developed and implemented to make the organization more professional. These standards are dynamic and therefore continue to be developed in the coming years and are implemented in phases. This period results especially have been booked in setting procedural standards in family and juvenile law.
- **Development of initiatives with Social impact:** The 'Judiciary with Social Impact' program (in Dutch: Maatschappelijke Effectieve Rechtspraak) plays an important role in guaranteeing the satisfaction of the general public in the Judiciary. During this period several innovations that result from the program, such as the neighborhood judge, the peace judge and mediation have been put on the political map. The purpose of these innovations is to increase the relevance and the effectiveness of the judiciary. The success of the innovations has led to the willingness of the government to put an experimental provision into law and to increase the

available financial means for innovative initiatives. It is expected the law will be sent to parliament and the financial means will be available in 2019.

Draft legislation under negotiation

During this period multiple draft legislations have been under negotiation that are supposed to lead to judicial reform. In the area of procedural law, legislation is being drafted to modernize the Criminal Procedure Code. Also, draft legislation regarding the appointment procedure of Members of the Council is under negotiation.

Netherlands Commercial Court

The establishment of the Netherlands Commercial Court, a specialized court that handles cases in English, is in its final phase. Unfortunately the court has not opened as expected in the summer of 2018. The Senate still needs to approve the necessary legislation. This is expected to happen in the beginning of 2019.

Status of Judges

Only one major change has taken place in the legal status of judges. In the summer of 2018 the Netherlands Senate has, after the Netherlands House of Representatives already had in the beginning of 2018, passed the law 'Extension of Measures Judicial Power' ('Uitbreiding maatregelen rechterlijke macht'). This law allows for the extension of the spectrum of disciplinary measures that can be taken to reprimand judges, which should lead to more customized measures when the situation calls for it. Also part of the law passed, from now on judges can be asked in specific circumstances to hand over an official record of good behavior. The law will be effective from 1 January 2019.

Relations with other State Powers in reporting period

Apart from the regular contact and meetings that continued to take place with the Executive and Legislative state powers, one event is worth mentioning. In July, the Judiciary has chaired the organization of a joint conference called the "Trias Politica debate". Together the Executive, Legislative and Judicial power discussed the importance of a healthy relationship by means of lectures and debates. An example of a proposition launched was "The social efficacy of its rulings should above all be the objective of the judiciary in the Netherlands".

Main challenges faced and main results achieved

Main results

In May 2018 the Netherlands Judiciary has asked an independent external research agency to survey the trust of the general population in the Judiciary. The confidence of the Dutch in the Judiciary has raised in the first four months of 2018, compared to the last four months of 2017. In response to the question 'How much trust do you currently have in the Judiciary in the Netherlands on a scale of 1 to 10?', 71 percent of the general public awarded a score of 6 or higher. The trust in the Judiciary is the highest of all the institutions and at its highest level since 2012.

Main challenges

The Judiciary has a budget shortage. The main reason for this are the budget cuts imposed by the former cabinet 'Rutte II'. The assumed returns coming from the digitalization of the Judiciary should have partly covered these cuts. However, the digitalization is delayed and costs more money than initially presumed. Therefore the Judiciary is not able to realize the imposed budget cuts. In addition, the lower influx of cases also affects the Judiciary's budget. Since the Judiciary is financed per case, a lower influx means less budget. The Judiciary will be negotiating in the second half of 2018 and in 2019 a new financial model that delivers answers to the challenges.

The length of proceedings has not been reduced. The aim of reducing the length of proceedings is to improve the quality of the Judiciary. Multiple initiatives have been introduced to reduce the length of proceedings. There are local but not yet structural successes. Therefore a project group will be formed in the second half of 2018 to analyze the challenges and formulate a strategy to reduce the length of proceedings.

Impact ENCJ reports and activities on national level

The Netherlands Council for the Judiciary, in accordance with the goals set in the independence & accountability project group, handed in a national improvement plan. In this plan the improvement of the way cases are allocated is discussed as well as the appointment procedure of members of the Council. The aim is to change necessary laws and regulations to bring the practices regarding these topics more in line with ENCJ standards.

SÚDNA RADA SLOVENSKEJ REPUBLIKY

JUDICIAL COUNCIL

Judicial reform

Based on the CEPEJ report, the Ministry of Justice has set up working groups to address the CEPEJ recommendations and the subsequent adoption of the justice reform. These working groups include not only ministry staff, but also courts (mainly judges) and **members of the Judicial Council**.

Status of Judges

As a result of the above-mentioned working groups the MoJ should propose the judicial reform to the government, especially in the area of specialization of judges and judicial map. On the basis of CEPEJ recommendations, a new status of the judges should be created - a flying judge.

Main challenges faced and main results achieved

There has been great success in the salaries of justice employees. The Ministry of Finance has promised a 24% increase in the salaries of judicial staff since 1 January 2019.

Other great success at the Supreme Court of the Slovak Republic - the speed of proceedings has increased. This was caused due to recruiting new assistants of the judges. We would also like to apply this model on the lower courts (District Courts and Regional Courts). This can be done only by increasing the number of the court staff. The Supreme court is a very good example.

Main challenges that we face are lack of the confidence in Slovak judiciary and still undue delays at lower courts.

What we see as a problem (and majority of the Slovak judges agree with it) is the fact that non finalized cases are publicised in media, which many judges perceive negative. Such mediatisation is perceived as a negative pressure on their decision-making. Under Slovak law, the judge can not comment on cases that are not legally terminated.



REPUBLIKA SLOVENIJA, SODNI SVET

JUDICIAL COUNCIL

Reform and/or changes to the Council

In the last Annual Report we were reporting of a new Judicial Council Act (hereinafter referred as ZSSve) that was adopted in April 2017, came into force in May 2017 and began to apply in November 2017. The new law has not brought “revolutionary” changes to the concept of the Council in the Slovene constitutional system, but it enhanced its current role with new responsibilities and ensured its financial autonomy with a separate budget allocated to the Council. The most relevant new responsibilities and other important changes ZSSve brought, were thoroughly explained in our previous Annual Report.

Immediately after ZSSve began to apply nine members of the new Disciplinary Court, Disciplinary Prosecutor and her Deputy were elected by the Council. Due to the new responsibility already at the end of 2017 Disciplinary Court started to deal with disciplinary cases against judges.

2018 was an election year for six (out of eleven) members of the Judicial Council. In April 2018 three new members were elected by the Parliament, and three members from among the judges themselves. The first session of the new composition of the Council took place in July 2018. A new President and new vice President were elected.

In August 2018 the Judicial Council moved to bigger and more suitable premises. The professional services (office) of the Council increased. Four new persons were employed for full time job. In 2019 two more will be employed.

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, still has not been adopted in the Parliament yet. The reform

was most likely withheld due to political changes connected to the Parliamentary elections that were held in June 2018.

Instead some acts/laws, which affect the functioning of the courts, have been adopted or/and amended in the 2017 and 2018, for example: Court experts, certified appraisers and court interpreters Act, Claim Enforcement and Security Act, Collective Actions Act, Witness protection Act, Enforcement of Penal Sentences Act etc. In the legislative procedure is new Non-Contentious Civil Procedure Act and some delicate amendments to Criminal Procedure Act.

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.

Due to the fact that the salaries of Slovenian judges at the beginning of their career, compared to the average salary, have been exposed as one of lowest in the 2018 edition of the CEPEJ report "European judicial systems Efficiency and quality of justice" (CEPEJ Studies No. 26), the Judicial Council decided to support and cooperate with a special negotiating group which was established in cooperation between the Supreme Court and the Slovenian Association of Judges. The main goal of the group is first to analyse the proportions between the salaries of officials of the different branches of government and then to introduce a new system of remuneration of judges to the Government, hopefully resulting in a proper increase in the remuneration of judges at the beginning of their career as well as at the end and when retired.

According to the coalition agreement of the new government the Judicial Council will probably have to face the tendencies to introduce a probation period for the newly appointed judges and the tendencies for changing the composition of the Judicial Council in the direction of smaller influence of the judges in it (so that judges won't have the majority). Nevertheless the new Government also promised changes in the procedure of appointing judges (no more election of judges in the Parliament).

Main challenges faced/main results achieved

There is still positive trend concerning the length of court proceedings, reducing the number of unresolved cases, especially the oldest one, the last also being a result of a new methodology of evaluation of judges put forward by the Judicial Council. On the other hand there are negative trends as regards number of cases resolved, especially in the criminal and administrative field.

Due to the efforts of reducing a high number of judges per capita, there is threat of a generation gap.

One of the most important challenges we are facing for several years now is to increase public confidence in courts and in the Judiciary. A special long-term strategy is being prepared within the Judiciary on this problem.

Impact of ENCJ reports and activities on national level

The ENCJ's reports, their findings and results, are regularly followed, studied, dispatched and published, although not in Slovenian, for the Council still lacks sufficient funds to do that, however, Slovene judges are drawn attention to examine these reports. 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

Finalized legal reforms in Spain – Justice sector (September 2017 to August 2018):

Law 5/2018, of June 11, of modification of the Law 1/2000, of January 7, of Civil Procedure, in relation to the illegal occupation of houses. B.O.E. nº 142, of June 12, 2018

Law 3/2018, of June 11, which modifies Law 23/2014, of November 20, of mutual recognition of criminal resolutions in the European Union, to regulate the European Investigation Order. B.O.E. nº 142, of June 12, 2018

Organic Law 1/2017, of December 13, of modification of the Organic Law 5/1995, of May 22, of the Jury Court, to guarantee the participation of people with disabilities without exclusions. B.O.E. nº 303, of December 14, 2017

Law 12/2017, of December 28, of modification of Law 42/2015, of October 5, of reform of Law 1/2000, of January 7, of Civil Procedure, to guarantee the effectiveness of acts of communication from the Public Prosecutor's Office. B.O.E. nº 316, of December 29, 2017

Law 7/2017, of November 2, incorporating into Spanish Legal System the Directive 2013/11 / UE, of the European Parliament and of the Council, of May 21, 2013, on alternative dispute resolution for consumer disputes. B.O.E. nº 268, of November 4, 2017

Law 9/2017, of November 8, on Contracts of the Public Sector, by which the Directives of the European Parliament and Council 2014/23 / EU and 2014/24 / EU, of February 26, are transposed into the Spanish legal system. BOE nº 272, of November 9, 2017

Concerning the reporting period, it has been approved by the plenary of the General Council for the Judiciary, on 27 September 2018, the Regulation on international judicial assistance and international judicial cooperation networks (BOE, 15 October 2018), that came into force on 16 October 2018. Close to the reporting period, on 24 November 2016, the plenary of the General Council for the Judiciary also had passed the Regulation 1/2016, developing legal status of Judges of Territorial Ascription and Judges in expectation of destination, and amending Regulation 2/2011, of 28 April, on the Judicial Career (published in BOE 6 December 2016).

In the realm of changes initiated or planned, at the level of Regulations, after Plenum agreement dated 25 January 2018 and after Council's Standing Committee agreement dated 26 September 2018, two new Regulations remained elevated to the Plenum Council in order to be approved in the near future: The Regulation for the creation of civil and criminal specialties and the partial development of Additional Provision Three of the Organic Law 7/2015, of 21 July, and the Regulation of variable remuneration of the judicial career.

On 20 September 2018, the Council's Standing Committee approved the Protocol of the judicial representative of risk prevention, and on 4 May 2017 the Council's Standing Committee saw the Guide of good practices in the processing of corruption causes, which has been published on paper and on the Council's website. On 27 September 2018, the Council's Plenum saw the Communication Protocol of Justice (amendments of 2018) that is already published on the Council's website.

Currently we have in process other reforms: The Instruction regarding the determination of the obligation to use technical, electronic, computer and telematic means, with a last agreement of the Council's Standing Committee on 16 August 2018, the Instruction on the support and reinforcement plans, with the last agreement of the Council's Standing Committee on 26 September 2018, the Guide of Good Practices in the taking of declaration of the victims of gender violence and children, with last agreement of the Council's Standing Committee on 8 February 2018, and the Guide of criteria against trafficking in human beings with last Agreement of the Council's Standing Committee on 13 September 2018.

Main challenges faced/main results achieved

One of the most important challenges the Spanish Council had yet to face was the modernization of international judicial cooperation networks and the integration into the same Regulation of all provisions affecting organization and management of Spanish judicial bodies' activities in matters of international jurisdictional cooperation, as well as all those rules outlining the role that the International Relations Service of the Council must play in this task. It was essential to modernize the role played by the Council in support of international judicial assistance and in the application of European Union law by judges. At the same time, both the Spanish Judicial Network for International Judicial Cooperation and the Network of European Union Law Specialists needed to be modernized and furnished with a completely new Council Regulation. All these goals have already been accomplished with the new Regulation 1/2018, in force since 16 October 2018.



JUDGES' COUNCIL OF ENGLAND AND WALES

Reform and/or changes to the Council

Judges representing the Council at ENCJ meetings are Mr Justice (Simon) Picken, His Honour Judge (Damien) Lochrane, District Judge Tim Jenkins and Upper Tribunal Judge Judith Gleeson.

Judicial reform

Work continues on the implementation of a four year plan to transform the operation of the justice system in England and Wales. This involves the closure of under-utilised courts, improvements in the available IT systems and a major revision of judicial working practices. The aim is for the courts and tribunals to become 'paper free' and to revolutionise the way in which justice is delivered, making more use of modern technology to reduce the number of occasions where the parties in a case must appear in court in front of a judge. In the Business & Property Courts in London all filing is now done electronically rather than on paper, and a similar system is being introduced in the Queen's Bench Division more generally.

Status of Judges

Judicial morale continues to be adversely affected by the impact of HM Government's reform to the scheme for judicial pensions, changes in taxation and restrictions on judicial pay. It consequently continues to be difficult to recruit judges of the highest calibre and the judiciary is continuing in its efforts to resolve the difficulties on pay and pensions.

Main challenges faced/main results achieved

As well as the challenges referred to above on judicial pay and conditions and court reform, the judiciary expect to be considerably involved in the complexities involved in the unravelling of the European legislation currently embedded within the domestic laws of England and Wales.

Impact of ENCJ reports and activities on national level

The reports produced by the ENCJ are gaining greater prominence amongst judges. The ENCJ's existence and the work it does is getting increased exposure – aided by the fact that judges are asked to complete ENCJ surveys, the increasing citation of ENCJ survey results in speeches by senior judges and by the publicising on the judicial internet of the ENCJ's approach in relation to the reforms which have been made in Poland.



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 District Judge (Magistrates' Courts) Oonagh Mullan was nominated to represent the District Judge (Magistrates' Courts) tier on the Judges' Council following the retirement of District Judge (Magistrates' Courts) Mervyn Bates.

Judicial reform

Two reports produced by the Review Group established to undertake a fundamental review of the civil and family justice systems in this jurisdiction were launched on 5 September 2017. The Review Group consisted of members of the judiciary, representatives of the legal profession and representatives of relevant Government departments. The reports include over 400 recommendations for transformative change in the family and civil justice systems in Northern Ireland. While a substantial number of the recommendations cannot be implemented in the absence of an Executive, work is being progressed to achieve as much as possible in the interim. A Shadow Civil Justice Council and a Shadow Family Justice Board have been established to consider a range of initiatives that can be advanced.

During this reporting period a Substance Misuse Court Pilot Programme was launched. The pilot will enable the Judge of the SMC to divert convicted offenders to complete a supervision and treatment programme before passing sentence and to closely monitor and review their compliance with programme requirements. Evidence from other jurisdictions notes that the strength of the relationship between the judge and the offender is a key driver of better outcomes.

The Domestic Violence Perpetrators Programme (DVPP) pilot was also launched during this reporting period. The DVPP is a new problem solving justice approach to break the cycle of abusive behavior, reduce offending and future victimisation. The Programme allows judges to refer suitable offenders to an accredited behavioral change programme. Participants' progress will be monitored by a judge, with the judge actively building relationships with offenders to help them to make positive progress. The evaluation of the Enhanced Combination Order (ECO) pilot was announced during this period. The ECO is an intensive community sentence piloted as an alternative to short prison sentences of 12 months or less. While longer term evaluation will be needed, it has been found that there was a 40% reduction in the reoffending rate for those who completed the order. The evaluation also found that the number of prison sentences of 12 months or less awarded by courts involved in the ECO pilot decreased by 10.5% suggesting that ECO was impacting positively on prison numbers.

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.

A major review of judicial salary structure continued during this reporting period and has reported to Government. We await the Government's response to the recommendations.

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

Relations with other State Powers in reporting period

Members of the judiciary, nominated by the Lord Chief Justice, attend meetings of the Northern Ireland Courts and Tribunals Service (NICTS) Agency Board. The Board oversees the work of the NICTS.

The absence of a government has stalled the agenda for reform of the justice system. However the judiciary have taken the lead in bringing forward ideas for positive reform in certain areas so that a roadmap of reform will be ready to present to Executive Ministers on their appointment.

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.

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. Plans have also been made to publish ENCJ related information on a dedicated section of the judicial intranet.

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

Evidence and Procedure Review

The work of the Evidence and Procedure Review, led by the Scottish Courts and Tribunals Service (SCTS), have continued to explore how the criminal court process can be improved for the most vulnerable users and explore how the summary criminal justice system can be reformed to increase its efficiency and make best use of technology.

The Evidence and Procedure Review made a series of recommendations to improve the current system of taking evidence from children and vulnerable witnesses. The Vulnerable Witnesses (Scotland) Bill was introduced to the Scottish Parliament on 12 June 2018.

The key proposals in the bill include:

- that children who are due to give evidence in the most serious criminal cases should have their evidence pre-recorded in advance of trial.
- a simplified process for deemed vulnerable witnesses to request standard special measures such as giving evidence via a live TV link away from the courtroom during the trial.
- power to enable extension of the new rule to adult witnesses deemed to be vulnerable under the Criminal Procedure (Scotland) Act 1995. This covers complainers of sexual offences, stalking, domestic abuse and human trafficking in solemn proceedings.

The SCTS is preparing for what it would mean to support the Bill, if enacted.

New Model for Summary Criminal Court Procedure

In September 2017, SCTS published their "[Follow Up Report to the New Model for Summary Criminal Court Procedure](#)". The core proposals in the model are:

- pre-trial procedures should take place as part of a digital case management process. Court hearings are only held to address unresolved issues with strong judicial case oversight to focus the trial on those areas of dispute.

- there is no automatic setting of an intermediate diet and trial diet on a not guilty plea and witnesses are cited only where a trial diet is ready and likely to proceed.
- where a witness is cited, a digital update system keeps the witness informed and minimises inconvenience where possible.
- in appropriate cases where guilty pleas are tendered, sentencing could be conducted digitally without the need for the appearance of the accused in court.

The Management of Lengthy or Complex Criminal Cases

In May 2018 the Lord President published a Practice Note that set out the protocol for the management of lengthy or complex criminal cases. The Practice Note was agreed by the Crown, the Faculty of Advocates and the Law Society of Scotland.

It summarises the good practice which experience has shown can assist in bringing about some reduction in the length of trials of complex crimes or involving multiple accused. The note states that best handling technique for a long case is continuous management by an experienced judge nominated for the purpose. The judge should exert a beneficial influence by making it clear that, generally speaking, trials should be kept within manageable limits. In most cases 3 months should be the target upper limit. Intensive case management is likely to be needed to ensure this. The full practice note is available to read on the Scottish Courts and Tribunal Service (SCTS) website.

Civil Justice

The Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 received Royal Assent on 5 June 2018. It is intended to increase access to justice, by reducing uncertainty as to the level of legal expenses that pursuers may be liable for through various means.

A number of changes in court rules relating to family law cases are also under consideration by the family law sub-committee of the Scottish Civil Justice Council (SCJC). These include the potential extension of Simplified Divorce applications (currently open only to couples without children) to families with children under 16. There are also proposals to further develop the use of active judicial case management in family actions to ensure these are resolved effectively and that the views of children are fully ascertained as part of any action.

Scottish Tribunals

Since the introduction of the Tribunals (Scotland) Act 2014, the tribunals' landscape in Scotland has begun to undergo a process of transformation. Tribunals have been transferred into a wholly new system, as provided for by the Tribunals (Scotland) Act 2014, and the change programme to enable the transfer in of more tribunals is ongoing and developing.

Full details are included in the President of the Scottish Tribunals' first Annual Report.

A new Scottish Social Security Chamber is being created from October 2018. This chamber will consider appeals against decisions of the new social security agency set up by the Scottish Government. The new agency will operate the 11 welfare benefits devolved to Scotland as part of the Smith Commission agreement. The new chamber will steadily expand from October over the next two to three years as these welfare benefits are rolled out.

Status of Judges

With the further addition of floating summary sheriffs and additional resources throughout the sheriffdoms, we have been able to accommodate more requests from salaried judiciary to alter their working pattern.

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 and in particular notice of the Boards position that the KRS is no longer the guardian of independence of the judiciary in Poland and the suspension of the KRS.

LIST OF ENCJ MEMBERS on 1 June 2018

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 Sądownictwa
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 2018

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 2017

17 September 2017	Executive Board meeting	Barcelona
5-6 October 2017	Joint meeting project 1 & 2	Vilnius
4 December 2017	Dialogue group meeting LT/NL/PL/PT	The Hague
11-12 December 2017	Meeting PT 2 Image of Justice	Brussels
15 December 2017	Meeting PT 1 Independence and Quality	Brussels

ENCJ meetings January-August 2018

12 January 2018	Dialogue group meeting BE/EL/FR/IT	Paris
19 January 2018	Dialogue group meeting AT/ES/SI/SK	Bratislava
29 January 2018	Dialogue group meeting BG/FI/RO/UK-E&W	Bucharest
5 February 2018	Executive Board meeting	Brussels
23 February 2018	Dialogue group meeting HU/IE/LV/NO	Riga
26-27 February 2018	Meeting PT 2 Image of Justice	Ljubljana
14 March 2018	External validation workshop PT 1	Brussels
12-13 April 2018	External validation conference PT 1	Utrecht
16-17 April 2018	Meeting PT 2 Image of Justice	Bucharest
19-20 April 2018	Meeting PT 1 Independence and Quality	Rome
4 May 2018	Digital Justice Seminar	Amsterdam
14 May 2018	Meeting Executive Board	Brussels
30 May - 1 June	General Assembly	Lisbon
9 July 2018	Meeting Executive Board	Brussels

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