



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

# Annual Report 2014 – 2015



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THE ENCJ ANNUAL REPORT COVERS THE ACTIVITIES FROM SEPTEMBER 2014 TO AUGUST 2015.

## WORD FROM THE PRESIDENT

### **DEAR READER,**

*Over the last year the European Network of Councils for the Judiciary (ENCJ) has continued its work on the promotion of an independent and accountable judiciary. In addition, the ENCJ has continued to promote best practices and high standards for justice systems across Europe. All this is thanks to our dedicated and hard-working members and observers. The ENCJ's aim is to deliver timely and effective justice for the benefit of all.*

*After passing its 11th anniversary, the ENCJ is going from strength to strength and continues to prove its significant role in supporting the establishment of the Rule of Law in Europe. We work with our members and observers and with the European Commission, and will shortly, we hope, embark on projects alongside the European Judicial Training Network and the European Law Institute.*

*The first ENCJ Annual Report aims to present the ENCJ's main achievements and activities for the period from September 2014 to August 2015. It provides general information on the ENCJ's work, the results of the ENCJ projects for the period 2014-2015 and detailed information on developments in ENCJ members' jurisdictions. We still see in our work today the fruits of the significant contribution made by our former President, Mr Justice Paul Gilligan, who retired in December 2014. His Presidency focused on gaining the broader and deeper involvement of ENCJ's Members and Observers in the ENCJ. He also was instrumental in cementing the cooperation with the European Commission in particular with Unit 0.3 of DG Justice that deals with general justice policies and judicial systems.*

*In the last year, the ENCJ has expanded its Membership with two more councils for the judiciary - the State Judicial Council of Croatia and the National Judicial Council of Hungary. The High Council of Justice in Albania became an ENCJ observer.*

*During the ENCJ General Assembly, held in the Peace Palace in The Hague (3 – 5 June 2015) we were all delighted to welcome Ms Vera Jourova, the European Commissioner for Justice, Consumers and Gender Equality, and Ms Eleanor Sharpston, Advocate General at the Court of Justice of the European Union.*

*In her speech Mrs. Jourova pointed out the significance of the cooperation between ENCJ and the European Commission and the ENCJ's contribution in the preparation of the 2015 EU Justice Scoreboard.*

*One of the biggest ENCJ achievements in the last year was conducting the first Europe-wide survey of the subjective views of nearly **6.000 judges across 22 European countries** as part of the ENCJ Project "Independence and accountability of the Judiciary".*

*Looking forward, the ENCJ will seek to enhance the impact of its activities in its member Councils for the Judiciary, and on Councils and equivalent bodies in member states and in candidate and potential candidate states. That influence will continue to be aimed at improving justice systems across Europe for the benefit of citizens generally. As I have said above, we are aiming to broaden our activities so as to undertake joint projects with a number of other leading European judicial networks. I very much look forward to working with you all in the coming year.*

**Lord Justice Geoffrey Vos**  
**President of the ENCJ**



## ENCJ ACTIVITIES



***ENCJ General Assembly, 3 - 5 June The Hague***

The ENCJ General Assembly, gathering all Members, Observers and Guests from partner organisations, gathered in the [Peace Palace in The Hague](#). The general theme of the meeting was “promoting effective justice systems”. One of the milestones during the conference was the acceptance of two new members – the State Judicial

Council of Croatia and the National Judicial Council of Hungary. On Thursday 4th June, the President of the ENCJ welcomed the participants, the new ENCJ members and observer and the keynote speakers of the General Assembly, Ms Vera Jourova, the European Commissioner for Justice, Consumers and Gender Equality and Ms Eleanor Sharpston, Advocate General at the Court of Justice of the European Union. Ms Jourova spoke about the importance of effective national justice systems as part of the EU justice policy. She attached particular importance to the cooperation between the European Commission and ENCJ in the context of the improvement of the EU Justice Scoreboard. As a result the European Commission has started collecting information on the legal safeguard for judicial independence.

2015 ENCJ  
GENERAL  
ASSEMBLY

The General Assembly debated 12 important challenges to the independence of the judiciary and to the efficiency of justice raised by member Councils. The President said that, in the coming year, the ENCJ would be starting a series of dialogue groups aimed at finding solutions to the problems faced by Councils for Judiciary across Europe in relation to the independence and accountability of their judiciaries, and work would be done to identify indicators of quality and effective justice systems, and there would be a project group considering the involvement of civil society in Councils for the Judiciary and in judicial management and administration.





*Mrs. Sharpston-A.G. CoJ EU, Mr. Vos -ENCJ President, Mrs. Jourova -EU justice commissioner), Mr. Bakker – Chairman Netherlands Council for the Judiciary*

The General Assembly concluded with the adoption of The Hague Declaration on promoting effective justice systems which recited that the ENCJ's four year plan has focused the ENCJ on encouraging its member Councils for the Judiciary and its observers to adhere more closely to the standards, guidelines and statements of best practice that it has developed in order to make their justice systems even more effective. [The Hague Declaration](#) states that:

1. Independent and accountable judiciaries are an essential component of high quality, effective and efficient justice systems, and a prerequisite for a well-functioning EU area of justice;
2. The ENCJ will facilitate the use of dialogue groups and other means to enable its members and observers to enhance the quality, efficiency and effectiveness of justice in their countries for the benefit of all persons;
3. The ENCJ will continue to develop and improve its standards, guidelines and statements of best practice and find ways to ensure that its members and observers more closely comply with them in order to improve their justice systems; and
4. The ENCJ will endeavour to identify elements that constitute a quality justice system and subsequently develop indicators that will assist in the evaluation of the measurement of the quality of justice with **a view to its enhancement across the EU and in candidate member states.**

## THE EXECUTIVE BOARD

The board plays a significant role in the results achieved and in the successful management and development of ENCJ. The Board responsible for this consisted of HRJ/CSJ Belgium, SJC Bulgaria, KRS Poland, CSM France, CSM Italy, CSM Romania and CGPJ Spain and the President Paul Gilligan till 31<sup>st</sup>

December 2014, and Geoffrey Vos from 1<sup>st</sup> January 2015. At the 2015 General Assembly held in The Hague elections for members of the Executive Board were conducted. The Board now consists of CSJ/HRJ Belgium, VSS Bulgaria, CSM France, Courts Service Ireland, CSM Italy, KRS Poland and CGPJ Spain and the President Geoffrey Vos.

## ENCJ ON THE EUROPEAN STAGE

The ENCJ worked hard on strengthening the cooperation with the **European Commission**. Formal and informal meetings with European Commission representatives were held in throughout the year. During her [speech](#) at the 2015 General Assembly the European Commissioner for Justice Consumers



*ENCJ President Paul Gilligan at the Conference on the Charter of Fundamental Rights of the EU*

and Gender Equality Mrs. Vera Jourova pointed out that the EU Justice Scoreboard was improved thanks to the “excellent cooperation with the ENCJ”. Proof of this cooperation can be found in the 2015 EU Justice Scoreboard in relation to Judicial Independence.

The ENCJ President Paul Gilligan gave a [speech](#) during the Conference on The Charter of Fundamental Rights of the European Union: assessing and responding

to the training needs of legal practitioners and public officials, held on 17<sup>th</sup> and 18<sup>th</sup> December 2014 in Brussels.

Geoffrey Vos, President from 1 January 2015, was also given the opportunity to [speak](#) at a number of important meetings such as: the **JURI Committee of the European Parliament**, the **Consultative Council of European Judges (CCJE)** in Strasbourg and the **Venice Commission** at its meeting in December.

The ENCJ strived to strengthen the cooperation with **European Judicial Training Network (EJTN)**. The EJTN Secretary-General addressed the ENCJ General Assembly and asked them to identify both obstacles and remedies for the effective participation of national judges in European Training events. In return the President of the ENCJ [addressed](#) the EJTN General Assembly which was held on 15-16 June in Riga.

A meeting of ENCJ representatives and the **Max Planck Institute** took place on 26-27 January 2015 in Brussels. The title of the meeting was: “Cultural Diversity and Judiciary Practice in Europe”. The meeting was hosted by the ENCJ at its offices in Brussels, and brought together some 35 judges, lawyers and legal scholars from eleven European countries. The results of the conference were presented at the ENCJ General Assembly in The Hague.



# ENCJ PROJECTS 2014-2015

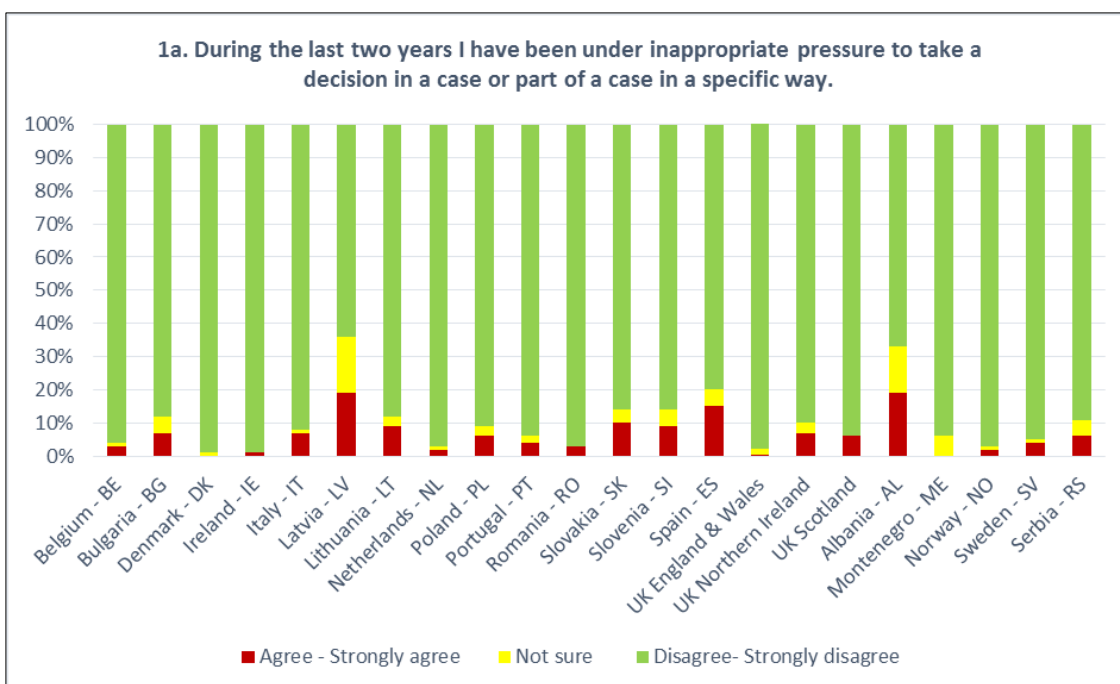
## Project 1 Independence and Accountability of the Judiciary

### General Overview

In 2013/2014 the ENCJ developed a framework and vision of independence and accountability of the Judiciary and a set of indicators to assess the actual state of independence and accountability of EU judicial systems. The first part of the ENCJ [Report of the independence and accountability 2014 – 2015](#) represents the outcomes of the actual application of these indicators to the judiciaries of the members and observers of the ENCJ that wished to participate. The second part of the report presents the extension of the conceptual framework to the Prosecution.

The report includes version 0 of the performance indicators for the independence and accountability of the judicial systems of ENCJ member and observers, and the results of the first Europe-wide survey of the subjective views of nearly 6,000 judges across 22 countries on their own independence and accountability. The survey showed that, on average, judges rated their own independence on a scale of 1 to 10, at 8.8, and the independence of judges in their own country generally at 7.9.

Several of the outcomes of the survey were, however, of concern. A large number of judges did not feel that their independence had been respected by government and the media. Many judges also thought that appointments and promotions in their countries had not been made only on the basis of ability and experience. In half of the countries surveyed, more than 30% of judges either thought that judicial bribery had occurred in the last 2 years or were not sure if it had occurred.



The ENCJ's report also included the outcomes of the application of indicators of the independence and accountability of the judiciary to all its members and observers. This exercise showed that there was much room for improvement in both subjective and objective independence. In relation to objective independence, scores were particularly low for the funding and management of the judiciary showing that many are still financially and managerially dependent on discretionary decisions of government. Many judiciaries still need to gather data about the perceptions of court users.

### Project 2 Standards V on Disciplinary Proceedings and Liability of Judges

The ENCJ established a Project Team on the "Development of Minimum Judicial Standards V" as a continuation of the work carried out by four former ENCJ Projects on "Development of Minimum Judicial Standards. [The report](#) contains the following conclusions:

Guidelines and/or a code of conduct/ethics should be drawn up by judges or a Council for the Judiciary. There should be a list or description of types of judicial conduct/ethics the breach of which would be unacceptable in any particular country.

Conduct which is capable of bringing the Judiciary into disrepute should be capable of disciplinary action.

There should be a separate body responsible for receiving complaints and the administration of them, independent of the Ministry of Justice and answerable only to the Judiciary.

The decision making body should be regulated by law and should include a majority of Judges, and a Judge expert in the jurisdiction and senior to the Judge being investigated.

The body in charge of judicial discipline could be the appropriate national Council for the Judiciary or an independent national judicial discipline board or committee independent from the executive and legislature.

It is undesirable to publish the name of the Judge prior to any sanction being imposed.

A judge should only be suspended in the most serious and exceptional cases, and where it is necessary for the administration of Justice.

A judge if suspended should remain on full salary during the investigation.

Another important part of the Report is the list of **objective indicators in the field of disciplinary liability of the Judiciary.**

Detailed information on the standards and objective indicators regarding the disciplinary proceedings against magistrates can be found in the ENCJ's project report setting out minimum standards for judicial disciplinary proceedings.

### Regional Seminar on Timeliness

The second seminar in the series took place in London on 3-4 November 2014 and was organised for England & Wales, Scotland, Northern-Ireland, Ireland, the Netherlands, Belgium, Germany and Austria. Around 50 participants representing the Judiciaries, Councils and Court Administrations, Ministries of Justice and the Bar attended the event.

[Best practices](#) from the various countries were presented and discussions in break-out groups took place on topics such as: Case Load Reduction; Capacity and Case Management; and Procedures.



## ENCJ PROJECTS 2015-2016

During the ENCJ 2015 General Assembly, the ENCJ work plan 2015-2016 was adopted. The planned activities for the next year all originate from 2014 – 2018 ENCJ plan. In this regard ENCJ will work on the following projects:

**Project 1 Independence and accountability – continuation**

**Project 2 Standards VI - standards on civil society representation in judicial governance**

**Project 3 Funding of the Judiciary**

In November 2015 **Timeliness Seminar** will be held in Romania for the countries of the South Eastern European region (including Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Slovenia, Greece, Albania and Croatia). Previous seminars have been held for the Nordic and Baltic region and the North-Western European region.

A **Staff Seminar will be organized in the** first half of 2016. The objectives of the meeting will be to acquaint the participants with the history and functioning of the ENCJ, to improve the understanding of the functioning of the ENCJ in the EU (and ways to improve it), to strengthen mutual knowledge and the cooperation between Members and with the Office.

## INFORMATION FROM THE ENCJ MEMBERS

### BELGIUM



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

#### HIGH COUNCIL OF JUSTICE

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

Since 2014 the “Conseil d’Etat” (Supreme administrative court) can treat requests of candidates to nullify decisions of the HCJ concerning the exams which give access to the function of judge or prosecutor. Whether or not the concerned amendment of the law has also enlarged the competence of the Conseil d’Etat to decisions of the HCJ concerning the appointment of judges and prosecutors is subject to discussion. According to the HCJ this is not the case.

The law of 4 April 2014 has considerably modified the **procedure of complaints** concerning the functioning of the judiciary. After registration, the High Council of Justice will send a complaint to the concerned head of court or public prosecution office who after handling should notify the result to the Council. The plaintiff who is not satisfied with the result can appeal to the High Council. In certain circumstances, the High Council can decide to treat the complaint itself. The exact procedure and the date of entering into force of the new law still have to be determined by royal decree.

The mandate of the current members of the High Council will end in September 2016. The procedure for the **election of the members** who belong to the judiciary and for the appointment of the members who represent the civil society will have to be adopted to the new judicial landscape (see below) and some improvements will be introduced (possibility of proxy vote, clarification of the limitation of the number of possible mandates, complaint concerning the regularity of the elections,...). A bill of law has been introduced in Parliament and a royal decree will be passed before December 2015.

The competences of the HCJ with regard to **external control** (audit and enquiry) on the functioning of the judiciary and with regard to selection and appointment of judges and prosecutors will have to be adapted to the new management structure of the judiciary (see also under main challenges).

## Judicial reform

Several important reforms entered into force in 2014: the creation of family courts and disciplinary courts for the judiciary within the court of first instance, and the fusion of the court districts which led to a reduction of the numbers of districts from 27 to 12.

The law on the introduction of an autonomous management for the judiciary has created a framework that should allow the judiciary in a not too far future to manage its own means and resources. A College of the courts and a College of the public prosecution were created. They will have to negotiate a management contract with the minister of Justice and distribute the resources under the direction committees of the different courts or public prosecutor offices. The minister of justice has announced that the first management contracts would probably be concluded in 2017.

In the past, court (of appeal) chambers were composed of three judges. More and more exceptions have been introduced and a recent bill plans to totally reverse the principle: chambers of one judge will become the principle, chambers of three judges the exception.

The government has prepared a bill to reduce considerably the number of cases that have to be brought before the “Court d’assises” (Assize Court).

The “justice plan” of the Minister of Justice announces a thorough reform of the criminal law and procedural criminal law, as well as the civil and commercial codes.

## Status of Judges

Increased mobility: judges of the courts of first instance are nominated in the enlarged new districts. Thus, they can be designated to serve in all local divisions of that court. (The local divisions correspond to the old districts). Furthermore, the judges of the courts of first instance are subsidiarily nominated in the others courts that fall under the same court of appeal and can be designated to serve in one of these courts, even without their permission.

The retirement age for judges and prosecutors is 67. A bill of law has been proposed that would allow judges and prosecutors (on their own request) to continue to work until the age of 70.

The coalition agreement and the Justice Plan of the Minister of Justice announce the development of a social statute for judges and public prosecutors. The Advisory Council of the Magistracy elaborated a proposal in June 2015.



### Main challenges faced/main results achieved

The judiciary has been thoroughly reformed in 2014 and other important changes will be developed and implemented during the following years.

Since the new judicial system will have a large degree of autonomy the role of the HCJ could undergo some changes. For example, the 2014 law introducing autonomous management stipulates that the judiciary will organize its own internal audit, hence the HCJ should focus entirely on the external control of the functioning of the judiciary.





## Висш съдебен съвет SUPREME JUDICIAL COUNCIL

РЕПУБЛИКА БЪЛГАРИЯ  
ВИСШ СЪДЕБЕН СЪВЕТ

### Judicial reform

On January 21, 2015 the Parliament of the Republic of Bulgaria approved an Updated Strategy to Continue the Reform in the Judicial System, on the proposal tabled by the Council of Ministers. The National Assembly approved the updated strategy to continue the reform in the judicial system as a basis for legislative changes, management activities and analysis of the constitutional framework for the judiciary, and in the strategy is laid down the division of the SJC on personnel issues into two colleges - for judges and for prosecutors.


The SJC actively participated in the subsequent debates on draft laws to amend and supplement the Constitution of the Republic of Bulgaria and to amend and supplement the Judicial System Act. Debates with the Bulgarian judges, prosecutors and investigators took place and after that the summarized results were presented at a special session in July 2015.

The draft law foresees that the two colleges shall perform independently the personnel related issues and organizational functions, disciplinary liability issues and providing opinions on draft laws within the competencies assigned thereof. On questions that are common for the judiciary as a whole, such as the budget of the judicial system, the decisions shall be taken by the SJC in plenary.

### Main challenges faced/main results achieved

**Unified methodology** for applying the principle of random allocation of cases at the regional, district, administrative, military, appellate and specialized courts (accepted by Decision of the SJC under Protocol № 57 / 04.12.2014, amended and updated by Decision of the SJC under Protocol № 13/03.19.2015).

**Methodology for disciplinary activity:** By Decision of the SJC under Protocol №60/11.12.2014, have been adopted Rules for the Disciplinary Activity of the SJC, which regulate the procedures and criteria in the disciplinary action of the SJC in the exercise of its powers of disciplinary punishing body.



**Workload norms for prosecutors:** By Decision of the SJC under Protocol № 60/11.12.2014, have been adopted Rules to measure the workload of the prosecution offices and the individual workload of each prosecutor and investigating magistrate, which entered into force on January 1, 2015.

**Proposals for legislative amendments concerning the reform of the assessment of judges and their career development:** Working continuously to improve the methods for assessment and the career development of magistrates, at the initiative of the Committee on Proposals and Appraisal of Judges, Prosecutors and Investigators under Protocol № 13/18.02.2014 two working groups to the Committee on Proposals and Appraisal were created: a Working Group for Improving and Changing the Way of Appraisal and a Working Group for Changing the Way of Career Development of Magistrates. The working groups included representatives of professional organizations, representatives of the magistrates from the appellate districts, representatives of the Supreme Court of Cassation, the Supreme Administrative Court, and the Supreme Prosecution Office of Cassation, the Supreme Administrative Prosecution Office, the National Investigation Service and representatives of the Civil Council to the SJC. Working Group "Improving and changing the way of appraisal" held three working meetings (on 19.05.2014, 16.06.2014 and on 20.02.2015). Based on these meetings, including in early 2015, the Working Group on "Improving and changing the way of appraisal" prepared specific proposals for amendments in the Judiciary System Act. These proposals were also submitted to the Ministry of Justice.

**Indexes for reporting the quality of work:** With Protocol №14/25.03.2015, the SJC updated the statistical form for reporting the activity of the court - Appendix 3, which contains information about the indexes for criminal, civil and administrative cases in regional, district, military, administrative and courts of appeal and the instructions for filling in the forms. These forms serve to report the quality of work of judges.

## CROATIA

### DRŽAVNO SUDBENO VIJEĆE STATE JUDICIAL COUNCIL

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

In "Official Gazette" number 82/15 of 07/24/2015 amendments to the Law on the State Judicial Council were published. According to the amendments conducting the procedure of enrolment of candidates in the State School for Judicial Officials and the procedure of the final examination no longer belongs to the scope of work of the State judicial Council.

Furthermore, psychological testing and security clearance for candidates who completed the State School for Judicial Officials are being introduced as well as security clearance for the candidates for the Supreme Court who are not judicial officials.

#### Judicial reform

From April 1, 2015 the network of municipal courts has been reorganized, and from the July 1 2015 the network of misdemeanour courts was also reorganized. The number of this courts was reduced to make more balanced work load, equalization of judicial practise, greater mobility of court staff, reducing the number of court presidents and so on.

The municipal and misdemeanour courts which no longer exist has become a permanent services of municipal and misdemeanour courts to which they were merged

From April 1, 2015 every county court in Croatia has become competent to decide in the second instance on appeals against judgments of municipal courts in criminal cases, and from July 1, 2015 just few specialised county courts are competent to decide in the second instance on appeals against the decisions of municipal courts in work, family and land registration procedures. From the January 1, 2016 in other civil cases all county courts will be competent to decide in the second instance on appeals against judgments of all municipal courts.

#### Other news

On the March 3, 2015 the new members of State judicial Council entered their duty with four-year term. The current members of the State Judicial Council of Croatia are as follows:

- Nediljko Boban, judge of the High Misdemeanour Court of the Republic of Croatia
- Neven Cambj, judge of the County Court in Split
- Sabina Dugonjić, judge of the Municipal Civil Court in Zagreb

- Mijo Galiot, judge of the Municipal Court in Split, vice president of the SJC
- Ph.D. Igor Gliha, professor of the Faculty of Law in Zagreb
- Damir Kontrec, justice of the Supreme Court of the Republic of Croatia
- Ph.D. Eduard Kunštek, professor of the Faculty of Law in Rijeka
- Josip Leko, member of the Croatian Parliament
- Davorin Mlakar, member of the Croatian Parliament
- Željko Šarić, justice of the Supreme Court of the Republic of Croatia, president of the SJC
- Ivica Veselić, judge of the County Court in Zagreb

## DENMARK



### DOMSTOLSSYRELSEN DANISH COURT ADMINISTRATION

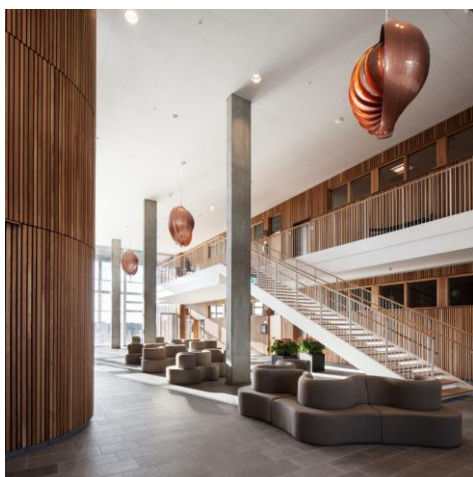
#### Judicial reform

In 2016 the case handling in civil matters will begin to become digitized as part of the Danish Courts' strategy for digitalization. A bill containing amendments to the current legislation must be adopted in order to support this digitization.

#### Main challenges faced/main results achieved

- Increasing the knowledge and use of court mediation and conciliation
- Strengthening the IT organization and the IT competences at the courts
- Strengthening the coherence, attention and anchoring of the concept of security across the organization by establishing a security organization, security measures in courthouses and training.

#### Other news



*Interior and exterior of the new Western High Court of Denmark, inaugurated in 2014*



## HUNGARY



### ORSZÁGOS BÍRÓI TANÁCS

### NATIONAL JUDICIAL COUNCIL

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

On 10 March 2015 the presidential position of the National Judicial Council (NJC) has changed, after 6 months presidency of dr. Zsuzsanna Nyakó (President of the Nyíregyháza Regional Court), she was followed by dr. Attila Hámori (Deputy President of the Szeged Regional Court of Appeal).

#### Judicial reform

The codification of a new Civil Procedure Code (Act III of 1952) and Criminal Procedure Code (Act XIX of 1998) is underway in Hungary,

Hungary's system of administrative justice is also undergoing far reaching changes, therefore the codification of a new Administrative Procedure Code is also underway. The law of administrative court procedures be separated from the law of civil procedure, and a new Administrative High Court will be set up.

As a result of all this, the organizational changes supposed to be prepared for next year.


#### Status of Judges

In an atmosphere of mutual cooperation with the Hungarian Judicial Association in preparing the "Career model of a judge" – in connection with it – the National Judicial Council (NJC) has made a new legislation draft,

The National Judicial Council has created a committee of experts aiming the review of 1/2012. (X. 15.) Recommendation of the National Judicial Council (NJC) on judicial tender measures, and drafted a budget proposition for the "Carrier model of a judge",

Following the questionnaire of ENCJ Project Group Evaluation of the Independence & Accountability of the Judiciary the National Judicial Council has made a decision to estimate the number of the employees within the court organization,





The National Judicial Council has made the interpretation of the earlier accepted Code of Ethics and insured its enter into force.

### Main challenges faced/main results achieved

In the first half of 2015 National Judicial Council, the central control body of the administration and management of the courts, organised 7 meetings, dealt with 51 items on the agenda, made 61 decisions. In one case the National Judicial Council made an electronic decision in a personnel related question,

The National Judicial Council has become a full member of the European Network of Councils for the Judiciary at the General Assembly of the European Network of Councils for the Judiciary (ENCJ) which was held on 3-5 June 2015 at The Hague. The membership of the ENCJ was a huge achievement for the National Judicial Council as a founding member of the ENCJ.

As the new member of ENCJ, NJC also had the opportunity to take part in the vote dedicated to the acceptance of the final report of 2014/2015, indicating that the year's professional work came to an end, and also on defining the professional topics for the upcoming work year of 2015/2016.


Following the 75/2015. (XI.8.) Decision of the National Judicial Council (NJC) 3 of its members are delegated to join the project teams of ENCJ, in accordance with the 2015/2016 work plan adopted by the General Assembly in Hague. Dr. Sándor Fazekas will join the project entitled „Assessment of the judicial systems' independence and accountability with regard to the EU Justice Scoreboard”, dr. Levente Simon will take part in „Developing general standards VI. – the role and participation of civil society in judicial governance”, while dr. Tamás Gerber will attend the „Funding of the Judiciary” project.

NJC, as a new member of ENCJ is dedicated to the advancement of the Hungarian judicial system in accordance with the organisations announced goals. Given NJC's new position, providing help to pursue development will be more effective.

### Other news

Last year's significant international event in the life of Hungary's justice was the constitution of the Balkan and Euro-Mediterranean Network of Councils for the Judiciary with the participation of the National Office for the Judiciary and the National Judicial Council on 12-13 May in Bucharest.

The Balkan and Euro-Mediterranean Network of Councils for the Judiciary embodying 300 million people held its 10th, jubilee General Assembly on 27-29 May 2015.



The Network elected its first president in the person of judge Gjin Gjoni, Member of the High Council of Justice of the Republic of Albania.

As an outstanding diplomatic success of the Hungarian judicial organisation the Network's Secretary along with its headquarters is going to be based in Budapest.

On 8 July 2015 the President of the Balkan and Euro-Mediterranean Network of Councils for the Judiciary consulted current tasks with the [Secretariat situated in Budapest](#). During his visit to Hungary, Gjin Gjoni attended the meeting of the National Judicial Council, later then took part in the inauguration of the Secretariat's brass plaque engraved "Balkan Network" with Dr. Attila Hámori, the President-in-Office of the National Judicial Council.



An tSeirbhís Chúirteanna  
Courts Service

### THE COURTS SERVICE OF IRELAND

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

In August 2010, the General Scheme of the Judicial Council Bill was published by the Department of Justice & Equality (formerly Justice, Equality & Law Reform). The General Scheme of the Judicial Council Bill provides for the first time in Ireland a detailed procedural framework for best practice for the education, support and training of judges; a code of conduct; and a complaint structure for the consideration and investigation of complaints regarding the conduct of individual judges and the taking of such action as may be considered necessary for the purpose of safeguarding the administration of justice. The Judicial Council Bill is currently on the Government's legislative programme and the drafting of the Bill is expected to be completed in the coming months.

#### Judicial reform


##### Court of Appeal

The biggest change in the past year in the courts was the establishment of the Court of Appeal. The Court of Appeal, established on 28th October 2014, occupies a new appellate jurisdictional tier between the High Court and the Supreme Court.

The Court of Appeal is composed of a President and nine ordinary judges. The Chief Justice and the President of the High Court are *ex officio* judges of the Court of Appeal. The Court may sit in divisions of three judges. Some interlocutory and procedural applications may be heard by the President alone or by another judge nominated by the President.

In civil cases, appeals from the High Court which prior to the Thirty-third Amendment of the Constitution would have been heard by the Supreme Court now lie to the Court of Appeal, except for those cases in which the Supreme Court has permitted an appeal to it on being satisfied that the appeal meets the threshold set out in Article 34.5.4° of the Constitution.

In criminal cases, the Court of Appeal was given the appellate jurisdiction previously exercised by the Court of Criminal Appeal under the Court of Appeal Act 2014. The Court of Appeal was also given



jurisdiction to hear appeals by the Director of Public Prosecutions on a question of law arising out of criminal trials which resulted in an acquittal and which was formerly exercised by the Supreme Court. The appellate jurisdiction previously exercised by the Courts-Martial Appeal Court was also given to the Court of Appeal under the Court of Appeal Act 2014.

Questions of law which could previously be referred by the Circuit Court to the Supreme Court for determination (a 'case stated') are now determinable by the Court of Appeal.

Following the establishment of the Court of Appeal specified appeals pending in the Supreme Court which had been initiated before the establishment day and had not been fully or partly heard by that court were directed by the Chief Justice to be heard and determined by the Court of Appeal. It is expected that the backlog that has existed in the Supreme Court will be quickly addressed by this development.

### **Status of Judges**

At present, there is an unsatisfactory situation whereby judges at the same level are on different salary scales as a result of urgent action taken during the financial crisis. Following discussion with the judiciary it has been decided that this disparity will be gradually ended over the next five years so that equality of salary will be achieved within all levels of the judiciary in Ireland in accordance with their jurisdiction.

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

The establishment of a Judicial Council has been recognised as an important requirement for the Judiciary and the administration of justice in Ireland. The Government has indicated that a Bill to establish a Judicial Council will be prioritised and the drafting of the Bill is expected to be completed in the coming months.



## CONSIGLIO SUPERIORE DELLA MAGISTRATURA SUPERIOR COUNCIL FOR MAGISTRACY


### Reform and/or changes to the Council

The reform of the CSM is a primary objective of the Italian Government. At first glance, it signals the creation of two distinct Commissions, established at the Legislative Office of the Ministry of Justice with a Ministerial Decree dated 12 August 2015, concerning, respectively, the reform of the judiciary and the reform of the regulations on the establishment and operation of the High Council for the Judiciary (CSM).

The first Commission has the mandate to prepare a proposal concerning the updating and streamlining of the judicial system, especially concerning the reorganization in the regions of the judicial offices, access to the judiciary, the system of disciplinary offenses and incompatibility of judges, the professionalism assessment systems and for the granting of assignments of the mobility and the transfer of the office and functions of judges, the organization of the offices of the Public prosecutor.

The second Commission, however, is concerned, in particular, with the election law of the Council and the workings of the self-governing Body. The deadline for the completion of the commission's task is scheduled for 31 December 2015. The State is not permitted to know the details of the work of the two commissions.

At the same time the CSM has also started an in-depth reflection concerning the modifications to its internal regulations as well on its own operational mechanisms and deliberations, the important activities undertaken by the Second Commission - having the tasks of proposing and interpreting regulatory matters. In February 2015, the Presidential Committee of the CSM has authorized procedures to come to a proposal to amend the organic and overall Internal Regulations of the CSM. The idea of rewriting the Internal Regulations was not born solely out of the need of formal *'ii'* (*window dressing*) of that regulatory text, but should also cater for the growing number of large and demanding responsibilities attributed to the Council. Other objectives are: to have a more appropriate decision-making processes; to eliminate 'bottlenecks'; to redefine the responsibilities and improve the deliberative channels with an aim to greater efficiency in the entire Council structure.



The main objective of the reform would be to achieve more significant actions and greater “political” impact in particular regarding the expression of opinions on legislative initiatives. An important improvement proposed is the use of the ‘ballot’ system in all cases in which the Council is called to vote on two or more alternative proposals submitted by a Commission and a further reflection on whether to broaden the scope of the voting operations voting by secret ballot. Other proposals include the allocation of competences related to institutional relations and the International activities of the High Council of the Judiciary to an *ad hoc* Commission;

Another important initiative of the CSM is the new Consolidated Law on judicial leadership, which provides for the rewriting of the handbook for the conferral of management positions and semi-structures with a view to guaranteeing transparency and comprehensibility of certain Council decisions. This initiative also intends to reform the rules regarding the appointment of management positions making it less complex by streamlining and speeding up the procedures for filling posts.

In pursuit of this goal enormous attention has been paid to the need to preserve the autonomy of the CSM, thereby avoiding the introduction of the selective procedure criteria which might undermine the discretion of the constitutional relevance of a Body. The correct balance has been sought between the principle of legality and the indispensable need to protect the power of the Council’s self-determination, aimed at choosing the best manager for the post to be filled, respecting the greater public interest.


### Status of Judges

In February 2015 a new rule regarding the **civil liability** of judges was introduced. The law, while confirming that the judge cannot be held liable for the activity of interpreting the law and assessment of the facts and evidence, it introduces an assumption of irresponsibility by the magistrate for cases of wilful misconduct and gross negligence. The law applies to all judges belonging to the ordinary, administrative, financial, military and special judiciary, exercising their official duties, independent of the nature of the functions, as well as third parties participating in the exercise of the judicial function”.

The action for compensation can be exercised only there is no other possibility to either change or revoke the proceedings, or if such remedies are not expected, when the level of the proceedings is exhausted in the context in which the damages caused had occurred.

The action must be filed within three years (instead of the previous two), to be valid, starting from the moment when it is possible to bring it forward, or after three years from the date on which the incident occurred. Another important result of the reform concerns the elimination of the *exequatur*





preliminary eligibility (consisting of checking the conditions, of the terms and the assessment of the substance) of the action for compensation toward the State.

Following the assessment of the responsibility of the judge the State exercises the mandatory retaliatory action against the judge, in the case of a denial of justice, or to manifest breach the law or the European Union, as well as misrepresentation of facts or evidence regarding fraud, malice or inexcusable negligence. As for the extent of the compensation; it cannot exceed a sum equal to the relevant judge's salary, even if the event caused damage to several people. However this does apply if the act was committed intentionally or with malice.

Another important change is the one introduced which repealed the rule that for all civil employees of the State, the ability to remain in service beyond the **retirement age** expected by regular means. So, for the members staff of the judiciary, the age of retirement from the judicial service now always provides for a departure "at seventy years of age", without having the possibility of being allowed the right to remain in service beyond said age limit. This novelty resulted in a large commitment on the part of the CSM to provide for the necessary transfers in a timely manner.

New rules for the **transfers of judges** were also introduced, aiming to ensure a more limited time for filling empty vacancies, through the awarding of at least two professional competitions a year by the Council.

Finally, with the same piece of legislation, **30 days of annual leave** for regular, administrative, tax and military magistrates, as well as lawyers and State Prosecutors has been introduced. Previously, annual leave amounted to 45 days, during which time the judges, however, were expected to continue to fulfil the obligations related to procedural activities previously performed.

#### Main challenges faced/main results achieved

The remarkable complexity of interventions, all very recent, has not allowed us to verify the impact of the measures taken with respect to the various sectors of the legal system concerned.

**CONSIGLIO DI PRESIDENZA DELLA GIUSTIZIA AMMINISTRATIVA**  
**PRESIDENTIAL COUNCIL OF ADMINISTRATIVE JUSTICE**

**Judicial reform**

The implementation of the e-trial was introduced. The administrative procedure will be managed completely electronically within the next few months.

**Status of Judges**

A law entered into force that lowered the retirement age to 70 years. Consequently a large number of administrative judges will be taking their pension as of 31 December 2015

**Main challenges faced/main results achieved**

The administrative judiciary managed to decrease the back log of cases (data available only from 31 December of each year)

## TIESLIETU PADOME

### COUNCIL FOR THE JUDICIARY

#### Judicial reform

**Concept of court houses** – gradual consolidation of courts of the first instance. The concept of court houses was provided to the Council for the Judiciary by the Ministry of Justice. The foregoing concept envisages review of existing catchment areas of courts and merging of catchment areas of district (city) courts located within catchment area of the same regional court, thus, establishing one single district court, and reforming the merged courts into court houses. It means that instead of 5-10 district (city) courts located in the catchment area of one regional court, there would be one district (city) court.

The purpose of this reform is optimization and increase of efficiency of work of court, because currently there are significant differences in work load of judges. In accordance with data for 2013, number of civil cases and criminal cases received and adjudicated by one judge, at the level of district (city) courts, may differ for more than four times in different courts.

It has been planned to merge district (city) courts located in catchment areas of regional courts gradually. First, it has been planned to implement this reform in Riga court region, merging catchment areas of district (city) courts, as a result one district court (as legal unit) would be established, and its area would correspond to the entire area of Riga court region. This first instance court of Riga city would have court houses (current district (city) courts located in Riga region). By merging catchment areas of Riga city courts, it has been envisaged to use judges' capacity, and also other resources in more rational manner, for example, to set up joint archives, to centralise work of chancery, etc.

Along with revision of catchment areas of courts, institutional subordination of Land Registry offices and their catchment areas will also be changed.

**Transition to clear three-level judicial system**, i.e., all cases are heard by a district court as the court of the first instance, by regional courts as the courts of appeal, and by the Supreme Court – as the court of cassation instance. Within the reform, appellate instance in the Supreme Court has been liquidated – the Chamber of Criminal Cases discontinued its operation on 31 December 2014, and the Chamber of Civil Cases shall operate until 31 December 2016.

## Main challenges faced/main results achieved

**Decrease of accumulation of cases in courts, faster circulation of cases.** The Council for the Judiciary approved Guidelines on transfer of a case accepted for review to another court to ensure faster examination of the case.

**Communication of the judicial system with society.** The Council for the Judiciary approved two documents: 1) General guidelines on communication of entire judicial system (for mutual cooperation among all institutions represented in the Council for the Judiciary and equal principles of communication with media and society); 2) Strategy of communication of courts (on communication of courts with participants of cases). Implementation of these guidelines in practical operation will be a challenge.

**Extension of competence of the Council for the Judiciary.** 1) Upon coordination with the Council for the Judiciary, amendments to the law “On Judicial Power” were introduced. They extend competence of the Council for the Judiciary and its involvement in issues regarding reorganisation of courts; 2) Amendments are promoted, which envisage to reduce role of the Minister of Justice in issues related to promotions of judicial careers, approval and dismissal of Chairs of district and regional courts.

**Ensuring of security in courts.** Because of removal of iron fences and particular security incidents occurred in courts during examination of cases, ensuring of security in court buildings and court rooms is stipulated as one of priorities set by the Court Administration. The Council for the Judiciary supported inclusion of implementation of security systems in courts in budget request of regional courts and district courts for 2016 as immediate measure.

**Inequality of judicial wages with wages in system of public administration.** Having included judges in unite remuneration system and having set a prohibition to pay extras and bonuses to judges, however, allowing to pay them to employees working in the public administration, the balance between wages of judges and lawyers employed in public administration is destroyed. The Council for the Judiciary performed comparative study on wages and initiated update of this problem, addressing the Prime Minister and the Ministry of Finance.

**Trainings for people belonging to the court system.** The project “Strengthening of human resources capacity of employees of judiciary and law enforcement institutions 2015-2020” is prepared. It will be implemented with co-financing of the European Social Fund. The project will be implemented by the Court Administration in cooperation with the Ministry of Interior, the Prosecutor’s General Office, the Supreme Court and the State Bureau of Forensic Expertise.

## LITHUANIA



### TEISĖJŲ TARYBA JUDICIAL COUNCIL

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

No substantial reforms have been made; however, some changes have occurred as regards the composition of the Judicial Council during the reporting period. In 2014, the term of office of former President of the Judicial Council Mr Gintaras Kryževičius expired and the new President, Deputy-President and Secretary of Judicial Council were elected. As from November 2014, the Judicial Council is headed by the following members:

- President of the Judicial Council – Mr Egidijus Laužikas (judge of Supreme Court of Lithuania);
- Vice-President of the Judicial Council – Mr Zigmas Pocius (judge / Chairperson of civil cases division of Klaipėda Regional Court);
- Secretary of Judicial Council – Mr Ramūnas Gadliauskas (judge of Supreme Administrative Court of Lithuania).

In addition, from 29th May 2015 the composition of permanent committees of the Judicial Council was also renewed. More information on the Judicial Council and its committees might be found here: <http://www.teismai.lt/en/self-governance-of-courts/judicial-council/composition/661>



*The new President of the Judicial Council of Lithuania Mr Egidijus Laužikas (middle) and other representatives of self-governance of court*

## Judicial reform

### **Reorganization of court system:**

The Ministry of Justice of the Republic of Lithuania together with the Judicial Council and the National Courts Administration has prepared draft laws concerning the reorganization of the district courts of general jurisdiction and regional administrative courts. The aim is to create legal and organizational preconditions for the increase of effectiveness of administration of justice.

The following aims and goals of the drafts were determined:

1. To increase timeliness in court proceedings by making the workload of judges and working conditions more even (equalize workloads).
2. To facilitate access to justice, enabling to execute court procedures closer to the place of residence of citizens.
3. To use human and material resources of courts in more effective way by concentrating administrative resources.
4. To broaden the self-governance of the judiciary by establishing the new branch of judicial self-governance (the meeting of the court judges).
5. To increase the possibilities for the specialization of judges by increasing the number of judges working at one court.
6. To abolish the organizational obstacles for litigation – to conform the territories of the courts' jurisdiction to the territories of other law enforcement institutions' jurisdiction.

According to the draft law, the 49 district courts of general jurisdiction will be consolidated into 12 district courts, and 4 regional administrative courts into 1 county regional administrative court. Each of these courts will consist of one central place of residence and several courthouses (instead of the current courts).

The draft laws were approved by the Government of the Republic of Lithuania on 23<sup>rd</sup> April 2015 and now those draft laws will be submitted to the Parliament of the Republic of Lithuania (the Seimas) for consideration.


## Main challenges faced/main results achieved

### **Development of mediation conception**

On 4<sup>th</sup> February 2015 the Government of the Republic of Lithuania has approved the Conception on Development of Conciliatory Mediation System (later referred to as Conception).

The Conception is aimed at promoting the development of mediation institute in civil, criminal and administrative proceedings. The Conception was prepared taking into account the experience of





foreign states, recommendations of the Council of Europe as well as rules and principles of international law and European Union law.

It should be mentioned that the mediation will be implemented in civil, administrative and criminal proceedings in stages, the first stage being the mediation in civil proceedings.

#### **Electronic pre-trial investigation system**

The amendments to the Code of Criminal Proceedings are presented to the Seimas. After the changes in the Code of Criminal Proceedings, the integrated information system of criminal proceedings (IBPS) will start its functioning, where records, gathered by pre-trial investigation institutions will be accumulated. The IBPS will be integrated with the Lithuanian court information system (LITEKO) and all pre-trial investigation judges and court employees, who manage the pre-trial investigation data.

Judge and court employee will be able to get acquainted with the materials of the case in court, prepared by the pre-trial investigation institutions, register their actions during the pre-trial investigation (appoint the court hearings, register the results of court hearings and etc.), create and load the procedural documents.

#### **Cash limitation information system (PLAIS)**

From 1st August, 2015 the debtors' accounts of enforced recovery should take place in the centralized cash write-off, i.e. via Cash limitation information system (PLAIS). This system will help to secure more rights of creditors.


This system should guarantee the implementation of the principle of proportionality, i.e. the principle that in case debtor has not enough funds, the creditors in the same line will receive amounts proportionately.

#### **Registry of administrative offences**

The Law on the Registry of Administrative Offences will come into force from the 1<sup>st</sup> July, 2015. The objects of this registry – administrative offences, which are recorded according to the Code of Administrative Offences.

#### **Improved communication with media and society**

Much attention has been paid to improve court communication and increase public trust in courts. 130 judges and court employees have been trained by professional specialists on how to communicate with media and society. Judges and court representatives now feel more confident when publicly comment and explain court decisions; courts became more open to society. The pilot project has been initiated by the Judicial Council to appoint and train press judges.



As a result, the data of the independent sociological survey conducted in April 2015 showed, the positive tendency - for the first time in 18 years, the level of trust in courts in Lithuania is higher than mistrust in courts.

Preparation of Manual on Court Communication was initiated (the Manual has been prepared and shall be published until the end of 2015).

#### **More attention to witnesses and crime victims in court proceedings**

For the first time, more than 600 judges and court employees have been trained on how to treat vulnerable persons, i.e. witnesses and crime victims, in court proceedings as well as more than 200 000 informative leaflets on how to behave in court proceedings have been disseminated.

#### **Court psychologists**

In order to help witnesses and crime victims and increase psychological safety and comfort in courts, 5 court psychologists have been recruited at regional courts of Lithuania.

**Virtual courtroom** (can be accessed here: <http://sale.teismai.lt/en/>)

By implementing the project financed under the Norwegian Financial Mechanism 2009-2014, the National Courts Administration created the Virtual Courtroom - an instrument of education to inform the public about the court proceedings and the role of parties to the proceedings. A mock hearing will provide an opportunity to get a more thorough understanding of the course of court proceedings.

The purpose of the Virtual Courtroom is to strengthen support for witnesses and victims during trial, increase psychological safety and comfort.

Visitors of the Virtual Courtroom will get knowledge about the persons taking part in the proceedings, their functions and liability, the course of a hearing in civil, criminal, administrative and administrative offence matters. By choosing the case type or character of interest, visitors will be able to navigate in the courtroom, follow the course of the hearing, find answers to most frequent questions and make inquiries.

#### **Videoconferencing in courts**

The National Courts Administration aiming to create conditions for more expeditious examination of cases and for the appropriate exercising of the procedural rights, implemented the individual project “The Creation and Implementation of the System for Video Transmission, Recording and Storage in Courts” under the Swiss-Lithuanian cooperation programme. As a result 18 Lithuanian courts, all prisons as well as the Prosecutor General’s Office and Kaunas Regional Prosecutor’s Office have been equipped with videoconferencing equipment, which allows arranging remote court hearings (especially important in cross-border cases), recording and preserving materials of court hearings in the electronic form.



de Rechtspraak

Council for the Judiciary

RAAD VOOR DE RECHTSPRAAK

NETHERLANDS COUNCIL FOR THE JUDICIARY

### Judicial reform

#### **The Program Quality and Innovation (Programma Kwaliteit en Innovatie- abbreviation: KEI)**


In 2012 the Judiciary started the Program Quality and Innovation to change procedures through innovation, simplification and digitalization. To accomplish this, different laws on civil procedure and administrative law have to be changed. The code of criminal procedure follows a separate track and will be changed during the coming years. Modern procedures and digitalisation will also be part of this change. The Program has a broad impact and consequences for digital services provided by the Judiciary.

In 2014, the Judiciary continued its efforts to implement step by step the new approach in the courts. Within the project team of KEI, 60 judges and staff worked in close cooperation on portals for all employees of the Judiciary, professionals and litigants. Furthermore, the first organizational changes were made.

One of these changes is the setting up of digital criminal files for lawyers. In the first phase, judges and prosecutors started working with digital files. To assure equality between all parties involved, it is important that lawyers can also access the files of their case digitally. To this purpose, in 2014 a special lawyers portal was installed by the Judiciary, the Public Prosecution service, the Bar association and the ministry of Security and Justice. After a short pilot period, lawyers throughout the Netherlands can now use the lawyers' portal to access digitally the files.

#### **Communication policy/social media**

The Judiciary has improved its information flow to the public. 1600 news items were published in which the court procedures and judgements were explained for the public. This information was also disseminated in a digital newsletter, a free magazine and through social media. The Judiciary discussed actively with the public through social media. This resulted in a higher interest of the public in the judiciary.



The communication towards the media has been professionalised. In all courts press judges are available to explain court procedures or judgements. More than 140 judges followed a training to safeguard the good communication with the media.

### **Integrity**

The Judiciary has a constant focus on integrity. It is important to maintain a high level of integrity. Different measures were taken in the past year to assure the integrity of the judiciary. In all parts of the organization, integrity commissions were installed. Also, confidential advisors were trained and appointed. On the internal website, employees can now discuss with each other different subjects and blogs on integrity can be read.

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

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

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


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

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

The Netherlands Council for the Judiciary is currently working on a Multi-annual planning to execute the agenda of the Judiciary for the next years. One of the objectives is to make the Judiciary more efficient and cost effective (also in view of increasing Information Technology costs), while improving performances and quality aspects.

### **Visitation commission 2014**

Every four years an external commission, called the visitation commission, visits the different courts. The commission examines the current level of quality control in the judiciary and is meant to give accountability of the judiciary towards society and promotes the quality development within the courts.



In 2014 the commission concluded that the judiciary has set up a promising structure of quality control. However, important organisational changes (merging of courts and change of governance structure) took a lot of time and effort of the judiciary. Consequently, the implementation of quality measurements did not always get the attention it needed.

To assure the quality of the judiciary in the long term, clear agreements have to be made. Also, a more open culture (feedback and accountability) and more cohesion between the different elements within the organisation are necessary.

### **Revisiting the labour market communication strategy**

With regards to Human resource management of the Judiciary, the challenge is to attract more suitable candidates for vacancies in the Judiciary. Developing a strategy that attracts more candidates whilst having a restrained budget (compared to law firms) is challenging. It is also a challenge to identify what candidates from different groups look for in a judicial job.

The first result was a communication campaign to attract candidates for vacancies of trainee judges. The strategy will also result in the development of an ICT-system that can be used for relation management with possible future candidates.

## POLAND



### KRAJOWA RADA SĄDOWNICTWA NATIONAL COUNCIL OF THE JUDICIARY

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

The new Head of Office of the National Council of the Judiciary has been nominated.

#### Judicial reform

- 1) The National Council is constantly struggling with the “administrative supervision” over the common courts done by Minister of Justice. In 2015 President of the Republic, following the request of the National Council, asked the Constitutional Tribunal to examine the accordance with the Constitution of the newly passed law amending the Act on Common Courts Organization. The law has introduced the Minister of Justice’s prerogative to demand from the President of the Court of Appeal sending the files of any case pending in any court under his/her supervision. In the Council’s opinion such a situation might cause serious doubts whether a trial was a fair one.
- 2) Another aspect of the Minister of Justice’s supervision over the common courts was the abolition of ca. 25% of the common courts in Poland, causing serious doubts on the status of judges of those courts; the MoJ ordinance was finally repealed with the effect of 1 July 2015 and the courts were re-installed.

#### Status of Judges

There were numerous attempts of lowering the status of judges, e.g. remuneration during the sickness was reduced from 100 % to 80 %. A plan to liquidate special judicial pension (“state of rest”), failed due to the fact that it has a constitutional basis.

## Main challenges faced/main results achieved

The main challenge faced by the Polish judiciary is the constant tendency of both the legislative and the administrative power to lower the level of the judicial independence in many ways (financial, organizational etc.).

Another aspect of the relation between the powers is the picture of the judiciary shown by the media, especially due to the comments made publicly by the politicians.

Subsequently, the trust of society in the judiciary has been weakened.



*The Members of Krajowa Rada Sądowa*



## CONSELHO SUPERIOR DA MAGISTRATURA

### JUDICIAL HIGH COUNCIL

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

The Internal Regulation of the Council was approved at plenary session (Published in the National Official Journal of April 27 of 1993).

Due to the legal changes aiming the implementation of the recent Judiciary Reform, has become absolutely necessary to adapt the Status of the Judicial Magistrates to the new organization and management model, particularly concerning the internal organization and functioning of the Council.

The Council has been working on a new internal regulation, but yet without the fundamental basis of the new Status of the Judicial Magistrates.

#### Judicial reform

In Portugal, there was a Reform of the Judicial System, which entered into force in the 1st of September of 2014.

This reform implemented a new organization of the courts, based on a district territorial reality involving the redrawing of the judicial and court map and was guided by the principles of centralization, specialization and the increase of proximity to the people, although some minor courts were shut down. It also implemented a new court management system.

With the new management of the first instance courts, it is now mandatory that the Ministry of Justice, the High Council for the Judiciary and the Prosecutor General's Office of the Republic together define strategic aims each three years, with a decisive influence over the courts.

By the other hand, the President Judge has achieved new competences, furthermore, in the field of case management and definition of good practices. Thus the President Judge must define quantitative aims/goals for each year, as well as good practices to be adopted by all the judges working in the several courts of the same district area.






The Council actively participated in the implementation of the Reform, including the following actions:

- The appointment of the presiding Judges of the twenty three district courts;
- Took part in forty one plenary meetings of the working group established by the Minister of Justice, eight meetings to prepare the establishment of strategic goals and submitted eight working documents; together with the Prosecutor General's Office and the Ministry of Justice, three meetings for the definition of those goals and submitted a working document; four meetings to prepare the organization of the courts registry and submitted four working documents; twelve follow-up meetings to prepare the computer system; three meetings with the Prosecutor General's Office to define common strategies; twenty nine meetings with different departments of the Ministry of Justice to report the main difficulties experienced by the new courts;
- Also held daily informal communication with the presiding Judges by email resolving doubts, promoting the exchange of experiences, playing an intermediary role with the several State Departments. More than ten thousand messages were exchanged, 2950 to solve issues relating to the crash of the electronic platform;
- The creation of a set of uniform management practices, such as those regarding to the internal regulation of the courts, the tracking performance and the elaboration of the reports;
- The organization of a new judicial tender for the placement of all judges adapted to the new court organization all over the country;
- The creation of the guide lines for the strategic aims and afterwards the Council has participated in the definition of those aims;

We can say the Council played a very important role in this field, considering it was the first time that this task had to be done and considering that the system itself needs some time to stabilize the organization, the resources, the working methods, the data, etc.

Creating a framework for the definition of the quantitative aims which was suggested to all the Presiding Judges.

This procedure took into account: (i) the most important main strategic aspects and options, so that, in the end, the accountability will be able to reach a transparent result; (ii) an acceptable workload for each unit; (iii) uniform good practices for the courts all over the country; (iv) how far can each judge define his/her own work orders in the relationship with the clerks and how far can the President Judge go in this field.



After the presentation of the proposals by the Presiding Judges on this matter, the goals for the current year were adopted by the Council at plenary session.

### Status of Judges

There is a status new project on the table, thus the Council had the opportunity to comment it, on a first stage, as a result of the labor of a working group inside the Council, carried out with the participation of several judges of the Supreme Court, Court of Appeal and first instance courts, experienced in different areas of intervention. On a second stage, complemented by an inside job of the Council members, and as a result, the final report was approved at the plenary session.

Subsequently, in order to prepare a draft to be submitted to the Parliament, the Ministry of Justice has promoted the establishment of a working group with representatives of the Council, the Judges Association, Professors and Judges who have been studying this subjects.

Despite the final report being finishes is has not been approved so far. In fact, among other reasons, recently there were parliamentary elections.

### Main challenges faced/main results achieved

Simplification of judicial proceedings, improvement of case management and development of new technologies were (and still are) some of the main goals of the Council in order to modernize the administration of justice, thereby improving access to justice, quality of justice as well as efficiency.


Based on the new court management system, we had and still have a considerable work ahead to improve administration and optimization of workloads.

Indeed, the Council has been carrying out appropriate analysis of backlogs in different parts of the country to identify the need to distribute work and to assist any such redistribution or to identify other solutions.

The Council has been deeply committed to set up a structure on how to establish methodologies for case management, including the associated standards for the average duration of cases, for specific categories of cases/jurisdictions. These structures have been guided by the judges.

The Council has started a pilot camp study in three courts with different sociological characteristics in order to prepare the definition of the working time spent by judges on public inquiries and to track the scheduling of the agenda and the postpone of the procedures.

As case management requires a change of attitude and culture of many judges, which needs to be promoted by training and/or other tools to disseminate knowledge, the Council has been developing the appropriate training programs.



Although we have introduced the digital access to justice in 2008, we have been trying to improve the system and adapt it to the new court management reality.

The Council has been improving the evaluation procedure that allows the professional performance analysis, the internal distribution of functions, the transparency of procedures and disclosure.

#### Other news

The Council established an internal and external communication plan in order to communicate with the media. This communication plan also rules the relation between the twenty-three district courts and the media.

The Council has been investing in the computerization of procedures, including those concerning the complaints, tracking of the district courts performance and needs, the communications with the judges, including the necessary proceedings for training admission and judicial tender for the placement of judges.

A new Regulation relating to the pool/stock of Judges was approved (this stock of human resources is internally managed by the Council and it is an important flexible management tool to replace judges whenever necessary, including to rebalance the workloads).

A new Regulation of holidays and shifts was approved at the plenary session of March 3, 2015 - published in the National Official Journal June 8, 2015.

A new Regulation for training and promoting training of judges in their specialization areas.

Between 01/09/2014 and 31/08/2015, the Council issued 107 advices, studies and information, 54 requested by the Parliament or the Government on legal instruments, 34 on various matters of internal organization or staff management and 19 concerning some aspects aiming to prepare, implement or enforce the new judicial organization.

## ROMANIA



### CONSILIUL SUPERIOR AL MAGISTRATURII

### SUPERIOR COUNCIL OF MAGISTRACY

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

A new President and vice president were elected. Judge Marius Badea TUDOSE is the President and prosecutor Bogdan GABOR the vice-President from 1<sup>st</sup> of January 2015 to 31<sup>st</sup> of December 2016

#### Judicial reform

**Reform of judicial map** - According to the proposal submitted by the Superior Council of Magistracy, the bill initiated by the Ministry of Justice, stated, following the analysis of the performance of the judiciary in terms of the workload and personal scheme, the abolishing of 30 courts / prosecution offices and increasing the territorial range of others. The Romanian Parliament, following public debates and more debates in the Legal Committee decided to reject the bill, and now the representatives of the Superior Council of Magistracy are currently seeking alternatives to achieve this objective.

**Establishment of a network of counsellors on integrity and of a Council of integrity** - The project on the integrity of the judiciary is conducted in partnership with the Ministry of Foreign Affairs of the Netherlands and the Dutch Judicial Council. The project is being implemented during 2015 and aims to strengthen the integrity of the judiciary in Romania. The CSM and four Dutch and Romanian specialists will develop a set of indicators on the integrity of the judiciary, look at the possibility to establish a Council of integrity which should be independent and should give advisory opinions, as well as a network of advisers that can provide guidance in this regard.

**Pilot project on the efficiency of the judiciary** – The CSM, the Ministry of Justice, the High Court of Cassation and Justice (HCCJ), the Prosecution Office attached to the High Court of Cassation and Justice with its specialized structures - the National Anticorruption Directorate (DNA) Directorate for Investigating Organized Crime and Terrorism (DIICOT) agreed to take certain steps in order to develop and assume a common strategy for the development of the judiciary. The steps taken by the competent authorities are in line with the European Commission recommendations made within the Cooperation and Verification Mechanism (MCV) with main recommendations set out by the World

Bank experts in the project "Functional analysis of the justice sector in Romania" (Judicial Functional Review), and with recommendations and conclusions expressed in other recent projects on optimal functioning of the Romanian judiciary.

**Assessment of the entry into force of the new civil and criminal codes** - On December 15, 2014, the CSM decided to establish a working group whose objective is to analyse the impact of new codes - the Civil Code, the Civil Procedural Code, the Criminal Code, the Criminal Procedural Code – on the activity of the courts and prosecution offices and to set out solid recommendations to be considered by the CSM for streamlining and improving the activity of courts and prosecution offices. The report concluded that a qualitative approach is absolutely necessary, but it will require a complementary analysis carried out together with all judiciary entities. As a preliminary recommendation, the report stressed the importance of resuming this analysis in 2017, this study being considered a first stage analysis. It is necessary to create an objective database and to develop a unitary methodology for analysis and forecasting.

### Status of Judges

Proposals for amending and supplementing Law No. 303/2004 on the statute of judges and prosecutors:

- The proposal to grant the judges and prosecutors the possibility to exercise training activities carried out for the training of other legal professions' specialists in their specific educational institutions.
- The proposal to amend the seniority conditions, raising the duration for promotion of judges to higher courts and for those who apply for occupying a leading position within local courts, tribunals and courts of appeal, with a view to the need for the judiciary to mature itself.
- The proposal that endorses the re-entry in the judiciary system within the courts or prosecution offices of the same level as those where they previously worked or courts or prosecution offices of lower grade, for people who have exercised for at least 10 years the position of a judge or prosecutor, without any competitive examinations, solely by passing an interview.
- Taking over by the CSM of the attributions currently exercised by the MoJ regarding the proposals for the appointment by the President of Romania of the General Prosecutor of the Prosecution Office attached to the High Court of Cassation and Justice, first deputy and deputy chief prosecutor of the National Anticorruption Department, his deputies, section chief prosecutors of these prosecution offices, and the chief prosecutor of the *Directorate for Investigating Organized Crime and Terrorism and his deputies*.

## Main challenges faced/main results achieved

The modernization process of the judiciary in recent years is represented mainly by the adoption of four new codes. However, the challenges the judiciary is facing on the road of optimal efficiency and functioning continue to be numerous. The system needs to be able to meet these challenges which arise from law reform and necessary resources need to be provided for the implementation process.

The main actions of the CSM in the reporting period were geared at; defending the independence of the judiciary, increasing the integrity, accountability and efficiency of courts and prosecution offices, and continuous active involvement in reforming the judiciary and fighting corruption.


In order to meet all these challenges, the main stakeholders (CSM, MoJ, HCCJ and Public Ministry) adopted a joint action plan which aims to implement the development strategy of the judiciary 2015 – 2020. The strategy is based on recommendations made by World Bank experts, and sets out the foundation for interinstitutional collaboration in order to achieve the following objectives:

**The need for a more efficient judiciary** by creating and implementing a strategic management system within the judiciary, on one hand, and optimizing the management of courts and prosecution offices, on the other hand.

**Institutional strengthening of the judicial system:** the modernization of the judiciary is one of the benchmarks at national level, objective that can be sustained if the main institutions of the system will be further strengthened. All stakeholders will improve their functioning in accordance with their areas of responsibility, thus ensuring a sustained pace of the development process of the judiciary.

**The integrity of the judicial system:** strengthening the integrity of the judiciary both as a whole and at individual level, implies also an increase of its transparency, developing a culture of integrity through initial and continuous training in this field and improving professional liability of the magistrates and auxiliary staff. The reports elaborated on the state of justice issued annually by the CSM, as well as the European Commission's reports on the progresses made by Romania under the Cooperation and Verification Mechanism identifies all these issues and emphasizes the need for appropriate interinstitutional cooperation - between the decision makers within judiciary, executive and legislative power. The transparency, integrity and accountability are core values of the National Anticorruption Strategy 2012 - 2015 (SNA), but also of the Strategy for strengthening judicial integrity 2011-2016 (approved by CSM Plenum on November 22<sup>nd</sup>, 2011).

**Quality and transparency of the act of justice:** improving the quality of the act of justice aims to reduce the duration of litigation, unification of the case-law, and upgrading the status of legal professions organized autonomously. One of the objectives is to reduce the postponement of trials.



Inconsistent judicial case-law remains is one of the main problems of the judicial system in Romania. To achieve a predictable justice act it is further required for a case-law unification coupled with professional training of the judicial staff and judges and for ensuring the access to jurisprudence for the magistrates and for the other legal professions. Transparency of the act of justice involve the publication of the relevant judgments and the implementation of a system for online access to files, which are measures with a direct impact on citizens' perception on the judiciary as a whole. The electronic instruments currently available to the judiciary ensuring the online publication of the motivation of the decisions and of other relevant data should be greatly improved to serve the purpose for which they were created: on the one hand, the unification of case-law, and on the other hand, ensuring certain transparency and enhance the confidence in the judiciary.

**Access to justice:** the philosophy of the four new codes is based largely on the need to ensure a greater access to justice, along with reducing the duration of court proceedings and ensuring citizens' access to more simpler and accessible procedures. The analysis of the data collected by the Ministry of Justice shows that the current legal aid and legal assistance system needs improvement so as to ensure a control and increased quality of services provided under this scheme.

## SLOVAKIA

### SÚDNA RADA SLOVENSKEJ REPUBLIKY

#### JUDICIAL COUNCIL OF THE SLOVAK REPUBLIC

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

**From September 1, 2014** - the function of President of the Judicial Council was separated from the function of President of the Supreme Court. This change was based on the amendment of the Constitution and the Act on the Judicial Council of the Slovak republic. Following the change, Judicial Council elected on September 16, 2014 Ms. Jana Bajánková as the President of the Judicial Council and Ms. Daniela Švecová as the President of the Supreme Court.

Other personnel changes to the Judicial Council:

**On September 10, 2014** – Slovak Government appointed a new member to the Judicial Council – Attorney JUDr. Ján Havlát (instead of JUDr. Jaroslav Chlebovič who was recalled on August 20);

**On September 10, 2014** - National Council of the Slovak republic recalled the member of the Judicial Council Mgr. Dušan Čimo and appointed JUDr. Ján Slovinský as a member of the Judicial Council;

**On November 26, 2015** - Judges elected Mr. Dušan Čimo as a member of the Judicial Council.

The President of the Judicial Council is as from September 1, 2014 authorised to lodge motion to commence disciplinary proceedings against a judge.

The Judicial Council shall decide on requirements of judicial competence of the candidates for judges based on the information received from National security authority.

##### Judicial reform

Slovak Parliament adopted the new civil code composed of: Code of Civil Procedure, Code of Non-contentious Civil Procedure and the Administrative Procedure Act.

The amendment of the Civil Procedure Code and Criminal Procedure Code was adopted which provides for the mandatory recording of the hearing in the civil and criminal proceedings, public meetings and closed sessions.

Based on amendments to the Act on Judges, as of December 1, 2014 - the oral examination of candidates for judges shall be recorded with the use of technical equipment intended for recording



sound; the recordings shall be published together with the minutes of the procedure on the website of the Ministry of Justice.

#### **Planned changes/amendments in judiciary:**

Preparation are made to amend laws, that relate to:

- an obligation to set up the department for senior court officials,
- an opportunity to take over the whole judicial department by a new judge,
- a reorganization of judicial system by merging of „ small courts“,
- enactment of the principle, according to which a rise of an amount of the cases will lead to the rise of an amount of judges at courts as well as administrative staff at particular court and on the other hand a decrease of the amount of the judges together with the lack of the decrease of the amount of the cases will cause the maintenance of the former amount of judges;

To prepare a bill adopting A Consumer's Code;

Legislative changes that will separate particular legal cases (mainly those that lost character of typical dispute and have a character of administrative procedure) from the court's competence:

- Taking over the administration of Business register by trade licensing offices,
- Changing the execution procedure in such a way that this procedure will not take place at the court but the court enter into execution procedure only on the ground of particular actions,
- Transfer of the decision making process in cases of arrears of telecommunication providers to Telecommunication office, in cases of arrears of telecommunication providers to Telecommunication office,
- Setting up the institute of obligate mediation for the cases of claims resulting from consumer contracts up to 1000 €.

### **Status of Judges**

#### **Planned reforms that have been approved by The Judicial Council's resolution in personal field:**

- to define an optimal and functional model of judicial department,
- to specify how many legal cases can be carried out by judges or senate without the risk of delays in court proceedings, falling-off quality in decision making and a loss of abilities,
- to keep the amount of pending cases as well as to react on overloading of limit without delay,
- to create space conditions for judges and employees of courts for proper delivery of justice,

### **A threat to status of judges by security clearances:**

Based on the amendment of the Constitution of the Slovak republic, Act No. 185/2002 Coll. on the Judicial Council of the Slovak republic and on related acts, an obligation to go through the security clearances not only for the candidates for judges, but also for judges who deliver their function was adopted. Based on the motion for the commencement of the proceedings on the Constitutional court of the Slovak republic by the Vice-president of the Judicial Council, the effectivity of this regulation against the judges was suspended by the resolution of the Constitutional court of the Slovak republic.

### **A threat to status of judges (independence of judges) by „wage freeze“:**

Based on the amendment of Act on wages of some constitutional functionaries of Slovak republic, transitional provisions were supplemented by a provision according to which the average wage of the judge in 2015 is the same as in 2012. Therefore President of the Judicial Council filed a motion to start proceeding questioning the accordance of the provision with the Constitution on the Constitutional court of the Slovak republic on 4th of March 2015.

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

The main challenges are stated in the section that deals with the judicial reforms;

Other planned changes that applied directly to the Judicial Council and the Office of the Judicial Council of the Slovak republic are:

- to ensure a proper fulfillment of competences of the Judicial Council of the Slovak republic and the Office of the Judicial Council as well as material equipment of the Office of the Judicial Council in relation to obligation of the Judicial Council to decide on requirements of judicial competence of the candidates for judges,
- to create an independent budget chapter of the Office of the Judicial Council by dividing the budget chapters of the Supreme Court and the Office of the Judicial Council (from 1st of January 2016).

The Judicial Council of Slovak republic is currently working on the principles of judicial ethics summed up in codex.

## SLOVENIA



### REPUBLIKA SLOVENIJA, SODNI SVET

### JUDICIAL COUNCIL OF THE REPUBLIC OF SLOVENIA

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


Judicial Council has highlighted some of the systemic problems that the Slovene judiciary is facing, and outlined proposals for improvements of the quality of the judiciary.

In view of such the Judicial Council noted that it is necessary:

- to prepare the strategy of improving the quality of the judiciary;
- to optimize the number of courts and establish the judicial district as a basic organisational unit;
- to renew business processes of the courts;
- to reduce the number of judges, with increasing an adequate support from a non-judicial staff;
- to reduce the frequency of assessment of judges and simplify the system of their promotion;
- to prepare criteria for assessment of the quality of courts; and
- to develop a long term strategy concerning the relations with the media

#### Judicial reform

The constitutional regulations on the Judicial Council are poor. In the constitution-making process in the late 1980s and at the beginning of 1990s the idea prevailed that the constitutional chapter on the judiciary should only regulate some of the most basic matters regarding courts and judges, while the particular organization and functioning of the judiciary and judges was left to regulation by the Courts Act. However, in the following period it proved to be insufficient with regard to the status and basic functions of the Judicial Council. The Courts Act has a special chapter on the Judicial Council (Art. 18 to 29), which regulates the election and dismissal of members of the Judicial Council and the competences of the same, contains nothing explicit about the status of this body in relation to other state bodies, including the courts and the National Assembly. This status can to a certain extent be recognized and defined from the composition and legal competences of the Judicial Council, but some questions, especially those referring to the issues of its organizational, functional, and financial autonomy, remain at least partly unanswered.



The Judicial Council has already prepared a proposal of the Judicial Council Act, which was sent to the Ministry of Justice for adjustment. The act has not been adopted yet. The proposal defines the Judicial Council as an independent state authority and regulates its organizational, functional and financial autonomy. With the adopting of this act the position and purpose of the Judicial Council, the manner of its operation, organization, powers and funding would be rounded, distinctly regulated and internally consistent, which would ensure the realization of principles of independence of the Judicial Council in relation to the judiciary, and recognizing the role of an important factor in regulating the relationship between the branches of government.

### **Status of Judges**

The Courts Act has already been amended towards gradual integration of the first instance judge/court. Now if need be a lowest court judge may be transferred to a district court to deal with cases at this (district) level, certainly on the basis of an agreement between the presidents of both courts and the judge's consent. Apart from that no other initiatives relating to further reforming the status of judges have been envisaged.

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

As following from the data in the EU Justice Scoreboard 2015, the overall number of court delays has been decreased in Slovenia as well as the average time for resolving of cases shortened. But the Slovenian judiciary is still facing structural (systemic) problems especially in the area of insolvency and enforcement proceedings, which also has a negative impact on the national economy. Another problem is a negative perception of the judiciary in the public, which needs to be improved, since the statistical data don't show such a problematic picture, through adopting a special strategy in the direction of a more pro-active dealing with the media (e.g. the Dutch example).

In addition to that there're other issues important for the Judicial Council to be addressed and eventually appropriately enacted in a separate Judicial Council Act that have already been described in Chapter 1 of this report.



Consejo General  
del Poder Judicial

## CONSEJO GENERAL DEL PODER JUDICIAL

### GENERAL COUNCIL FOR THE JUDICIARY

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

There have been no relevant changes to the Spanish Council for the Judiciary during the current reporting period.

However, during the reporting period the Spanish Parliament has passed an Act (Organic Act 7/2015, of July 21<sup>st</sup>) amending the Law on the Judiciary, which will come into force on October, 1<sup>st</sup> 2015 and which will introduce some changes in the composition and powers of the Council for the Judiciary. Under the new piece of legislation the Standing Committee of the Council for the Judiciary will be composed by seven members (and not by five members as is currently the case), who will be working full-time in their capacity of members of the Council and its Standing Committee.



Furthermore, the new piece of legislation envisages that the Council for the Judiciary will have powers as control authority for data protection regarding all personal data and files related to cases and lawsuits brought before the Spanish courts of justice in all branches of the jurisdiction.

## Judicial reform

Some measures in the field of judicial reform have been initiated in the current reporting period, although they have not been implemented so far. Those measures are envisaged in the already mentioned Organic Act 7/2015, of July 21<sup>st</sup>, amending the Law on the Judiciary, and will come into force on October, 1<sup>st</sup> 2015 or on July 22<sup>nd</sup> 2016.

The following are the most important measures in the field of judicial reform already adopted by Parliament (although not in force):

- Changes in the system of appointment of justices of the Military Division of the Spanish Supreme Court.
- Some specific changes in the court organization (including a new definition of some judicial districts) and the system of allocation of cases.
- Increase of transparency by means of the publication in advance of court lists by the courts of justice.
- A more detailed regulation of the technical cabinet of the Supreme Court.
- New legal criteria in order to ascertain the jurisdiction of Spanish Courts in civil and commercial matters.
- A new specific regulation regarding the implementation of decisions of the European Court of Human Rights by Spanish Courts.
- A new regulation of the internal procedure applicable by Spanish Courts in order to apply for a preliminary ruling by the Court of the European Union. This new regulation underlines the binding nature of EU law and case-law of the Court of the European Union for Spanish Courts
- A new regulation of cassation appeals in the administrative branch of the jurisdiction (in force as of July 22<sup>nd</sup> 2016).
- New rules concerning the destruction of old case files and judicial documents.

## Status of Judges

Some measures pertaining to the status of judges have been initiated in the current reporting period, although they have not been implemented so far. Those measures are also envisaged in the already mentioned Organic Act 7/2015, of July 21<sup>st</sup>, amending the Law on the Judiciary, and will come into force on October, 1<sup>st</sup> 2015.



Those changes already initiated include:

- A new system of civil liability of Spanish judges, whereby judges will no longer be held directly liable in respect of court users who have suffered personal or material damages in the context of a court case. The State will be held liable in those cases of judicial mistakes or malfunctioning of the judicial system if the requirements for its liability are met and it will be able to claim the paid damages from the judge who acted with gross negligence or made a judicial mistake on purpose.
- A delay in the age of compulsory retirement of judges. Judges will retire at the age of 70, but will be able to apply on a voluntary basis for a delay in the age of retirement until 72.

### Main challenges faced/main results achieved

The General Council for the Judiciary in Spain is working on a code on ethics. Although Spain is part to the Iberoamerican Code on Ethics we do not have our own code. A working group has been established for this purpose with the participation of three members of the Council, judges, academics and representatives from the judicial associations. Two seminars have been organized on this question and survey among judges has been submitted, in which nearly 400 judges have participate.

### Other news

The Spanish General Council for the Judiciary was elected Permanent Secretary of the Judicial Iberoamerican Summit in the meeting held in Santiago de Chile in April 2014.



***The Forum for Justice and Disability gave its annual awards in December 2014.***



JUDGES' COUNCIL  
OF ENGLAND AND WALES

## JUDGES' COUNCIL OF ENGLAND AND WALES

### Reform and/or changes to the Council

There have been no changes of note to the Council over the last year save that the membership has changed slightly. In consequence, those representing the Council at ENCJ meetings are a team of four comprising: Mrs Justice (Sue) Carr , Her Honour Judge Sally Cahill QC, Upper Tribunal Judge Judith Gleeson and Michael Walker CBE.


### *Judges` Council of England and Wales*



### Judicial reform

The body responsible for the administration of the courts and tribunals in England and Wales — *HM Courts and Tribunals Service* — has, with the aid of a government investment of over £700million, embarked upon a very radical reform of the operation of the justice system in England and Wales. These reforms, which are fully supported by the senior judiciary, cover a rationalisation and improvement of the court and tribunal estate, a major investment in Information and Communication





Technology and a significant change in working practices. A presumption behind the reforms is “digital by default”; pilots are already underway in two major criminal courts involving the use of electronic court bundles. Another example of the proposals is that Online Dispute Resolution (ODR) is being considered for use in the civil and family courts and in the tribunals. In July 2015 the Ministry of Justice launched a consultation exercise aimed at the closure of 91 under-utilised courts. The development and implementation of the reforms are estimated to take five years (i.e. 2015 to 2020).

### Status of Judges

In April 2015 reforms to the judicial pension schemes announced in 2013 were finally implemented. These reforms have a very considerable adverse impact on the pensions of the youngest 25% judges as well as anyone becoming a judge for the first time. Since April the Government has also announced both that the salary costs of all public servants, including judges, will rise by no more than 1% over each of the next four years and that there will be highly significant adverse changes to the taxation of pension contributions. The combination of all of these factors is likely to have a serious impact on the recruitment into the judiciary of the very best lawyers presently in private practice. In an added twist, approximately 200 judges affected by the pension reforms are suing the Government in the Employment Tribunals on the basis of alleged age, race and gender discrimination.

### Main challenges faced/main results achieved

As will be apparent from the above two sections, the judiciary in England and Wales is presently experiencing a period of considerable change and uncertainty. Maintaining morale and motivation is an ever-present problem. Nevertheless, from a public perspective, key performance indicators and timeliness targets are still being met despite a 25% reduction in the funding of the courts and tribunals over the last five years. In 2015 England and Wales celebrated the 800<sup>th</sup> anniversary of the signing of the Magna Carta; public confidence in the English legal system remains as high as ever.

### Other news

London hosted an extremely successful Timeliness seminar in November 2014 under the chairmanship of Niels Grubbe. A report of the seminar was presented to the General Assembly in The Hague in June 2015.



## JUDGES' COUNCIL OF NORTHERN IRELAND

### JUDGES' COUNCIL OF NORTHERN IRELAND

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

New Chairman from May 2015 – The Hon. Mr. Justice Mark Horner in place of the Rt. Hon Lord Justice John Gillen. Master Noreen Sweeney replaced Master Cahal McCorry from October 2015. Master Sweeney represents the Council on an interdepartmental working group looking at Flexible Working for the Judiciary. The Council is represented at ENCJ meetings by Mr. Justice Horner and by Presiding District Judge Isobel Brownlie.

#### Judicial reform

The Lord Chief Justice has commissioned a judicial led review of civil and family justice in Northern Ireland to be chaired by Lord Justice Gillen, a former Chairman of the Judges' Council. The aim of the review is to look fundamentally at current procedures for the administration of civil and family justice with a view to: improving access to justice; achieving better outcomes for court users; creating a more responsible and proportionate system; and making better use of available resources, including through the use of new technologies and greater opportunities for digital working. The review will look in detail at the workings of the family justice system and the use of mediation and other forms of alternative dispute resolution. The review aims to present an interim report to the Lord Chief Justice by next autumn.

#### Status of Judges

The changes to judges' pension entitlements described in the report for England and Wales also apply to Northern Ireland.

#### Main challenges faced/main results achieved

Economic pressures (Budget cuts/Closure of Courthouses) and Judicial Pensions. Extended Judicial security extended, Litigants in Person initiative, Indemnity for Judges secured, Part-time working for Judges Initiative, Independent Review of Judicial Conduct Complaints, participation in ENCJ events.

### JUDICIAL COUNCIL FOR SCOTLAND

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

There are no significant changes. In September 2014, Sheriff Gordon Liddle replaced Sheriff Andrew Normand as one of the Council's two representatives at ENCJ meetings.

#### Judicial reform

Legislation to reform Scotland's civil courts system was passed on 12 November 2014. The [Courts Reform \(Scotland\) Act 2014](#), which broadly implements recommendations made as part of the [Scottish Civil Courts Review](#), has made very significant changes to the procedures of the Scottish civil courts. New rules implementing the reforms came into effect on 22 September 2015.

The changes include:

- the creation of a new Sheriff Appeal Court with appellate jurisdiction in summary criminal cases including bail appeals and, from next year, with jurisdiction also in civil cases;
- an extension to the exclusive competence of all sheriff courts to actions with a value of up to £100,000;
- the introduction of a three-month time limit and a requirement for permission in judicial reviews;
- a requirement for permission to appeal to the UK Supreme Court;
- the conferring of an all-Scotland jurisdiction on Edinburgh Sheriff Court in personal injuries cases, with the ability to hold civil jury trials; and
- new provisions for remits between courts and procedures.

#### Status of Judges

The changes to judges' pension entitlements described in the report for England and Wales also apply to Scotland.

#### Main challenges faced/main results achieved

The major changes introduced by the 2014 Act (described above) are currently being assimilated by the Scottish judiciary at all levels.

## LIST OF ENCJ MEMBERS

### 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
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

### 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
Turkey	Hâkimler ve Savcılar Yüksek Kurulu / High Council for Judges and Prosecutors
Sweden	Domstolsverket / National Courts Administration

## ENCJ CALENDAR

### 2014

<b>11-13 June</b>	<b>General Assembly</b>	<b>Rome</b>	<b>Italy</b>
18 September	Executive Board meeting	Madrid	Spain
18-19 September	Joint meeting project teams	Madrid	Spain
13 October	Meeting Expert Group Project 1	The Hague	Netherlands
3-4 November	Regional Timeliness seminar	London	UK
1 December	Executive Board meeting	Brussels	Belgium
1-2 December	Meeting Project Independence and Accountability	Brussels	Belgium
8-9 December	Meeting Project Standards V	Dublin	Ireland

### 2015

12-13 February	Project 1 Independence & Accountability	Bucharest	Romania
26-27 February	Project 2 Standards V	Madrid	Spain
9 March	Meeting Executive Board	ENCJ Office	Brussels
23 March	Project 1 Pilot Dialogue Group	Rome	Italy
24 March	Project 2 Standards V - drafting-group	Amsterdam	Netherlands
9-10 April	Project 1 Independence & Accountability	Lisbon	Portugal
17 April	Project 2 Standards V	ENCJ Office	Brussels
18 May	Meeting Executive Board	ENCJ Office	Brussels
<b>3-5 June</b>	<b>General Assembly</b>	<b>The Hague</b>	<b>Netherlands</b>

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