

**SUBMISSION BY THE COUNCIL OF THE BAR OF IRELAND TO THE  
EUROPEAN COMMISSION  
TARGETED STAKEHOLDER CONSULTATION ON THE 2021 RULE OF LAW REPORT**

**ABOUT YOU**

**I am giving my contribution as**

Other

**If "Other", please specify**

The accredited representative body of the independent referral Bar (barrister profession) in Ireland.

**Organisation name**

The Bar of Ireland

**Main Areas of Work**

Justice System

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## INTRODUCTION

The Council of The Bar of Ireland (“the Council”) is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,150 practising barristers. The Bar of Ireland is long established, and its members have acquired a reputation amongst solicitors, clients and members of the public at large as providing representation and advices of the highest professional standards. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

## SCOPE OF SUBMISSION

The Council has prepared these submissions at the request of the European Commission which is in the process of preparing the 2021 Annual Report on the Rule of Law. As the representative body of the barrister profession in Ireland, this submission will focus on the areas that relate to the scope of work and expertise of our members, namely the Justice System.

## QUESTIONS ON HORIZONTAL DEVELOPMENTS

**Please provide any relevant information on horizontal developments here**

The Department of Justice launched a [Statement of Strategy 2021-2023](#) in February 2021, together with a [Justice Plan](#), which will be published on an annual basis and will set out the Department’s objectives and actions in greater detail. The Department has outlined five strategic goals:

1. Tackle crime, enhance national security and transform policing
2. Improve access to justice and modernise the courts system
3. Strengthen community safety, reduce reoffending, support victims and combat domestic, sexual and gender based violence
4. Deliver a fair immigration system for a digital age
5. Accelerate innovation, digital transformation and climate action across the justice sector

As regards access to justice and modernisation of the courts system, the Department aims to improve the fair and speedy conduct of court proceedings and to modernise the operation of the judiciary to enable it to work more effectively. The manner in which judges are appointed is currently under review with proposed reforms outlined in the Judicial Appointments Commission Bill. The work of the newly established Judicial Council is furthermore well underway with designated committees established to advance, among other things, the continuing education and training of judges; guidelines concerning judicial conduct and ethics; and draft procedures for the processing of judicial complaints.

The high cost of insurance continues to undergo close review. The government published an Action Plan for Insurance Reform in December 2020 which outlines a series of actions across Government to make Ireland’s insurance sector more competitive and consumer-friendly. As part of the reforms, a recalibration of the level of damages awarded for personal injuries is being considered by the judiciary, with new guidelines to be adopted by 31 July 2021.

Proposals to update Ireland’s defamation laws are under consideration, and the Department is in the process of consulting with key stakeholders, including the legal profession, on substantial reforms in the area of family law. The existing system does not adequately protect the rights of individuals or

children participating in family law proceedings, and is inhibiting access to justice for some of the most vulnerable members of society.

Significant efforts have been taken to facilitate the continued operations of the courts through the use of remote hearings in the context of COVID-19. Practitioners, together with the Judiciary and the Courts Service have adopted new ways of working to ensure the continuation of court business deemed critical and essential as the State moves between various levels of restrictions. The use of remote hearings has, to a degree, been useful and important, but they are suitable for a narrow range of cases only. Information and communications technology (ICT) systems in Irish courts were furthermore unprepared for the rapid changes that were needed in response to the pandemic. Very few judges or practitioners view the current system as preferable to physical hearings, but it is accepted as a necessary and temporary adoption to meet public health guidelines.

## QUESTIONS ON DEVELOPMENTS IN MEMBER STATES

### Member States covered in contribution

Ireland

## I. JUSTICE SYSTEM

### A. Independence

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#### 1. Appointment and selection of judges, prosecutors and court presidents

##### Judges

In accordance with Article 35 of the Irish Constitution, judges are formally appointed by the President of Ireland on the advice of the Government. The Government is guided by the [Judicial Appointments Advisory Board \(JAAB\)](#) which was established pursuant to the Courts and Court Officers Act, 1995. The purpose of the Board is to identify and to inform the Government of suitable candidates for appointment to judicial office.

A person who wishes to be considered for appointment to judicial office must meet the eligibility requirements laid down by statute pursuant to the Courts (Supplemental Provisions) Act, 1961 (as amended), and is required to complete a detailed application form which includes questions relating to practice, education, professional qualifications, experience and character.

Where a judicial office vacancy arises, the JAAB places advertisements calling on all those who wish to be considered to apply to the Board. The JAAB considers all the applications before it and draws up a list of persons whom it considers suitably qualified for appointment. The Board must submit to the Government the names of at least seven persons whom it recommends for appointment. The role of the Board is purely advisory. Generally speaking, the Government is confined to appointing persons (other than serving judges) who have been approved by the Board, however it is entitled to appoint a person who has not applied to, nor been considered by, the JAAB.

A number of reforms to the appointments process are currently under consideration under the Judicial Appointments Commission Bill 2020. Such reforms include the establishment of a new body, the Judicial Appointments Commission, to replace the JAAB. In a recent [submission](#) to the Department of Justice (January 2021) in relation to the Bill, the Council of The Bar of

Ireland indicated that the establishment of a new separate body such as the Judicial Appointment Commission is costly and unnecessary where the JAAB could be reorganised so as to perform the same functions. Alternatively, administrative support functions could be shared with the newly established Judicial Council. It is the Council's view that scarce resources are better used underpinning and supporting the judiciary in its functions.

### **Prosecutors**

The appointment of prosecutors is overseen by the Director of Public Prosecutions (DPP). The conduct of trials on indictment is handled by independent counsel practising at the Bar who are engaged to represent the DPP on a case by case basis. Counsel prosecute in accordance with the Director's instructions and in compliance with the Guidelines for Prosecutors. From time to time the Director seeks expressions of interest from barristers wishing to be considered for inclusion on the various panels of barristers, or as specific roles arise. Retention on any panel is at the discretion of the Director, and is subject to satisfactory performance of work on his/her behalf, as will be determined by the Director. Barristers are ordinarily expected to have a minimum of four years at the Irish Bar or relevant equivalent experience in order to be considered.

### **Court Presidents**

The procedures of the JAAB do not apply in the appointment of the Chief Justice or Court Presidents. The promotion or elevation of judges from a lower court to a superior court are appointed by the President acting on the advice of the Government. Under proposed reforms of the Judicial Appointments Commission Bill 2020 however, it is proposed that serving judges participate in the same application process as all other candidates for judicial office going forward.

## **2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors**

### **Judges**

The [Judicial Council](#) was established on 17<sup>th</sup> December 2019 pursuant to the Judicial Council Act 2019. The Council is an independent body whose members comprise all of the judges in Ireland and who constitute a separate and independent branch of Government. A Judicial Conduct Committee has been set up by the Judicial Council to promote and maintain high standards of conduct among judges. Those standards have regard to stated principles of judicial conduct which require judges to uphold and exemplify judicial independence, impartiality, integrity, propriety (including the appearance of propriety), competence and diligence and to ensure equality of treatment to all persons before the courts. It is envisaged that this will be achieved through a number of stated functions which include: to consider complaints into the conduct of judges; to take any necessary action necessary to safeguard the administration of justice; and to prepare guidelines concerning judicial conduct and ethics and draft procedures for the processing of judicial complaints. These mechanisms must be adopted by the Judicial Council no later than 30<sup>th</sup> June 2022.

At present, the only means for removal/dismissal of a judge is provided for under Article 35.4.1 of the Irish Constitution which states that a judge shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his/her removal.

The retirement age for all judges is 70.

#### **Prosecutors**

The appointment of prosecutors is overseen by the Director of Public Prosecutions. Retention on any panel is at the discretion of the Director, and is subject to satisfactory performance of work on his/her behalf, as will be determined by the Director.

### **3. Promotion of judges and prosecutors**

#### **Judges**

The promotion or elevation of judges from a lower court to a superior court are appointed by the President of Ireland acting on the advice of the Government. The procedures of the JAAB do not apply to serving judges. Under the Judicial Appointments Commission Bill 2020 however, it is proposed that serving judges participate in the same application process as all other candidates for judicial office, going forward.

#### **Prosecutors**

Promotion does not apply in the context of prosecutors who are appointed by the Director of Public Prosecutions. Retention on any panel is at the discretion of the Director, and is subject to satisfactory performance of work on his/her behalf, as will be determined by the Director.

### **4. Allocation of cases in courts**

The President of each court is responsible for the allocation of cases. Depending on the Court concerned the relevant President of that court will assign judges to particular areas of work. In this regard the allocation of cases is controlled by the judiciary and follows a defined practice that is transparent and known to all parties.

### **5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)**

Article 35.2 of the Irish Constitution provides that all judges shall be independent in the exercise of their judicial functions and subject only to the Constitution and the law. Additionally, among the four main pillars of the newly established [Judicial Council](#) is to promote and maintain high standards of conduct among judges, which includes the safeguarding and promotion of an independent judiciary, and ensuring public confidence in the administration of justice.

### **6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges.**

#### **Judges**

The [Judicial Council](#) is responsible for promoting excellence in the performance of judicial functions, high standards of conduct among Judges, an independent Judiciary, and public confidence in the judiciary and in the administration of justice. As aforementioned (see question 2), a Judicial Conduct Committee has been established which will implement new

guidelines and mechanisms concerning judicial conduct, ethics and complaints for adoption by the Judicial Council no later than 30th June 2022. At present, the only disciplinary regime that exists for judges is provided for under Article 35.4.1 of the Irish Constitution.

#### **Prosecutors**

The appointment of prosecutors is overseen by the Director of Public Prosecutions. The conduct of trials on indictment is handled by independent counsel practising at the Bar who are engaged to represent the Director of Public Prosecutions on a case by case basis. Counsel prosecute in accordance with the Director's instructions and in compliance with the Guidelines for Prosecutors. Retention on any panel is at the discretion of the Director, and is subject to satisfactory performance of work on his/her behalf, as will be determined by the Director.

### **7. Remuneration/bonuses for judges and prosecutors**

#### **Judges**

Article 35.5.1 of the Irish Constitution provides that the remuneration of judges shall not be reduced during their continuance in office save where such reductions are in the public interest (Article 35.5.3). A referendum to allow for the reduction of judicial salaries occurred in 2011 in response to the financial crisis of 2008 which led to a series of pay cuts across the public sector. Remuneration of judges is subject to imposition of taxes, levies or other charges that are imposed by law on persons generally.

#### **Prosecutors**

The appointment of prosecutors is overseen by the Director of Public Prosecutions. Remuneration is determined in accordance with a fee schedule set by the Office of the Director of Public Prosecutions.

### **8. Independence/autonomy of the prosecution service**

The office of the Director of Public Prosecutions (DPP) was established by law under the Prosecution of Offences Act, 1974. The Director is independent in the performance of her functions. The conduct of trials on indictment is handled by independent counsel practising at the Bar who are engaged to represent the Director of Public Prosecutions on a case by case basis. Prosecuting counsel, as members of the independent referral bar, are subject to the [Code of Conduct of The Bar of Ireland](#). The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

### **9. Independence of the Bar (chamber/association of lawyers) and of lawyers**

The Bar of Ireland is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,150 practising barristers. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

An independent barrister is obliged to be free from any influence, especially such as may arise from their personal interests or external pressure, in the discharge of their professional duties. They must hold themselves out as willing and obliged to appear in court on behalf of any client on the instructions of a solicitor and to give legal advice and any other legal services to clients. They have an overriding duty to the court to ensure that the proper and efficient administration of justice is achieved, and they must not deceive or knowingly mislead the court. They must promote and protect fearlessly and by all proper and lawful means their client's best interests and do so without regard to their own interest or to any consequences for themselves or to any other person including fellow members of the legal profession; and, to perform their functions with due independence and in a manner which is consistent with their duty to participate in the administration of justice. This independence is necessary in non-contentious matters as well as litigation.

#### **10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary**

Ireland has a long and respected tradition of judicial independence. Since the establishment of the State, the principles of the separation of powers have been fundamental to the success of Irish democracy. The doctrine instils a degree of independence between the three branches of Government and allows for the necessary checks and balances between them. This is vital in maintaining a fair and just society.

According to the 2019 Global Competitiveness Report, Ireland ranked 13 out of 141 countries for the extent to which the judiciary is independent from influences of members of Government, citizens or firms. Ireland attained a score of 5.6 out of 7 (where 1 = not independent at all and 7 = entirely independent).

The establishment of the Judicial Council will help to further public confidence in the independence of the judiciary. As aforementioned, the Judicial Conduct Committee is in the process of preparing guidelines dealing with the admissibility of complaints by members of the public, and will implement formal and informal resolution channels in due course.

As regards recent developments capable of affecting public perception of judicial independence, an elected politician openly criticised a decision of a High Court judge in 2020. Such comments underpin the necessity to safeguard judicial independence and the actions of the elected official were strongly condemned by the Minister for Justice, the judiciary and members of the legal profession.

### **B. Quality of justice**

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#### **11. Accessibility of courts (e.g. court fees, legal aid, language)**

##### **Legal Aid**

For any legal system to operate at its optimum level, access to justice must be available to all. Justice is a fundamental value of utmost importance in the life of every citizen and barristers, as advocates, play a vital role in promoting and safeguarding an equal right of access to justice. Members of the Law Library are bound by the Code of Conduct for The Bar of Ireland which

places an obligation on members of the independent referral bar to abide by the 'Cab Rank Rule' which precludes a barrister from refusing instructions on the grounds that the nature of the case, or the conduct, opinions or beliefs of a client, are controversial or unacceptable to the advocate, thereby ensuring that legal representation is available to all who need it.

Vulnerable sections of society often encounter difficulties in accessing the legal system, however. While there are State-run legal aid schemes aimed at supporting access to justice, the legal aid system in Ireland is chronically under-resourced. According to the latest data (2018) by the European Commission for the Efficiency of Justice (CEPEJ), Ireland's legal aid budget per inhabitant is €22.95 which represents 0.034% as a percentage of GDP. By contrast, our common law neighbours in England and Wales and Northern Ireland allocate a generous €31.26 (0.101% of GDP) and €48.35 per inhabitant (0.205% of GDP) respectively. Ireland's legal aid budget per inhabitant is poor relative to its wealth in GDP.

Legal aid is becoming increasingly insufficient to meet a growing need in Ireland. At the end of 2019 there were 2,019 people waiting on legal aid services. A 15% increase on the 1,754 people who were waiting at the start of the year. This need is compounded by the COVID-19 crisis. Members of the Law Library, alongside organisations such as FLAC (Free Legal Advice Centres), strive to do everything possible to support and empower people who may not otherwise have the means to access justice. Between March and August 2020, employment law queries to FLAC increased by 58.7% compared to the same period in 2019, an area that is not covered by legal aid. There is manifest desirability for improvements to the civil legal aid system in Ireland in terms of eligibility and the areas of law to which legal aid applies.

#### **Court Fees**

Court fees are paid in the form of stamp duty and must be paid in respect of most court applications. Exemptions do apply however to certain areas of law, including family law.

#### **Language**

As regards language, according to the Courts Service Annual Report 2019, €1.5 million funding was provided for interpretation services covering a range of languages. The Courts Service also provides sign language interpreters for defendants and witnesses who are deaf or hard of hearing in trials and hearings of cases.

### **12. Resources of the judiciary (human/financial/material)**

According to the latest data (2018) by the European Commission for the Efficiency of Justice (CEPEJ), Ireland has the second lowest number of judges per capita in Europe at 3.3 per 100,000 inhabitants. The ability of courts to cope with caseload is closely related to a continuing shortage of judges. According to CEPEJ, Ireland has the second lowest clearance rate in Europe at 63% (European average is 99%) which is a measure of how well a system processes the volume of cases it works with. A shortage of judges must be confronted as a possible factor in delays and inefficiencies of the courts system. An increase in the number of judges is the obvious solution. Judges would also benefit from an enhanced Judicial Assistant Programme. Judicial Assistants offer a valuable resource to judges in conducting legal research etc.

### **13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)**

### **Barristers**

The Council of The Bar of Ireland is the accredited representative body of the independent referral Bar in Ireland. Where [the Honorable Society of the King's Inns](#) has the responsibility for the education and training of students in order to be admitted to the degree of Barrister-at-Law, The Bar of Ireland is concerned with the delivery of *ongoing* professional training and education for newly qualified and practising barristers. Continuing professional development (CPD) is a vital tool in ensuring consistently high standards of practice and regular reviewing of developments in the law as they arise.

The Legal Services Regulatory Authority (LSRA), established in 2016 as the independent regulator for legal services providers, published a [report](#) in September 2020 in relation to education and training standards for legal practitioners. One of the areas that the report addresses is CPD and it makes a series of recommendations with the objective of ensuring that CPD for legal practitioners is of a high standard, purposeful, relevant and aligned directly with the Legal Practitioner Competency Framework. In response to this recommendation, The Bar of Ireland is in the process of revising and updating its CPD requirements and is developing a new CPD scheme which will be aligned to a new Competency Framework that outlines the knowledge, skills, abilities, and behaviours needed to remain current and up to date in practice. It is intended that the new CPD scheme will be introduced from 1st October 2021.

### **Judges**

The Courts Service set up the Judicial Support Unit in late 1999 to provide support services to judges, including the Committee for Judicial Studies which provides for the ongoing education of the Judiciary. This is achieved by preparing and organising seminars and conferences, including a one-day annual National Judges' Conference. The Committee also concerns itself with giving assistance and guidance to newly appointed Judges by issuing Bench Books. The functions of this Committee are in the process of being transitioned to the newly established Judicial Council however and it will be replaced by a new Judicial Studies Committee which will take over the facilitation of continuing education and training of judges on all matters relevant to the exercise of their functions.

## **14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)**

The [Courts Service Strategic Plan 2021-2023](#), together with its [long-term strategic vision](#) for the digitalisation of justice, aims to fundamentally transform how the Courts Service delivers services by improving access to justice in a modern, digital Ireland. The Bar of Ireland supports the Courts Service in its endeavours to bring new technology and modern ways of working to the administration of justice so that it operates to the highest standard for everyone, from vulnerable court users, witnesses and litigants to judges and legal professionals. A recent paper by Dr. Rónán Kennedy of NUI Galway entitled [Algorithms, Big Data and Artificial Intelligence in the Irish Legal Services Market](#) offers useful commentary on the role of technology in the justice sector.

The [recent publication](#) of the Administration of Civil Justice Review Group in October 2020, chaired by former President of the High Court, Mr. Justice Peter Kelly, presents a

comprehensive telling of how the litigation system currently works and offers 90 recommendations on matters relating to technology, court users and innovations such as multiparty actions. Technology will play a fundamental role in supplementing court activities and in providing greater access to court users and so the recommendations in the area of e-litigation and scaling of the IT infrastructure are welcomed. Ireland has one of the lowest investment rates in the court system (per GDP) in the European Union and this has manifested itself in an under-resourced ICT capability.

Information and communications technology (ICT) systems in Irish courts were unprepared for the rapid changes that were needed in response to COVID-19. The existing ICT infrastructure was deemed unfit for purpose by the Courts Service in an organisational capability review published in April 2019 – a fact reiterated in a report of the Oireachtas (Parliamentary) Library and Research Service on [Remote Court Hearings](#) in July 2020. The need to prioritise investment for the Courts, was raised directly with members of the Oireachtas (Parliament) during The Bar of Ireland's [appearance](#) before a Special Committee on COVID-19 response in September 2020. According to the latest data (2018) by the European Commission for the Efficiency of Justice (CEPEJ), Ireland spends just €56 per inhabitant on its judicial system budget. When compared to other European countries in the same GDP bracket, they are spending €197 - €220 per inhabitant. Notwithstanding the differences between Civil and Common law jurisdictions, this is an alarmingly poor public service investment.

Significant efforts have been taken to facilitate the continued operations of the courts through the use of remote hearings. Practitioners, together with the Judiciary and the Courts Service have adopted new ways of working to ensure the continuation of court business deemed critical and essential as the State moves between various levels of restrictions. From April to December 2020, 2,095 virtual court hearings took place. The use of remote hearings has, to a degree, been useful and important, but they are suitable for a narrow range of cases only. Very few judges or practitioners view the current system as preferable to physical hearings, but it is accepted as a necessary and temporary adoption to meet public health guidelines.

#### **15. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)**

The Courts Service publishes an annual report each year which includes key statistics and indicators of court activity and performance in a transparent manner. In its recently published [long-term strategic vision](#) for the digitalisation of justice, the Courts Service proposes to adopt a user centric approach by better understanding the needs of those who interact with the courts system and its services, with a view to simplifying court practices and procedures. It also proposes to monitor, report on, and manage performance on an on-going basis, and take appropriate data-led interventions to improve performance.

#### **16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation**

The Courts structure and Court jurisdictions are set by statute in accordance with the Irish Constitution.

The District Court is organised on a local basis throughout the country. There are 23 District Court Districts, as well as the Dublin Metropolitan District. There are 64 judges and each district is divided into District Court areas which have one or more judges permanently assigned to it. The District Court is a court of local and limited jurisdiction.

The Circuit Court is organised on a regional basis. The country is divided into eight circuits. One Circuit Judge is assigned to each circuit, except in the case of the Dublin and Cork Circuits, who can have up to ten and three judges respectively. The Circuit Court is a court of local and limited jurisdiction. Under the Personal Insolvency Act 2012 provision was made for a maximum of 8 new specialist judges to facilitate the speedy consideration of insolvency applications.

The superior courts are primarily based in Dublin, however they do “travel” to various parts of the country a few times per year in order to hear cases regionally.

The High Court is made up of 36 ordinary judges and the President of the High Court. Cases in the High Court are normally heard and decided on by one judge. However, the President can decide to have a case heard by three judges in what is known as a divisional court. The High Court is not restricted to hearing cases from certain areas and does not have a limit to the amount of monetary damages it can award. The High Court exercising its criminal jurisdiction is known as the Central Criminal Court.

The Court of Appeal, established by statute in 2014, hears appeals from the High Court in civil cases, and appeals from the Circuit Criminal Court, the Central Criminal Court and the Special Criminal Court in criminal cases. The Court of Appeal is made up of 15 ordinary judges and the President of the Court of Appeal. Cases before the Court of Appeal are normally heard and determined by 3 judges. However, some interlocutory and procedural applications can be heard by the President or another nominated judge alone. The Court of Appeal is not restricted to hearing cases from certain geographical areas and does not have a limit to the amount of monetary damages it can award.

Article 34 of the Irish Constitution provides for a Court of Final Appeal. This court is known as the Supreme Court and consists of the Chief Justice and 9 ordinary judges. Generally, appeals to the Supreme Court are heard and decided on by 5 judges. However, the Chief Justice can direct that any appeal or other matter is heard and decided on by 3 judges, or in exceptional cases 7 judges. The exception to this is matters relating to the Constitution, which must be heard by a minimum of 5 judges.

The superior courts also consist of a Commercial Court which is an extension of the High Court, and a Special Criminal Court which hears cases about paramilitary, subversive and organised crimes. This court sits with 3 judges and no jury, in order to avoid jury intimidation.

## C. Efficiency of the justice system

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### 17. Length of proceedings

The Courts Service Annual Report publishes statistical information in relation to average length of proceedings across the various courts. In 2019, the length from the issuing of civil

proceedings to their final disposal in the District Court was 144 days, down from 163 days in 2018. The length of time between issuing and disposal in the Circuit Court reduced from 749 days in 2018 to 725 days in 2019. In the High Court the time increased from 749 days in 2018 to 785 days in 2019, as did the number of days in the Court of Appeal, from 1,101 days in 2018 to 1,220 in 2019. The Government approved the appointment of seven new judges to the Court of Appeal in 2019 in light of significant delays. The greatest delays were recorded in the Supreme Court at 8 years.

According to the [Doing Business](#) survey of the World Bank Group for 2020, Ireland ranks 91 out of 190 countries in the category relating to “ease of resolving a contractual dispute” which measures whether each economy has adopted a series of good practices that promote quality and efficiency in its court system. Of the common law jurisdictions referred to in the survey, Ireland performed the second worst in the category of “time” which measures in calendar days the average duration of dispute resolution in commercial cases (from the moment that a claim is filed until payment). Only Canada (910 days) takes longer than Ireland’s score of 650 days, which is well above the average of 442 days across the eight common law jurisdictions surveyed. Albeit that the World Bank survey data pertains to commercial disputes, the deficiencies identified resonate across most areas of litigation, and are, in some areas of law, far worse.

According to the latest data (2018) by the European Commission for the Efficiency of Justice (CEPEJ), Ireland has the second lowest clearance rate in Europe at 63% (European average is 99%) which is a measure of how well a system processes the volume of cases it works with. The ability of courts to cope with caseload is closely related to a continuing shortage of judges (at 3.3 per 100,000 inhabitants) and this must be confronted as a possible factor in delays and inefficiencies of the courts system.

There are a wide range of reforms required so that timely and efficient access to justice is accessible to all those that need it. Reforms to the discovery process, the increased use of electronic filing and service procedures, improvements to the process for listing cases, enhanced case management tools across all courts, and class action litigation are but some of the changes which would increase the efficiency of civil litigation in Ireland and reduce costs.

The Courts Service is commended in its efforts to reduce time for case processing and facilitating greater efficiency in the way trials are managed through initiatives such as e-filing, the e-courts system and other procedural and legislative reforms such as the recent amendments to the Rules of the Superior Courts in relation to the conduct of trials and pre-trial procedures. Its recently published [long-term strategic vision](#) for the digitalisation of justice aims to introduce new and enhanced digital services including e-filing and digital case management which will reduce the need to file and process paper, reduce non-value-added work, and drive greater efficiency in accessing justice. The recommendations of the [Report of the Review of Administration of Civil Justice](#) will also help to address inefficiencies, subject to appropriate resourcing.