



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

ENCJ contribution for the 2024 European Commission Rule of Law report

Relevant developments in relation to the independence of the judiciary

The ENCJ would like to contribute to the Rule of Law report. There are 3 sections to the contribution. Section 1 deals with the ENCJ statements and actions in 2023 on Rule of Law issues. Section 2 presents the results from the ENCJ Report on Independence, Accountability and Quality of the Judiciary. Section 3 provides an overview of relevant developments in the ENCJ Member countries in relation to Judicial Independence and is based on information provided by the Members.

2023 was a breakthrough year as three new institutions were granted an ENCJ observer status. Following granting of a candidate country to the EU status to Bosnia and Herzegovina (15 December 2022), Moldova and Ukraine (23 June 2022), applications from their Councils for the Judiciary to obtain an observer status in the ENCJ were received. The ENCJ General Assembly in Ljubljana (7-9 June 2023) has unanimously approved the candidacy of the **High Prosecutorial and Judicial Council of Bosnia and Herzegovina, the Superior Council of Magistracy of Moldova, and the High Council of Justice of Ukraine.**

The aim of granting the institutions of EU candidate countries an ENCJ observer status is to facilitate their familiarity with the EU *acquis*, and with the standards and guidelines established by the ENCJ in the field of justice – organization of justice and of independent judiciary in particular. The ENCJ aims to assist Councils in establishing an independent, yet accountable judicial system in line with the European standards. The status of an observer allows the judiciaries of these candidate countries for close and direct connections with their EU counterparties. Through active participation in ENCJ projects and other activities observers not only establish strong connections between Councils for the Judiciary and alternative judicial governance bodies and gain valuable insights into their best practices, but also have direct access to the knowledge and expertise of the ENCJ in different fields of the activities of the Councils for the Judiciary and judiciary as a whole. Observers are encouraged to use and adapt the developed standards to the specific needs of their justice systems under the advice and supervision of the ENCJ members and Office.

During the first six months of this enlargement, however, a trend has been detected that the lack of funding poses a serious challenge for some of the new observers to fully participate in the network activities. In the view of the ENCJ, due to its work carried out in ensuring independence of the judiciaries and upholding the rule of law primarily through the

development of standards, indicators and tools to establish independent yet accountable judiciaries, but also through solidarity actions, participation of the new observers in the ENCJ activities to a full extent should be a common interest and a priority as it is directly linked to the adherence to the rule of law. Therefore, adequate financial resources for observers (candidate EU states) are necessary to be able to fully participate within the ENCJ Network and to enable them to take further steps in line with the EU frameworks.

In 2023 certain horizontal developments on the level of the Councils for the Judiciary were witnessed.

First, it is worth mentioning that the Council for the Judiciary of **Luxembourg** (*Conseil national de la Justice Luxembourg*) has started its operations in July 2023 and has expressed an interest in becoming an ENCJ member. On 1 June 2023, a new law came into force in **Hungary**, which strengthened the Hungarian Judicial Council's (OBT) position and powers, as OBT gained legal personality, a separate budget and more substantial functions in the formation of the judiciary.

In **Sweden**, a Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary has completed its work. One of the recommendations provided by the committee was to set up an agency, which would be more independent from the government. It is proposed that the new agency would be led by a board, a majority of which are or have been judges, nominated by the courts. The proposal is currently under consultation in accordance with national legislative procedures. In **Bulgaria**, a reform is ongoing to split the existing Supreme Judicial Council, which currently is composed of and exercises its functions in relation to both judges and prosecutors, to two separate bodies. The legislative amendments in this regard have been adopted in December 2023 and the changes should take place within the next year (*see country specific section for more information*).

The year 2023 has also been marked by certain challenges with regard to judiciaries and Councils for the Judiciary. The ENCJ was notified that the **Judicial Councils of Slovenia and Lithuania** regarded inadequate judicial remuneration as a threat to judicial independence. Developments towards a similar situation were witnessed in **Croatia, Spain and Hungary**.

The situation of respect of the principle of separation of powers remains an issue. In **Spain**, the political deadlock still blocks the renewal of the General Council of the Judiciary (CGPJ). In these circumstances the CGPJ is not able to function properly, which negatively affects the functioning of the judicial system as a whole. In addition to the above, the introduction of the proposal of amnesty legislation raised concerns of the CGPJ of Spain with regard to fundamental principles of the rule of law, separation of powers and judicial independence, which was expressed in its declaration and resolution of 6 November 2023.

On 21 December 2023 Council for the Judiciary of Spain adopted a resolution on the creation of the commissions of inquiry in the Congress of Deputies and the implications this may have on judicial independence. The CGPJ noted that there was no basis to call members of the

judicial profession to appear before such commissions and outlined the risks such inquiries may pose to judicial independence and the rule of law in general.

Country specific section of this report provides other examples of tension between the Councils for the Judiciary and other state powers.

Lastly, following its four-year cycle, the ENCJ Project on Independence, Accountability and Quality of the Judiciary entered a new phase in 2023. As an essential part of the improvement cycle of the judiciary that the ENCJ has initiated, the indicators on independence and accountability have been measured anew. This allows to both monitor the current situation of the judiciaries in realm of independence and accountability and also to keep track of changes and possible trends regarding these indicators. A notable achievement of the Project in 2023 was the introduction of quality measurement indicators focusing on the quality of the judiciary in participating countries, which for the first time provided credible results (see 2. *ENCJ Report on Independence, Accountability and Quality of the Judiciary*).

1. ENCJ general statements, actions and letters

In 2023, the ENCJ continued its efforts to promote European standards for the establishment and functioning of Councils for the Judiciary while also providing expertise to judiciaries.

Following the indication of insufficient (inadequate) judicial remuneration observed in several ENCJ Members, on 25 May 2023 the Executive Board adopted the statement on financial security in the context of judicial independence. The Executive Board noted that independent judiciary in each Member State is crucial for ensuring the fundamental values of Art. 2 TEU, on which the European Union is founded, financial security is an important component of judicial independence. The countries mentioned in the statement were: **Slovenia and Lithuania** – where Councils for the Judiciary regarded the situation as potentially threatening judicial independence, and **Croatia and Spain**, where developments in the same direction were being witnessed.

While during the second half of the 2023 the situation in some of the abovementioned countries was remedied (Lithuania) or partially remedied (Croatia (see country specific section) and Spain), the situation in Slovenia remained unchanged. Despite the decision of the Constitutional Court of the Republic of Slovenia of 30 June 2023, declaring the judges' salaries as unconstitutional and contrary to the principle of judicial independence, in December 2023 the President of Sodni svet informed the ENCJ community that no measures to implement the decision and remedy the situation were taken by the other branches of the government.

Situation posing a threat to judicial independence was also witnessed in **Bosnia and Herzegovina**, where legislative changes of the Law on the High Judicial and Prosecutorial Council (HJPC) curtailing powers to verify the asset declarations of judges, prosecutors and HJPC members were proposed. In 2023, a working group in Bosnia and Herzegovina started drafting a proposal for a new law on the HJPC. In many respects, the current law on the HJPC seems to be in line with ENCJ standards. The concern therefore is that proposals emerging

during this process may deviate from ENCJ standards, including, possibly, reduced independence of the HJPC. An ad hoc meeting of the ENCJ Executive Board and HJPC was organized to verify the situation and offer support and solidarity. The ENCJ continues to work closely the HJPC to follow the situation and new legislative initiative.

Despite the fact that the National Council of the Judiciary of Poland was expelled from the network, in 2023 the ENCJ continued its efforts to support the independent **Polish judiciary**. In April 2023 the ENCJ President and an Executive Board member participated in a conference "Tribunal established by law" organized by MEDEL and Iustitia. ENCJ President addressed the audience on European standards of judicial independence. In June 2023 ENCJ President participated in an Expert meeting on judicial independence and the rule of law in Poland, organized by ODHIR, which brought together civil society, international organizations, national institutions and members of the diplomatic community to take stock of recent developments and to facilitate an exchange of views.

Furthermore, ENCJ community continued its efforts to support the judiciary of **Ukraine**. ENCJ experts participated and shared insights in two trainings for the members of the High Council of Justice and other bodies participating in selection and appointment of judges. Expertise on the topics of standards for the organization of judicial councils, judicial ethics, the Code of Conduct for Members of Judicial Council and disciplinary liability of judges was shared.

2. ENCJ Report on Independence, Accountability and Quality of the Judiciary

The project on Independence, Accountability and Quality of the Judiciary started in 2013 and aims to improve and strengthen the independence and accountability of the judiciary by mapping out the strengths and weaknesses of the judicial systems. The project consists of an improvement cycle that should be applied by the participating Councils for the Judiciary.

In 2023, the indicators on Independence, Accountability and Quality were measured anew and presented in the form of country profiles with the aim to identify weaknesses, allow for self-reflection and stimulate the improvement of judicial systems. This unique tool allows both: to review the current situation regarding independence and accountability of the concrete judiciary, but also, through comparison of results from different cycles, to identify positive and negative changes and possible trends. This year for the first time the developed quality indicators provided credible results and insights to the quality of the judiciary in the participating countries.

While the overall assessment of the measurement of independence, accountability, and quality indicators is positive, certain categories show negative trends, indicating areas that require attention and improvement. The report underlines that there is still room for improvement in all judiciaries noting that formal arrangements about the safeguards of

independence are often less well arranged in North-Western Europe than in Central Europe, while the scores on perceived independence are generally higher there.

As far as the judicial independence is concerned, the report underlines “gains and losses”: scores are higher for legal basis of independence, while scores on financial independence of the judiciary tend to further decline. The sphere of judicial accountability shows no further improvement, where outcomes vary considerably among judiciaries. Report notes that participation of representatives of civil society in appointment and selection of judges, disciplinary procedures against judges and complaints against them could enhance the trust of citizens in these procedures, but is rather rare thus the scores are low. Financial disclosure requirements for judges prove to be erratic as not all countries select to apply it.

In the realm of perceived independence, insufficient data about the perception of court users and lawyers is collected. The available data indicates that the perception of citizens and judges on judicial independence differs, which poses a risk and further data from court users is necessary. In the view of the ENCJ only data from the actual court users would allow to review the whole picture of the judicial systems regarding judicial independence, therefore it continues to strive for a pan-EU court user survey.

The quality indicators show relatively low scores in the following areas: digital access to courts, summary proceedings and access to caselaw, requiring further improvement in these areas. The questionnaire also measured access to justice for disabled people and vulnerable people in sense of both: physical and procedural arrangements of access to courts. The results inspired to continue work in this regard and explore opportunities for improvement through mutual learning and best practises.

The whole text of the report is available [here](#).

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

1. Changes in the functioning of the Councils

General remarks

In the reference period a few Councils for the Judiciary reported changes to the Council or its functioning. For those Councils that do report changes to the functioning the information can be found in the country specific section of the report (see below). There also are Councils¹ did not report any changes to the Council for the Judiciary or its functioning.

Country specific section

- **Supreme Judicial Council of Bulgaria**

¹ The Councils of: Belgium; Croatia; Supreme Judicial Council for Civil and Criminal Justice & Supreme Judicial Council for Administrative Justice of Greece (except on evaluation); Consiglio di Presidenza della giustizia amministrativa CPGA of Italy; the Danish Court Administration; the National Court Administration of Finland.

At the end of December 2023, amendments to the Constitution of the Republic of Bulgaria were adopted, introducing reform in the judicial system and the Supreme Judicial Council.

The Supreme Judicial Council is divided into Supreme Judicial Council and Supreme Prosecutors' Council – the Judicial Council consists of 15 members and includes the presidents of the two supreme courts, which are ex officio members, 8 members elected by the judges among all courts and 5 members elected by the National Assembly. The Prosecutors' Council consists of 10 members and includes the Prosecutor General which is ex officio member, 2 members elected by the prosecutors, 1 members elected by the investigators and 6 members elected by the National Assembly.

The members of the councils must have at least 15 years of judicial experience and be independent and party-proof. The National Assembly cannot elect for members of the two councils persons who hold the position of prosecutor or investigator at the time of the election. The parliamentary quota shall be elected by the majority of 2/3 of the members of the Parliament. The term of office of the elected members of the two councils will be 4 years with no possibility for re-election immediately after the first term.

In the preliminary and final provisions, it is stated that within 6 months of the entry into force of the amendments, the laws related to their application must be adopted. The Supreme Judicial Council and the Supreme Prosecutors' Council shall be elected 3 months after these amendments. The current Supreme Judicial Council continues its work until the adoption of the relevant legislation.

- **Conseil Supérieur de la Magistrature France**

The French High Council for the Judiciary is composed of two sections, one dealing with judges and one dealing with prosecutors, each one composed of 7 magistrates (in France, the prosecutors are magistrates) and 8 external members (common to both sections).

The four-year term of the former members of the Council ended in February 2023.

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

Thus, among the 6 judges members, the representative of the judges of the French supreme court, the representative of the heads of the courts of appeal and the representative of the heads of the courts of first instance were chosen by their respective peers. The other 3 judges were elected by the judges' associations.

The same process was followed for the 6 prosecutors members.

The heads of the French supreme court are ex officio members of both sections, bringing the number of magistrate members to 7.

Mr Christophe Soulard, first president of the French supreme court, chairs the section competent for judges.

Mr Rémy Heitz, the new public prosecutor at the French supreme court and chairman of the Council's section for public prosecutors, took up his post in July 2023, replacing Mr François Molins.

As regards the external members, the President of the French Republic, the President of the National Assembly and the President of the Senate have each proposed two qualified persons who are not members of Parliament, the judiciary or the administrative order, and who contribute to the balanced representation of men and women.

In addition to these 6 members, there are a member of the Conseil d'Etat and a lawyer, chosen by their respective peers.

The recent organic law of 20 November 2023 amends the organic law of 5 February 1994 on the French High Council for the Judiciary, firstly by modifying the voting system for elections to the Council, and secondly by providing for the renewal of half of the external members every two years. These provisions will apply to the next renewal of the Council.

- **Supreme Judicial Council for Civil and Criminal Justice & Supreme Judicial Council for Administrative Justice of Greece**

The new system of evaluation of judges, adopted in 2022, was applied for the first time. According to this system evaluation of judges is performed every 2 years, in harmony with the relevant guidelines adopted by the ENCJ.

- **Consiglio Superiore della Magistratura/ High Council for the Judiciary of Italy**

Independence.

Regarding the 2024 "*Rule of Law*" Report of the European Commission and the questionnaire on the same topic, the entry into force of Law No. 71 of June 17, 2022 must be underlined. This law contains a set of delegations to the Government for the reform of the judicial system, as well as provisions on legal, organizational, and disciplinary matters, on the eligibility and judges' re-collocation in permanent staff, as well as the constitution and functioning of the High Council for the Judiciary.

The abovementioned law, which came into force on June 21, 2022, contains **a series of immediate effective provisions (Articles 7 to 39 of Law No. 71/2022).**

In addition to what has already been referred to in the previous 2023 Rule of Law Report regarding the constitution and functioning of the C.S.M., the electoral system for the appointment of professional members, as well as their re-collocation at the end of their mandate – among these provisions, the modification of regulations on the transition from judging to prosecuting functions and vice versa - are particularly interesting. This can be carried out only once during one's career and within 9 years from the first assignment of functions. After this period, a change of functions is only permitted once. This can only be done if the change takes place from or to civil judicial functions.

Furthermore, the provisions regarding the reorganization of the public prosecutor's office are compelling, envisaging an organizational plan of the said office, which must contain detailed organizational measures, adopted and aimed at guaranteeing the effective and uniform exercise of criminal prosecution, the priority criteria in the exercise of the latter and the criteria for assigning proceedings. On this last point, the CSM expressed some doubts regarding the provision of the obligation to transmit said organizational projects to the Ministry of Justice for observation. This would entail an intrusion of executive power into a matter pertaining to the core of the exercise of the prosecuting jurisdiction.

Moreover, the competence to adopt a general regulation for the organization and functioning of the Council itself has been included in the powers of the CSM. This choice is welcomed by the CSM and sees, in this provision, a strong confirmation of its autonomy.

According to the objectives set by the PNNR (*National Recovery and Resilience Plan*), and as part of a broader reform plan, the decree of the Ministry of Justice of June 15, 2023 (implementing Art. 33, first paragraph, letter a of Legislative Decree No. 144/2022) modified the regulation of access to the judiciary in order to accelerate the timing for covering permanent staff, currently suffering from a serious shortage.

The implementing decree establishes methods for carrying out written tests of the examination for access to the judiciary, providing that they are carried out electronically, through the use of a digital device.

This provision and its relevant measure, previously introduced by Article 33 of Legislative Decree No. 144/2022, amended the provisions of Legislative Decree No. 160/2006. These measures allow law graduates to participate in competitive exams -eliminating provisions that required the possession of a second-degree qualification such as a research doctorate, a diploma from a specialization school, or an internship at judicial offices - so as to reduce the time of access to the judiciary and the effective entry into service.

These rules are complemented by the **provisions of Articles 1 to 6 of Law No. 71/2022** whereby the Government is delegated to adopt, no later than December 31, 2023, one or more legislative decrees for the reform of the judicial system in other areas (criteria for the assignment of executive and semi- executive positions, criteria for access to the functions of Supreme Court Judge and Deputy Attorney General at the Supreme Court, procedure for the

establishment and approval of office organization tables, functioning Judicial Councils, professional skills evaluations, regulation regarding the ordinary judges' collocation outside of the permanent staff).

The aforementioned provisions require that the legislator take action to implement the Enabling Act No. 71/2022 by issuing relevant legislative decrees by the deadline of December 31, 2023 (Art. 1 of Law No. 71/2022). However, at this stage, there is no official text to refer to.

- **Tieslietu padome/Judicial Council of Latvia**

1- One of the priorities set by 12.2022. Government declaration was to strengthen the Judicial Council. More precisely, the Government's action plan for the implementation of the Declaration on the planned activities of the Cabinet (No 200, 20.04.2023) prescribes following: 30.1. We will strengthen the status and functions of the Council of Justice in matters related to the judiciary's budget, personnel policy, work organization and infras 1) Amendments were made to the Law "On Judiciary" and amendments to the Law on Budget and Financial Management in order to strengthen the self-determination of courts in relation to judges' career issues and the court budget. (12.2023.) 2) a function redistribution model has been developed. (06.2025.) 29.2 Developed and modernized the Institute of Assistant Judge by revising the job description, increasing legal functions and reducing technical functions (12.2024.)

2- Decision of the Judicial Council, 27.10.2023. No 79. On filling the vacant positions of judges. Art.3. Available: <https://www.at.gov.lv/lv/tieslietu-padome/lemumi/2023-gads>

3- Government's action plan for the implementation of the Declaration on the planned activities of the Cabinet (No 200, 20.04.2023), Art. 30.1. Tasks:1) Amendments to be made to the Law "On Judiciary" and amendments to the Law on Budget and Financial Management in order to strengthen the self-determination of courts in relation to judges' career issues and the court budget. (12.2023.) 2) a function redistribution model to be developed. (06.2025.) 29.2 Developed and modernized assistant judge profession by revising the job description, increasing legal functions and reducing technical functions (12.2024.)

4- 15.09.2023. Government declaration (Deklarācija par Evikas Siliņas vadītā Ministru kabineta iecerēto darbību), Art. 7.

5- The State Audit office since September 2023 is proceeding with the audit "Cilvēkresursu pieejamība un attīstība Latvijas tiesu sistēmā" (Availability and development of human resources in the judicial system of Latvia), be published by 09.2024.

- **Teisėjų Taryba/Judicial Council of Lithuania**

In 2023, intensive modernisation works of the Case Allocation Module (hereinafter – the Module) of the Lithuanian Court Information System (hereinafter – LITEKO) were continued. One of the main directions of the new Module in solving the problem of uneven allocation of cases is the new model of the judge selection coefficient. The main changes in the components of the judge selection coefficient in the modernized Module are that not only the number of cases assigned to the judge in the reporting period in a specific distribution group, but also all pending cases at the time of the distribution of the judge's cases, available and unfinished judicial mediation processes will be evaluated. An important change is also the fact that when calculating the judge's selection coefficient, the cases assigned to the judge and heard by the judge will be counted in the scope of all types of cases (not limited to the classification group) by multiplying them by the case's complexity score. In addition, the cases heard by the judge as a panel member (not reporter) will also be considered, but will be given a less weight.

Furthermore, in the modernized Module it will be possible to apply a “ceiling” when assigning cases to judges – the maximum amount of case weighting coefficients per day for one judge. This tool was created to protect judges from the high number of cases received during the one allocation of cases, while ensuring evenness of cases assigned to judges.

Another direction of the new Module in solving the problem of uneven allocation of cases is the change of defined groups of cases and their complexity scores, since the existing ones do not reflect the real complexity of cases. According to this, the existing case classification groups and their difficulty scores are being revised. It is planned that the updated system of case groups and their complexity scores will be implemented together with the modernized LITEKO, therefore in 2023 intensive work was carried out on the determination of new case classification groups and their complexity scores and their coordination with the courts. A draft amendment to the Description of the rules for the allocation of cases to judges and the formation of a judicial panel, approved by Resolution No. 13P-123-(7.1.2) of the Judicial Council of 25 September 2015, is going to be considered by the Judicial Council at the beginning of 2024.

In order to solve the issues of unequal workload in the courts, on 22 December 2022, a Law No. XIV-1750 (entered into force on 1 January 2023), supplementing the Code of Criminal Procedure of the Republic of Lithuania with Article 2291, was adopted. The presidents of the regional courts and the president of the Court of Appeal of Lithuania were enshrined in an essentially analogous right as in Article 621 of the Code of Civil Procedure of the Republic of Lithuania to assign randomly selected cases that have not yet been assigned to a specific judge (panel of judges) by a court decision to be heard by judges of another court after finding a significant difference in the workload in the relevant district or regional courts. The cases assigned to the judges of another court to be heard on the grounds set out in the aforementioned article, which may be heard without holding a court hearing or are heard in

district courts according to the written procedure, as well as when they are heard using information and electronic communication technologies according the procedure established by the Code of Criminal Procedure.

When implementing the requirements of Article 229² of the Code of Criminal Procedure and Article 62³ of the Code of Civil Procedure regarding the assignment of cases to judges of another court, when a significant difference in workload is established, amendments to the Provisions of Administration in Courts were approved by resolution No. 13P-59-(7.1.2) of the Judicial Council of 31 March 2023⁴, which set the criteria that are assessed when deciding whether there is a significant difference in workload between courts (court chambers), the entities performing the assessment and its periodicity. In addition, it was established that such data will be processed in one place – in the model data calculator prepared by the National Courts Administration.

In order to solve the issues of ensuring the workload balance in district and regional courts effectively, as well as after assessing the reform of district courts that will take place in 2024, the amendments to the Code of Civil Procedure were initiated in 2023⁴. It was established that cases, which under the grounds of the Code of Civil Procedure can be heard in the district courts by written procedure and which are not subject to the rules of exclusive jurisdiction, are allocated to district courts or court chambers by using a computer program taking into account their workload and following the rules for the allocation of cases approved by the Judicial Council (Article 62 of the Code of Civil Procedure). In addition, it was established that cases based on appeals (separate appeals) due to an unenforced decision or ruling of the district court are allocated among the regional courts by using a computer program, taking into account their workload and following the rules for the allocation of cases approved by the Judicial Council (Article 62⁵ of the Code of Civil Procedure). The amendments should enter into force from 1 July 2024.

The Vision of the development of Lithuanian courts for the years 2023-2033⁶ includes the establishment of the right of the Judicial Council to appeal to the Constitutional Court of the Republic of Lithuania by amending Article 106 of the Constitution of the Republic of Lithuania⁷. For this purpose, in 2023 the Concept of the right of the Judicial Council to appeal to the Constitutional Court of the Republic of Lithuania (hereinafter – the Concept) has been drafted. The Draft Concept provides that Article 106 of the Constitution needs to be supplemented with a new part which should provide that the right to apply to the Constitutional Court regarding the acts referred to in the first or second part of Article 105⁸

² <https://www.e-tar.lt/portal/lt/legalAct/83b2a150d1f811ed9978886e85107ab2>

³ <https://www.e-tar.lt/portal/lt/legalAct/83b2a150d1f811ed9978886e85107ab2>

⁴ <https://www.e-tar.lt/portal/lt/legalAct/09cd5fa01fb511eeb233e8b04dc9bb3d>

⁵ <https://www.teismai.lt/data/public/uploads/2023/02/eng-taisytas-1.pdf>

⁶ <https://www.teismai.lt/data/public/uploads/2023/02/eng-taisytas-1.pdf>

⁷ <https://lrkt.lt/en/about-the-court/legal-information/the-constitution/192>

⁸ The Constitutional Court shall consider and adopt decisions on whether the laws of the Republic of Lithuania or other acts adopted by the Seimas are in conflict with the Constitution of the Republic of Lithuania.

of the Constitution belongs to a special institution of judges provided by law – the Judicial Council – in cases where these acts threaten the independence of the judiciary. It is intended to adopt the aforementioned amendment to the Constitution by 2028.

In order to strengthen anti-corruption environment in Lithuanian courts, on 27 January 2023, the Judicial Council approved the Policy of the Transparency of Lithuanian Courts⁹. The policy sets up the essential value provisions that are promoted in Lithuanian courts, such as, absolute intolerance to corruption, publicity, disclosure of interests etc.

The declaration approved by the Council of Judges is a general principle that everyone working in the judicial system must comply with. The document says that the judicial system does not tolerate any bribery duties, trade, abuse of office by employees, abuse of authority, any means of protection of family members, close persons, relatives and other persons. It also declares that no gifts or other thanks, rewards for the work of judges or court employees are tolerated in the courts, except for thanks or awards given within the court system. It is indicated that in the cases permitted by law, each case of giving and receiving a gift is an appropriate assessment, and all gifts received in accordance with the prescribed procedure are accounted for. The document says that every person working in the Lithuanian courts is responsible for the consequences he/she has caused for the entire judicial system and citizens' trust in the courts.

The judiciary of Lithuania sees all anti-corruption methods as one of the keystones for ensuring judicial independence. For this, in 2023 Lithuanian courts emphasized transparency awareness among judges and court staff conducting specialized training "Creation of an anti-corruption environment in judiciary". Also, by the decision of the Judicial Council, this topic became part of compulsory introductory training for newly appointed judges. Firstly, a lecture of a topic "Creation of corrupt-free environment" has become a compulsory for introductory training of newly appointed judges. Secondly, other judges and court staff are being trained with the topics related to corruption prevention and corruption-related crimes, i.e. "International anti-corruption standards. Lithuania's commitments"; "Creation of corrupt-free environment among judiciary"; "Integrity of the judiciary – a key prerequisite for the fight against corruption in the country"; "Judicial transparency policy: creating and maintaining an organizational culture based on openness". Overall, 157 judges were trained in 2023.

Moreover, on its Review of Lithuania's National Agenda on the Prevention of Corruption¹⁰ the OECD has recommended to develop a risk map of the justice sector. Developing this map has been a priority in 2023 and is expected to be concluded in 2024, becoming a main tool for

The Constitutional Court shall also consider whether the following are in conflict with the Constitution and laws:

1) the acts of the President of the Republic;
2) the acts of the Government of the Republic.

⁹ <https://www.teismai.lt/data/public/uploads/2023/01/skaidrumo-politika.pdf>

¹⁰ <https://www.oecd.org/publications/review-of-lithuania-s-national-agenda-on-the-prevention-of-corruption-e6efed26-en.htm>

establishment of clear priorities and indicators facing risks most infringing the independence of the judiciary.

On 11 December 2023, the online project OPEN COURTS, opening up relevant data about court's activities to the public, has been launched. The innovative online project on the website www.teismai.lt will allow to find not only statistical data on the number of cases received and handled in all Lithuanian courts, the specialisation of judges, but also information about the funds allocated to the Lithuanian courts, their use, the number of judges and court staff in Lithuanian courts¹¹.

Since 2021, meetings of the Judicial Council have been broadcasted to the judiciary and, since 1 January 2022 – to the public. Since 2023, in order to increase transparency of the decision-making process in the Judicial Council as a self-governance institution of the courts, to create conditions for better informing about the activities of the Judicial Council as well as to enable the judiciary and the public to become familiar with the reasons that led to one or another decision of the Judicial Council video records of broadcasted public meetings of the Judicial Council have become available to the public. Video records are publicly available for one year after the end of the meeting of the Judicial Council on the website of the National Courts Administration (the Judicial Council's Resolution of 31 March 2023, No. 13P-58-(7.1.2) "On the Amendment of the Judicial Council's Resolution No. 13P-30-(7.1.2) of 24 February 2017"¹²).

In 2023, Lithuanian courts continued the activities established in the Communication Strategy of Lithuanian Courts for 2021-2024 aimed at increasing the public's trust in the Lithuanian courts as an institution that administers justice, developed consistent coordinated external communication in the court system and carried out joint communication measures that strengthen internal communication and organizational culture in the courts.

- **Raad voor de Rechtspraak/The Netherlands Council for the Judiciary**

The Netherlands Council for the Judiciary has had five members since September 2022 (three judicial members and two non-judicial members); the Council had four members for many years before that (two judges and two non-judges). By law, the Council can have three members (two judges, one non-judge), four members (two judges and two non-judges) or five members (three judges and two non-judges). If the Council has three members, it can only take decisions if at least two members are present. If the Council has four or five members, it can only take decisions if at least three members are present. The Council takes decisions by majority vote. If the votes are tied, the Chairman casts the deciding vote. The Chairman of the Council is always a judge. This at all times safeguards the primacy of judges in the Council's decision-making. This year two new, non-judicial, members, of the Council for the Judiciary have been appointed. After being nominated by the Judiciary, the Council of Ministers gave its approval. With the nomination of these new members, the Council is

¹¹ <https://statistika-ntalt.hub.arcgis.com/>

¹² <https://www.e-tar.lt/portal/legalAct.html?documentId=6afaf680d1f811ed9978886e85107ab2>

complete again. This is because the maximum term of two previous members has was expiring.

- **Conselho Superior da Magistratura/CSM Portugal**

There are two developments that stand out in terms of what is being asked for:

I - Code of Conduct for Judicial Magistrates

In December 2023, the Judicial High Council completed a project on a code of conduct for magistrates of the judicial courts¹³. A period of 60 days is currently running for all interested parties to give their opinion on the matter.

II - "Revolving doors" between justice and politics

After the opening of the 2022 judicial year, the President of the Supreme Court of Justice and of the Judicial High Council submitted to the Plenary of the Council a proposal for the creation of a working group to evaluate the legal regime governing the circulation of judges between the judiciary and politics.

The proposal was approved by a unanimous vote of the Plenary, which decided to proceed with the creation of a working group to study the issue of the temporary transfer of judges to political and public positions and their subsequent return to the courts at the end of their terms of office.

In accordance with the above-mentioned decision, the above-mentioned working group, which was attended by all its members, met on 6 September 2002 and 7 January 2003 to examine the issue of the temporary transfer of judicial magistrates to political and public office and their subsequent return to the courts at the end of their service commissions, as well as to review the current legal regime regarding impediments, incompatibilities and service commissions (judicial and non-judicial) of judicial magistrates.

As a result of the work carried out, the working group presented a proposal to amend the statute of magistrates, which was approved by the plenary session of the Council on 08/03/2023 and subsequently sent to the government.

- **Superior Council of Magistracy of Romania**

The Romanian Constitution, republished, assigns to the Superior Council of Magistracy the role of guarantor of the independence of the judiciary, its powers being regulated at the level of the organic law.

Following the entry into force, on 16 December 2022, of Law No 305/2022 on the Superior Council of Magistracy, during the reference period the secondary legislation was adapted to be in line with the new legal provisions, and the Regulation on the organisation and functioning of the Superior Council of Magistracy was adopted in this respect by Decision No

¹³ Under Articles 209 *et seq.* of its Constitution, Portugal has two separate sets of courts – the Judicial Courts (also known as common/ordinary courts) and the administrative and fiscal courts. Provision is also made for other special categories of jurisdictions – the Constitutional Court (*Tribunal Constitucional*), the Court of Auditors (*Tribunal de Contas*), Courts of Arbitration (*tribunais arbitrais*) and Justices of the Peace (*juílgados de paz*).

122/06.07.2023 of the Superior Council of Magistracy, published in the Official Gazette of Romania, Part I, No 640 bis/13.07.2023.

As previously pointed out, similar to the old regulation, the above-mentioned law provides for the independence of the Superior Council of Magistracy and for its abiding only by the law in its activity, the members of the Council being accountable to judges and prosecutors for the activity carried out in the exercise of their mandate.

Also, given the principle of the separation of the decision regarding the career of judges and prosecutors, the new infralegal regulation detailed the concrete manner of sharing the duties between the Plenum and the Sections, including those relating to defending the independence of the judiciary.

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

By Decision No 55 of 30 March 2023, the Plenum of the Superior Council of Magistracy adopted the main directions of action and objectives of the Superior Council of Magistracy, for the mandate 2023-2029, published on the Council's website, which reflect the priorities already mentioned in the management projects and underline/sustain the priorities already assumed by the Council, on the following components: defending the independence of the judiciary and the statute of judges and prosecutors, adopting a coherent and effective human resources policy, organising and functioning the judiciary, increasing transparency and improving institutional communication and strengthening internal and international relations.

- **Sodni Svet/ Judicial Council of Slovenia**

Structure /composition of the Council, the way of nomination of the members and independence of the Council

The position and composition of the Judicial Council is determined by Article 131 of the Constitution. Under the current provision, the Judicial Council is composed of eleven members. The Parliament elects five members on the proposal of the President of the Republic from among university professors of law, attorneys, and other lawyers, whereas judges holding permanent judicial office elect six members from among their own number. The members of the council select a president from among their own number.

The Constitution is in the process of being amended, including the article on the composition of the Judicial Council.

The reforms, as originally intended, envisage transferring the power to appoint judges from the Parliament to the President of the Republic of Slovenia, while the Judicial Council would retain the power to select and propose the candidates. The Parliament already adopted the decision to initiate the procedure for amending the Constitution. The views on the draft amendments to the Constitution were prepared by the Constitutional Commission, which was established by the Parliament for this purpose, with the assistance of the opinions of a designated Expert Group. During the next phase, the Parliament will give guidance to the Constitutional Commission on the drafting of the amendments since it is not bound by the specific content of the proposed constitutional amendment. As the constitution-maker, the Parliament has the right to decide independently on amending the Constitution. In that regard it may amend the substance of the proposal to initiate the procedure, supplement it, propose amendments to other provisions of the Constitution (e.g. if this is necessary for the sake of harmonisation), but it may not interfere with provisions of the Constitution, amendments to which are not contained in the proposal to initiate the procedure for amendments to the Constitution. The Parliament adopts the constitutional law by a two-thirds majority of the votes of all its members.

At the very beginning of the constitutional revision process, however, ideas began to emerge that certain other provisions of the Constitution relating to the position of judges and the Judicial Council should also be amended.

In the light of the enhanced role of the Judicial Council in the procedures for the appointment of judges, the Constitutional Commission proposed an amendment to Article 131 of the Constitution. The proposal provides for an increase in the number of members of the Judicial Council to 15 and proposes abolishing the power of the President of the Republic to nominate five members of the Judicial Council for election to the Parliament. Instead, seven members would be elected by the Parliament from among university professors of law, attorneys, and other distinguished lawyers, and eight members would be elected by the judges from among themselves. The Expert Group, appointed by the Constitutional Commission, has also prepared a variant proposal for a change in the composition of the Judicial Council, according to which one of the eight positions of judges' representatives in the Judicial Council would be occupied by the President of the Supreme Court. The Constitutional Commission also proposes that Article 131 be supplemented by the provision that members of the Judicial Council are elected for a term of six years and are not eligible for re-election. In addition, the law governing the Judicial Council is to be adopted by a two-thirds majority of the votes cast by the Members present. According to the reasoned opinion by the Expert Group, the reason for the proposed increase in the number of members of the Judicial Council lies in the increase in the powers and scope of work of the Judicial Council with the changes to the judicial legislation in recent years. Also, with the transfer of the power to appoint judges to the President of the Republic of Slovenia, the role of the Judicial Council would be further

strengthened, given that only a protocolary function of the President is envisaged in the proposed procedure for the appointment of judges.

According to the Expert Group, a larger number of members of the Judicial Council could ensure a significant reduction in the average time taken to finalise the Judicial Council's decisions. In addition, the increased number of members of the Judicial Council could also ensure a more balanced representation of the members of the Judicial Council in terms of the areas of law in which they demonstrate experience and possible specialisation, which would contribute to the quality of the selection process. The Expert Group believes that in the light of the principle of the separation of powers, it would be more appropriate if the President of the Republic were no longer the proposer of those candidates for members of the Judicial Council that are elected by the Parliament. Accordingly, the Parliament would no longer be bound by the proposal of the authorised proposer in the selection and election of members of the Judicial Council, and its authority in the process of appointing judges would therefore be strengthened.

The Judicial Council does not share the opinion of the Expert Group. It considers that there are no compelling reasons either for increasing the number of members of the Judicial Council or for abolishing the power of the President of the Republic to propose to Parliament the election of those members of the Judicial Council who do not represent the judiciary.

Firstly, it can be seen from the Constitutional Commission's material that one of the opposition parties conditioned its parliamentary support for the constitutional amendment of the way of appointing judges on a simultaneous amendment of the constitutional provision on the composition of the Judicial Council. The Judicial Council asked for the opportunity to participate in the meetings of the Constitutional Commission, also it makes its views on the matter publicly available on its website. Namely, the proposal to amend the Constitution on the procedure for appointing judges was aimed at reducing political influence, not increasing it. The composition of the Judicial Council and its functioning have never been a problem that needed to be addressed over the years. The Judicial Council considers that seeking a mere political compromise to support a change in the procedure for the appointment of judges in the context of the amendment of Article 131 of the Constitution, which regulates the composition and functioning of the Judicial Council, is unacceptable. First and foremost, the Judicial Council stresses the need to respect international standards to maintain a majority of judges on the Judicial Council. When it comes to the role of the President of the Republic in the appointment procedure, its office offers guarantees of respect for constitutional rights and independence, whereas the abolishment of its power to nominate candidates would suggest leaving it to the will of the political parties in the Parliament. The Judicial Council fears this will lead to a marked politicisation of the procedure and will have a negative impact on the appearance as well as on the actual guarantee of the independence of the members of the Judicial Council and, consequently, of the judiciary. The Judicial Council also warned of possible problems in practice when the election of new members of the Judicial Council would be prevented by a deadlock of one of the political parties. Increasing the number of members of the Judicial Council to 15 would also entail several organisational and technical difficulties,

which the Judicial Council will find difficult to reconcile without an expansion of its professional services and higher financial inflows. Other proposed amendments to this Article (e.g., on the possibility of reappointment of members) may be subject to legislation without amending the Constitution.

Competences of the Council

Independently of the proposed changes to the Constitution on how judges are appointed, the Ministry of Justice is in preparation of a legislative initiative to amend the three laws governing the courts, the judicial service, and the Judicial Council. In view of the 2022 Questionnaire, this project is in the final stages of the expert-coordination phase, prior to the beginning of a formal legislative procedure. The Judicial Council made several suggestions on the working drafts of the proposed amendments. In November 2023, in a meeting with the Minister of Justice, the Judicial Council stressed that there was no point in rushing through legislative changes, as the laws would have to be amended again in the event of a change to the Constitution.

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The proposed amendments to the Judicial Council Act include transfer of the power to appoint Supreme Court judges, if they are selected from among candidates already elected to judicial office, from the Parliament to the Judicial Council, and transfer of the power to appoint and dismiss the President and Vice-President of the Supreme Court from the Parliament to the Judicial Council. The Judicial Council absolutely supports both proposed changes, which it has publicly advocated on several occasions. Consequently, the draft law proposes that Judicial Council be given (new) powers to decide on measures of suspension of the President of the Court, and of suspension from judicial service for the President and Vice-President of the Supreme Court. Other proposed changes to the competences of the Council concern the envisaged changes to the system of judicial promotion.

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A Disciplinary Court, which decides on the disciplinary liability of judges, operates within the Judicial Council. Members of the Disciplinary Court include the members of the Judicial Council. The panel of the Disciplinary Court in a concrete matter is always chaired by a member who is also a member of the Judicial Council. At the same time, the current regime provides that the Judicial Council may also initiate disciplinary proceedings against judges. This dual role of the Judicial Council, which can act both as the initiator and, through its members, as the arbitrator in disciplinary proceedings, was declared unconstitutional by the Constitutional Court in 2021, as it is not in line with the principle of impartiality and should have been remedied by November 2022. The proposed amendment to the Judicial Council Act eliminates this unconstitutionality, so that the Judicial Council no longer has the power to initiate disciplinary proceedings against judges. The proposed amendment is in line with the Judicial Council's opinion on the matter.

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There is an interesting change proposed regarding the adoption of decisions at the sessions of the Judicial Council. The proposed amendment to the Judicial Council Act provides that the minute of the meeting, which is made public already according to the current state of law, shall always indicate how each member voted. The Ministry of Justice argues that the proposed amendment is necessary to increase the transparency of the Judicial Council's work and to enforce the individual accountability of the members of the Judicial Council. The Judicial Council is opposed to the proposed amendment. Members of the Judicial Council are not bound by any instructions in their decision-making and cannot be called to account in any way for the opinion they have given in their decision-making. Therefore, it is not clear in what way would the proposed changes contribute to the claimed objectives of the reform.

General functioning and efficiency of the Council

The draft of the proposed amendments to the Judicial Council Act provides for the strengthening of the position of the Secretary-General of the Judicial Council by proposing to align his/her salary grade with that of the Secretary-General of the Supreme Court, and by extending his/her term of posting to the Judicial Council. Under the current legislation, the Secretary-General shall be a judge holding at least the title of a district judge and shall be posted for that purpose to the Judicial Council for a term of three years. He shall be selected by the Judicial Council based on a public call for applications. The Ministry of Justice itself has recognised that the Secretary-General takes on organisational and managerial tasks as well as professional ones when he/she takes up the post, yet under the legislation in force, the Secretary-General retains the same salary status as he/she had as a judge. The draft amendments to the law aim at reconciling the mentioned disparity, while at the same time propose that only a district judge, who has been a judge for at least five years can apply for the post of Secretary-General. Interest in the post of Secretary-General has been on the decline and the proposed change would, in the view of the Judicial Council, certainly help to reverse this trend.

Changes to legislation in recent years have significantly increased the powers of the Judicial Council. Therefore, in the light of the envisaged changes to judicial legislation the Judicial Council suggested a change to the position of the President and Vice-President of the Judicial Council to allow them to hold their positions on a professional or semi-professional basis. The President of the Judicial Council is already unable to carry out to a high standard all the many duties imposed on him by law without partially abandoning other professional obligations. Nevertheless, the Ministry of Justice has not accepted this proposal in the current working draft of the amendments to the Judicial Council Act.

- 2. How would you describe the relations of the Council with the other State powers (or specific government body or state organisation) in the reference period? Where there any challenges coming from them to the independence of the judiciary/judges?**

- **Conseil Supérieur de la Justice/Hoge Raad voor de Justitie/High Council of Justice of Belgium**

The HCJ is a “sui generis” institution that does not belong to any of the traditional powers (executive, legislative, judiciary).

The HCJ the council maintains good relations with the Minister of Justice. In October, the minister resigned and was succeeded by a member of his cabinet. The cabinet remained in office. There is no reason to believe that the relationship would evolve less favourably with the new minister.

The same can be said of the relationship of the HCJ and the legislative power. In general, the opinions and reports of the HCJ are taken into account by the minister and parliament and have a significant impact on the decision making.

Relations between the HCJ and the judiciary are generally good. Half of the HCJ’s members are elected by and among members of the judiciary. The HCJ is responsible for the selection of magistrates and the appointment of heads of courts and prosecution. He is also responsible for external control of the operation of the judicial system. These elements (composition and tasks) to some extent shape the relationship between the HCJ and the judiciary.

With a view to the progressive introduction of the auto-management of the judiciary, two new institutions were established in 2014: The College of Courts and the College of Public Prosecution.

These colleges are, or at least have the vocation of becoming, the main interlocutor of the HCJ with the judiciary. The auto-management of the judiciary has not been fully realised and the tasks and the functioning of these colleges are still evolving. The relationship between the HCJ and these two colleges is not yet clearly defined. This sometimes gives rise to a degree of reticence that is not always beneficial to the HCJ's external control missions. Both the HCJ and College of Courts have expressed a desire to meet on a regular basis to keep each other updated on their activities.

As mentioned in our contribution of 2022, challenges to the independence of the judiciary can often be linked to important incidents that question the proper functioning of the judiciary and chock the confidence of citizens. This repeatedly gives rise to proposals to tighten controls on the judiciary. Each time the HCJ has to explain that the control on the judiciary falls within its competences and that its composition and methodology ensure that its enquiries respect the independence of the judiciary.

In 2023, the HCJ has launched two such enquiries:

- An investigation into possible dysfunctions in the conduct of criminal proceedings in the so-called “Operation Chalice”. “Operation Chalice” was a criminal investigation regarding sexual abuse within the Catholic Church.

- An investigation into the handling of the “Lassoued case” by the Brussels public prosecutor's office. Abdeslam Lassoued was the person who committed the terrorist attack in Brussel on 16 October. Two people of Swedish nationality lost their lives, a third was injured. The Minister of Justice resigned in the aftermath of these events.

The HCJ gives advice on legislative initiatives that affect the functioning of justice. It regularly happens that the HCJ needs to point out possible threats to the independence of the judiciary. In 2023, the HCJ did so in :

- Avis du 11 avril 2023 sur l’AVANT-PROJET DE LOI PORTANT SUR LE STATUT SOCIAL DU MAGISTRAT ET INTRODUISANT UNE VÉRIFICATION DE SÉCURITÉ

- Avis du 18 octobre 2023 sur l’AVANT-PROJET DE LOI INTRODUISANT UNE VÉRIFICATION DE SÉCURITÉ AU SEIN DE L’ORDRE JUDICIAIRE ET DE L’ADMINISTRATION PÉNITENTIAIRE :

« Comme le CSJ l’a déjà indiqué dans son avis du 11 avril 2023 sur l’avant-projet de loi portant sur le statut social du magistrat et introduisant une vérification de sécurité, l’exigence d’un avis de sécurité positif est susceptible de porter atteinte, du moins en ce qui concerne les magistrats, au principe de séparation des pouvoirs » (p. 5).

Calls for increased control of the judiciary also lead to proposals to reform the disciplinary and evaluation procedures of judges. The HCJ must ensure that such reforms do not undermine the independence of the judiciary and are done with respect for the fundamental rights of judges.

- Avis du 18 October 2023 sur AVANT-PROJET DE LOI PORTANT DISPOSITIONS DIVERSES RELATIVES À L’ÉVALUATION DES MAGISTRATS ET LA DISCIPLINE

The HCJ also raises the same concern when examining proposals that call for more flexibility from judges.

Autonomous management of the judiciary

In 2014, the principle of autonomous management of the judiciary was introduced in the Judicial Code. The full entry in to force of autonomous management has been postponed several times. The current deadline of 1 January 2024 may not be met either, as not all relevant management powers have been transferred to the for that purpose created College of courts/College of public prosecution. In 2023, the HCJ has given advice on a draft bill that amends various provisions of the Judicial Code that were inserted in 2014 relating to the introduction of autonomous management for the judiciary:

- Avis du 18 octobre 2023 relatif à L’AVANT-PROJET DE LOI PORTANT OPTIMALISATION DE LA GESTION AUTONOME ET DU FONCTIONNEMENT DE L’ORDRE JUDICIAIRE

Although this draft bill contains several improvements, the HCJ still has concerns regarding the costs and financing of the implementation of this reform, the composition and

representativeness of the created colleges and the balance between the various bodies of these colleges.

General principles of deontology for the judiciary were developed in 2023 by the HCJ. They will be approved and published in early 2024.

Digitalisation and availability of sufficient specific (statistical) data remain concerns, as experienced in several conducted and ongoing investigations by the HCJ.

As already mentioned in 2022, serious efforts are made in the field of recruitment of judges, prosecutors and staff. Nevertheless, several courts and prosecution offices claim to have insufficient human resources to function properly. In future, the allocation of human resources should be done by the Colleges based on a validated workload measurement. In the absence of validated workload measurement, vacancy plans are now being used where available places are allocated to the entities with the greatest need and based on a proto-workload measurement.

The issue of insufficient resources to execute court decisions mentioned in our previous contribution remains: lack of proper infrastructure to shelter minors subject to a protection order from juvenile court, to shelter refugees or to treat persons with mental health problems.

- **Supreme Judicial Council of Bulgaria**

In 2023, the relations of the Supreme Judicial Council with the other state authorities and bodies are carried out within the framework of the powers and obligations established by law.

- **State Judicial Council of Republic of Croatia**

There were challenges because judges implemented warning measures and court officials went on strike during 2023.

- **Domstolsstyrelsen/ Court Administration of Denmark**

There have been no challenges coming from other state powers in the reference period and the independence of the judiciary continues to be very strong parallel to a good cooperation with the Ministry of Justice where it is deemed relevant.

- **Conseil Supérieur de la Magistrature France**

In France, a continuous dialogue exists with the executive power, based on the Constitution.

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

In the unprecedented context of recent years, which reveals the fragility of our societies, the French High Council for the Judiciary has sought, in its role, to maintain a high level of vigilance in preserving the independence of the judiciary so that the public's confidence in the justice system is not undermined.

1 - Recent referrals to the Conseil by the President of the Republic or the Minister of Justice are a good illustration of the Conseil's position within the institution.

§ Following a request from the Minister of Justice, in April 2023, the Council made a number of observations on the draft organic law that includes new provisions relating to the careers of magistrates, their recruitment, the assessment of heads of court and jurisdiction, and the responsibility and discipline of magistrates. This law was finally passed on 20 November last without any real consideration being given to its observations. The French High Council for the Judiciary was consulted when the preliminary draft was already being examined by the Conseil d'Etat and it regretted that it had not been able to hold fuller and earlier consultations with the Chancellery[1].

§ In May 2023, the Minister of Justice asked the Council to issue an opinion on magistrates' freedom of expression. The Council's views were particularly sought on formal speeches by heads of court and tribunal, the use of social networking sites by magistrates and freedom of association. The question of whether or not magistrates can go on strike has also been raised.

The Council's opinion was delivered on 13 December 2023 and provided an opportunity to highlight the essential principles of the rule of law[2].

-2- The Conseil, in its constitutional role as guarantor of the independence of the judiciary, has also reacted publicly through press releases, outside the context of any referral. It reacted twice in 2023:

§ The first, on 4 May 2023, following criticism of a court ruling (Mayotte case). It reiterated that in a democratic state governed by the rule of law, criticism of a judicial decision must never be expressed by personally accusing the judge who made the decision. He reaffirmed that magistrates are entitled to freedom of association and pointed out that the positions taken by a trade union organisation could not be used as a basis for calling into question the impartiality of a magistrate on the sole grounds that he or she was a member of that organisation. Lastly, he pointed out that these principles, which contribute to the independence of the judiciary, underpin the rule of law in all areas of the Republic[3].

§ The second, on 24 July 2023, following statements made by senior members of the national police force in connection with a decision to remand a police officer in custody. The Council recalled that by virtue of the principle of separation of powers, a founding principle of the rule of law, the judicial authority alone has the legitimacy to decide whether or not to remand in custody persons brought before it in the context of proceedings that it is responsible for examining and assessing, in strict compliance with the rules of law, which apply to everyone,

without exception. The Council reiterated that the judicial authority must be able to carry out its duties, free from any pressure, in complete independence and impartiality[4].

The current members of the French High Council for the Judiciary intend to follow in the footsteps of their predecessors, who have taken a public stance on eight occasions in defence of the independence of the judiciary.

This acceleration in the number of positions taken can be explained in part by the crisis experienced by all institutions, which has not spared the judiciary. However, it seems to the Conseil that it also reflects a gradual evolution in the appropriation by itself of its constitutional role.

These positions, which must remain exceptional in order to keep their force and institutional character, are all aimed at reinforcing the independence of magistrates in their judicial work and the independence of the judiciary as a whole.

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

[1] [Observation_csm_pjlo.pdf \(conseil-superieur-magistrature.fr\)](#)

[2] [Avis de la formation plénière du Conseil supérieur de la magistrature du 13 décembre 2023 | Conseil Supérieur de la Magistrature \(conseil-superieur-magistrature.fr\)](#)

[3] [Communication du 4 mai 2023 | Conseil Supérieur de la Magistrature \(conseil-superieur-magistrature.fr\)](#)

[4] [Communiqué du 24 juillet 2023 | Conseil Supérieur de la Magistrature \(conseil-superieur-magistrature.fr\)](#)

- **Supreme Judicial Council for Civil and Criminal Justice & Supreme Judicial Council for Administrative Justice of Greece**

Relations of the Council with the other State powers are relatively smooth. No particular challenges.

- **Consiglio Superiore della Magistratura/ High Council for the Judiciary of Italy**

There is full and fruitful institutional cooperation with the other State powers.

- **Consiglio di Presidenza della giustizia amministrativa (CPGA)/ Council of Administrative Justice of Italy**

The relations of the Council with the other State powers are good and stable. There are currently no challenges regarding the independence of the judiciary/judges.

- **Tieslietu padome/Judicial Council of Latvia**

Year 2023 has been an active year of mutual discussions with other state powers regarding the current situation of the judicial power – organisational issues.

- **Teisėjų Taryba/The Judicial Council of Lithuania**

During the period in question, the Chairman of the Supreme Court of Lithuania, the Chairman of the Civil Division of the Supreme Court of Lithuania and one judge to the judicial office in the Supreme Court of Lithuania had been appointed. Thus, the formation of the corps of judges of Supreme Court of Lithuania is basically going more smoothly. In addition, a significant change in the system of appointments of candidates to the judicial office in district courts, regional courts as well as in regional administrative courts should be noted. According to the Article 551, Part 3 of the Law on Courts, the selection of candidates to the judicial office in district courts as well as to the vacant or vacating judicial positions in regional and regional administrative courts is organized continuously, after legally important procedures have been completed beforehand: the candidates to the judicial office are evaluated by the Selection Commission of Candidates to Judicial Office and entered in the General Ranking Lists of courts of the relevant jurisdiction. It should be noted that the implementation of this part of the reform of appointments of candidates to the judicial office is not as fast and effective as expected when adopting changes in legal regulation. Currently, there are 63 vacancies in district courts, 8 vacancies in regional courts and 2 vacancies in regional administrative courts. Meanwhile, decisions are not made regarding some candidates to the judicial office which are on the general lists (there are 34 candidates to the judicial office in district courts and 24 candidates to the judicial office in regional courts).

On 16 September 2022, the General Meeting of Judges, which is the highest institution of the self-governance of courts, took place and the Resolution¹⁴ on the situation in the courts of the Republic of Lithuania was adopted. On 20 March 2023, the Board of the Association of European Administrative Judges (AEAJ) appealed to the responsible authorities of the Republic of Lithuania, urging them to determine the salaries of Lithuanian judges as soon as possible, which would correspond to the status of judges, the requirements for judges, the functions they perform and their responsibilities¹⁵. On 11 May 2023, the Council of Associations of Judges of the Baltic States also expressed concern that insufficient financing of Lithuanian courts poses a real threat to the administration of justice¹⁶. On 25 May 2023, the Executive Board of the European Network of Councils for the Judiciary (ENCJ) made the Statement on financial security in the context of Judicial independence noting that judicial

¹⁴ <https://www.teismai.lt/lt/teismu-savivalda/visuotinis-teiseju-susirinkimas/rezoliucija-del-situacijos-lietuvos-respublikos-teismuose/9715>

¹⁵ <https://lrta.lt/wp-content/uploads/2023/03/AEAJ-kreipimasis.pdf>

¹⁶ <https://lrta.lt/baltijos-valstybiu-teiseju-asociaciju-taryba-lietuvos-teismu-nepakankamas-finansavimas-kelia-realia-gresme-teisingumo-vykymui/>

independence should include protection against interference with the financial security of the court as an institution. Judicial remuneration should be adequate and preclude exposing judges to the risk of inappropriate pressures and corruption¹⁷. On 25 May 2023, the draft amendments to the Law on Civil Services together with the Law on Remuneration of Judges have been approved by Seimas. On 9 June 2023 the amendments to the Law on Civil Services together with the Law on Remuneration of Judges have been signed by the President of the Republic of Lithuania and officially published in the Register of Legal Acts. The provisions regarding the increase of judges' salaries entered into force on 1 July 2023, and the final result is seen positively by the judiciary and correspond to the demands regarding judges' salaries. The provisions regarding the Civil Services Reform, as well as civil servants', including non-judicial court staff's, salaries, should enter into force from 1 January 2024. Although it was expected that the implementation of the Civil Services Reform would lead to an increase in the salaries of court staff, additional funding which would allow to increase the salaries of court staff was not intended to the judicial system. However, the funds saved during the implementation of the district court reform were left for the courts and this should allow for a slight increase in salaries of court staff. On March 2023, there were vacancies for up to 90 judicial assistants and more than 60 court hearing clerks, and this problem still remains relevant as there are almost no candidates for these positions as well as court staff leaves for other institutions due to the low salary. In addition, more than 50 court hearing clerks had been employed as employees under an employment contract, and this does not meet the requirements for the civil services. Such situation indicates, that the courts can no longer ensure the efficient organization of work due to the lack of personnel.

On 1 January 2023, the amendments to the Law on Courts, regarding a new selection procedure of candidates for the judicial office in district, regional and regional administrative courts, entered into force. In accordance with the provisions of the Law on Courts, the selection of candidates for the judicial office in district, regional and regional administrative courts is being organized continuously, and not for a specific court, as it was until 1 January 2023. In terms of the execution of the selection procedures, this means that the order of the selection of candidates for the judicial office in district, regional and regional administrative courts in the Selection Commission of Candidates to Judicial Office is determined by the date of adding them to the list of candidates to the judicial office in district courts or to the register of persons seeking a career as a judge.

The Chancellery of the President of the Republic of Lithuania can announce selections for district courts only after all the candidates on the aforementioned list have been evaluated by the Selection Commission of Candidates to Judicial Office.

It should be noted that the implementation of appointments to judicial positions in district courts is not fast enough. For example, there are candidates to the judicial office who have been entered in the general order lists of district courts for several months, but decisions

¹⁷https://pgwrk-websitemedia.s3.eu-west-1.amazonaws.com/production/pwk-web-encj2017-p/Statement%20EB%20financial%20security%2025%20May%202023.pdf?fbclid=IwAR0a6kd0_Cy8t3q93kGHdO5pPR0yAqvgoKJACyR1T91WHyRvIKPuf9Hles

regarding their appointment are not made in the President's institution¹⁸. Therefore, optimal mechanisms of institutional cooperation are being sought in the implementation of appointments of candidates to judicial positions in district courts.

In order to facilitate a more efficient functioning of the judiciary and courts, on 3 February 2022 the Prime Minister adopted an ordinance No. 25 setting up a working group composed of representatives of the Judicial Council, of the National Courts Administration, of the Office of the President of Lithuania, of the Government's Chancellery, of the Prosecutor's Office, and the Ministry of Justice, which was tasked with drawing up proposals to improve individuals' access to the court and increase public trust in the judiciary, to ensure more equal and effective use of the resources allocated to the courts, distribution of the workload of judges, to create a better preconditions to the specialization of judges, and to facilitate cooperation between courts and other institutions.

The working group initiated the preparation of draft laws implementing judicial reform: the amendments to the judicial map of district courts, to the procedural laws, and other amendments related to this reform of district courts. The final draft laws have been prepared by the Ministry of Justice of the Republic of Lithuania together with the Judicial Council and the National Courts Administration and submitted to the Seimas of Republic of Lithuania. On 29 June 2023 the Seimas of the Republic of Lithuania adopted the laws implementing the reform of district courts (judicial map changes).

Considering the workload and efficiency of the existing district courts and their chambers, adopted laws foresee to consolidate the chambers of some district courts and to reduce their number (there will be 11 district courts and 24 court chambers instead of the current 12 district courts and 48 courts chambers), as well as to change the activity territories of some district courts.

When analyzing the possibilities to optimize the district courts, the following main criteria were taken into account:

- a) geographical location of the court and population of residents;
- b) the number of cases and workload;
- c) composition and human resources of the court;
- d) court infrastructure and its maintenance;
- e) additional consideration was also given to the possibility of organizing remote court hearings; composition of the court, possibilities of specialization of judges, etc.

The reform processes. According to the amendments to the Law of the Establishment of District Courts of the Republic of Lithuania and the Determination of the Territories of their Activities (hereafter – the Law of the Establishment of District Courts)¹⁹, the reform is divided into two stages. At the first stage, as of 1 January 2024, five court chambers (in five district courts) which have uneconomical court buildings and workload too low will be abolished. The

¹⁸ <https://www.teismai.lt/lt/teismams/teiseju-atranka/bendrasis-apylinkes-teismo-eiliskumo-sarasas/11042>

¹⁹ <https://www.e-tar.lt/portal/lt/legalAct/53b4b4701fb411eeb233e8b04dc9bb3d>

redundant court buildings and other real estate will be transferred to the state company that centrally manages state real estate for administrative purposes. After the court chambers are closed, the availability of court services will be ensured for residents. According to the need, the outgoing court hearings will be organized, if needed, the contracts will be made with the local self-government institutions for the provision of premises to ensure certain court functions, etc.

In accordance with the principle of irremovability of judges, the Article 3 of the Law of the Establishment of District Courts foresees that any changes to the structure of the court (the abolishment of the court chambers as territorial divisions) do not affect the exercise of the powers of the judges appointed to that court until 31 December 2023.

The judges, appointed until 31 December 2023 to the district courts which structure is being changed, after the entry into force of this law continue to work in the relevant district court, and are considered to be appointed to that district court or those court chambers in the territory of which the court chambers to which they were appointed operated. The personnel of the court chambers will be offered to move to another court chambers in accordance with the procedure established by the legal acts, after the abolition of such positions as heads of the court chambers stationery office and personnel performing maintenance of the courthouses.

At the second stage of reform, as of 1 July 2024, the following actions are foreseen:

(1) the abolishment of district court of Plungė by the procedure of reorganization, dividing its rights and obligations as a legal entity between two other district courts of the same region. For a few years this court has been having one of the lowest workloads and the smallest number of judges compared to other district courts. Thus, one of its court chambers will be abolished as of 1 January 2024 and the final reorganization will be concluded on 1 July 2024. The procedure of the court reorganization was initiated by the Resolution No. XIV-2135 of the Seimas of the Republic of Lithuania of 29 June 2023²⁰. According to the Article 13, paragraph 1 of the Law on Courts of the Republic of Lithuania, courts are reorganized by law. After the courts participating in the reorganization have fulfilled the obligations provided for in the laws regarding preparation for the reorganization process, the final decision on the implementation of the reorganization of the district court of Plungė is taken by the Seimas of the Republic of Lithuania. Currently, the National Courts Administration has submitted to the Seimas information on the obligations fulfilled in the laws regarding the publication of the description of reorganization conditions and the notification of creditors. It is planned to renew and continue deliberations on the law on the reorganization of the district court of Plungė and other legal acts related to the reorganization in the Seimas.

(2) taking into account the workload, operational efficiency and other evaluated criteria of the existing district courts and their chambers, from 1 July 2024 it is planned to enlarge the chambers of district courts, by abandoning part of the chambers, as well as by changing the

²⁰ <https://www.e-tar.lt/portal/lt/legalAct/3ad717101a4e11eeb233e8b04dc9bb3d>

areas of activity of some district courts. It should be noted that according to the amendments to the Law of the Establishment of District Courts, the areas of operation of the district court chambers will be combined, but in most cases the buildings of the former court chambers will remain, court hearings will be held in them, and the availability of court services to the residents will be ensured. This process will be carried out in accordance with the principle that the distance from the central court chambers to the other court chambers of the same court should be about 60 kilometres. Such a distance is emphasized in the international recommendations on the mapping of the judicial system, as ensuring the right to a court in the territorial aspect of accessibility for people. At the same time, an additional possibility has been established if one of the parties to the case demands to use court video conferencing in the premises of the district court or the court chambers where the party would have to come if the case were to be heard live according to the procedure of oral proceedings.

After combining the territories of the district court chambers, maintaining the infrastructure of the former court chambers (court buildings), there may be a need for the judges of the same district court chambers to go to hear cases from one court chambers premises to the other premises in the territory of that district court. So, the Seimas of the Republic of Lithuania adopted the amendments to the Law on Courts²¹, establishing that if there are several premises of the court or court chambers to which the judge or judges hearing the case is appointed, the travel expenses of the judge are reimbursed in accordance with the procedure established by the Government of the Republic of Lithuania, when the case is heard in the premises of the same court or the same court chambers located in another residential area.

In addition, in order for judges to clearly know in which specific premises their workplace can be located, the Law on Courts was supplemented with the provision that if there are several premises of a court or court chambers, the President of the Republic, when appointing a judge of a district court, indicates the residential areas where the court or court chambers premises are located and where the judge will work.

The regulatory changes should enter into force on 1 July 2024. The Government of the Republic of Lithuania is obliged to adopt legal acts implementing the adopted amendments to the Law on Courts by 30 June 2024, such as the rules on reimbursement of travel expenses.

In order to make court proceedings more efficient, along with the changes to the court map, the amendments to the Code of Civil Procedure of the Republic of Lithuania were made. The amendments will allow the majority of cases heard in district courts according to the written procedure (additionally about 30,000 civil cases, which would make up about 21 percent of all received civil cases number), automatically distribute to all district courts, after assessing the workload of the courts. The possibilities of adapting the Lithuanian courts information system for such an automated distribution of cases among all district courts are currently being analysed.

²¹ <https://www.e-tar.lt/portal/lt/legalAct/d42b0eb01fb411eeb233e8b04dc9bb3d>

The amendments also established that if a case heard in district court according to the written procedure is decided to be heard according to the procedure of oral proceedings such a case shall be heard by using information and electronic communication technologies.

If at least one party makes a motivated request to hear the case with a direct participation in the court hearing, without the use of information and electronic communication technologies, and the court recognizes this request as reasonable, or the court on its own initiative recognizes that it is necessary to hear the case with the direct participation in the court hearing, without the use of information and electronic communication technologies, the court hearing takes place in the district court or in the court chambers that has/have a jurisdiction over the case.

The participants of the proceedings are also given the opportunity to use the court's information and electronic communication technologies in the premises of the district court or the court chambers where the case is being heard.

After the reform it is expected that people will be guaranteed justice of the same quality and speed both in big cities and regions. The existing infrastructure of the courts will not fundamentally change (only 5 uneconomical buildings will be abandoned), while the quality of the administration of justice will improve, as judges will be able to specialize, and the distribution of cases heard according to the written procedure throughout Lithuania will ensure that the cases will be heard more quickly. After optimizing court resources, the saved funds will be used to promote court staff and develop innovations on courts.

After assessing the decreasing trends of cases, taking into account the demographic trends of the population in the regions, during the optimization of the courts network in several stages it is expected to reduce the number of district court judges by 10% (48 judges) starting in 2024 and ending in 2026.

It is planned to reduce the judges' teams (the number of judicial assistant and clerks of court hearings) by a similar number, but this would not be a dismissal of court staff, but a reduction in the number of vacant positions. Such savings would reduce the current deficit of funds and allow for the efficient redistribution of court funds to finance existing court staff positions. It is foreseen that all the saved funding must remain for the court system, because the salaries of those working in the courts are extremely low, so the saved funds would help cover the currently unfunded needs of the courts and improve working conditions.

As it mentioned above, this change is expected to be implemented gradually, starting in 2024 and ending in 2026. In the first phase, as foreseen, 10 judges' vacancies will be abolished from 1 January 2024, i. e. per one vacancy in each district court (except two districts courts in which there are no judges' vacancies on the date indicated). The Judicial Council has initiated the procedure laid down in the Law on Courts for advising the President of the Republic of Lithuania to reduce the number of judges by 10 judges' vacancies. Further reductions will be

discussed within the judicial community, taking into account the workload of courts after the implementation of the reform.

The National Audit Office of Lithuania in the 2020 State audit report “The Judicial System” had made a recommendation to establish indicative workload norms for judges or other criteria that would allow objectively assess the need of judges in the courts. Considering this, on 24 November 2023 the Judicial Council approved a methodology for determining the optimal workload of the district court (judge), which aims to define the workload of a district court (judge) with cases, assessing the need for human resources to implement the functions assigned to the judicial system as well as planning and making decisions on determining the optimal number of district court judges, ensuring the uniformity of the workload in district courts. In order to test how the methodology will work, 3 pilot courts where the methodology will be applied from 2023 have been selected, and the methodology will be applied from 1 December 2023. The methodology will be applied in all district courts from 1 July 2024. The methodology has been approved only for district courts, and other courts will be taken into consideration in the future.

The reform of district courts will also affect the activities of regional courts, including their workloads. There is a trend that has persisted for several years regarding unequal workloads among regional courts. The President of the Court of Appeal of Lithuania periodically decides on the possibility of transferring cases from one regional court to another. In this way, the aim is to reduce the differences in the workload of judges in certain regional courts, to equalize the indicators of the number of cases being heard, and to ensure a more operative hearing of cases. On the other hand, the aim is that judges working in courts of different regions would have the opportunity to hear the most diverse, including in terms of complexity, cases. These circumstances led to the discussions on the revision of the number of judges in the regional courts, and at the same time to assess whether the decision to reduce the number of judges in the regional courts would keep the work in all regional courts efficient, or whether the administrative costs would be justified. Thus, on 27 October 2023 the Judicial Council adopted the resolution setting up the working group, tasked with drawing up proposals on the possibilities of reforming the network of courts of appeal (Lithuanian Court of Appeal and Regional Courts).

During 2023, preparations for the reform of district administrative courts took place. The plan for the reorganization of the regional administrative courts was prepared and implemented, according to which the procedures for reorganization of the Regional Administrative Court were carried out by merging it with the Vilnius Regional Administrative Court. After the reorganization, as of 1 January 2024, administrative cases will be heard at first instance by a single court – the Regional Administrative Court, consisting of five court chambers, which will operate throughout the territory of the Republic of Lithuania. According to the provisions of the Law on the Reorganization of Administrative Courts, the reorganization will not affect the

exercise of the powers of judges appointed until 31 December 2023, due to the reorganization, the workplace of the judges will not change.

The remuneration of judges and the procedure of its calculation are determined by the Law on Remuneration of Judges of the Republic of Lithuania.

The Judicial Council during the past few years has repeatedly addressed the legislative and executive authorities of the Republic of Lithuania on the remuneration of judges, stressing the need for the State to have a systematic approach to the remuneration of state authorities, officials, and law enforcement bodies.

On 25 May 2023, as the Government implements the wage reform of the entire State's public sector, the draft amendments to the Law on Remuneration of Judges²² have been approved by Seimas. The provisions regarding the increase of judges' salaries entered into force on 1 July 2023. Additional allocations were allocated to the courts to implement the law.

It should be noted that the Law on Remuneration of Judges, which sets the coefficients for salaries of judges, was adopted in 2008. The coefficients for salaries of judges had not been increased since 2008, except the judges of district courts.

During the period of 2008-2022, on 1 January 2019, only the coefficients for salaries of judges of district courts had been increased. So, the coefficients for salaries of judges of other courts have not been increased for 14 years.

In the revised Law on Remuneration of Judges it was taken into account the need to have a systematic approach for the State to the remuneration of state authorities, officials, and law enforcement bodies as repeatedly declared by the Judicial Council as well as the need to respect the constitutional principle of the division of state powers.

The coefficients for salaries of the Speaker of the Seimas, the Prime Minister, the President of the Constitutional Court and the President of the Supreme Court of Lithuania were unified, and the salary system of the other officials was laid down accordingly to these values.

In order to implement the Civil reform, the remuneration system of state politicians, state officials, judges of the Constitutional Court of the Republic of Lithuania, judges of general competence and specialized courts, civil servants (except for statutory civil servants) has been reformed. Regarding the judiciary, on 25 May 2023 the amendments to the Law on Remuneration of Judges²³ were adopted, increasing the salaries of the judges (at all levels), presidents of the courts, vice-presidents, presidents of the court's sections. The amendment entered into force 1 July 2023.

²² <https://www.e-tar.lt/portal/legalAct.html?documentId=1001fbf006ca11ee9978886e85107ab2>

²³ <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.330569/asr>

It should be noted that the salaries of judges and court staff were low and insufficient (e.g. compared with other state officials, public servants), thereby reforming their remuneration system was the crucial topic for the judiciary in 2023. The salaries of judges of the Constitutional Court and judges of general competence and specialized courts are calculated by multiplying the salary coefficient established in the Annex to the Law on Judges Remuneration by the state politicians, judges, state officials, civil servants, employees of state and municipal budget institutions of the Republic of Lithuania official salary (remuneration) base amount. The new law linked the base amount to the national average wage, resulting almost doubled salaries for the judges. This new system is expected to be less politicized and responsive to economic changes, helping to avoid a gap between judges' salaries and the labour market. The base amount will be reviewed every three years, taking into account the trends in wage changes in the labour market and the country's economic situation. Due to the recent increase in inflation, it is proposed to revise the base amount for the first time in 2024.

The amendments to the Law on Remuneration of Judges mentioned above also provide that the remuneration of judges of general competence and specialized courts consists of the official salary and payment for work and duty on rest days and holidays and substitution. Therefore, on 27 October 2023 the Judicial Council adopted the amendments to the Description of the procedure for the payment for work and on-call time on rest periods and public holidays²⁴ and substitution, granting and payment of bonuses for the increased workload to judges of ordinary and specialised courts. In response to these amendments, the previously valid provisions related to the judges' bonuses for increased workload, as well as the supplement for service to the Republic of Lithuania have been repealed.

As it was already mentioned, the salaries of civil servants working in the courts, such as judicial assistants and court hearing clerks are really very low, and this situation makes it difficult for the courts to find competent personnel.

The Constitutional Court, when examining the relationship between the unity of the civil service system and its differentiated regulation, has stated that the establishment of a hierarchy of civil servants' posts or any other classification, categorisation, or the like must be uniform and based on the same criteria; it is not permissible for individual State institutions or individual branches of State power to establish for themselves a separate system of categories (classification) of civil servants' posts, which would not be based on the criteria established by law and common for the entire civil service. The establishment of such a unified system must respect the principle of the separation of powers, which implies, *inter alia*, that all the powers of the State – legislative, executive, and judicial – are equal in status.

²⁴ <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/1fd6c630832d11ee9ee3e4a7f62b7a26?positionInSearchResults=0&searchModelUUID=04a4760d-1075-438a-94dc-d6fbb12c9f28>

At present, the salaries of experienced and competent civil servants and contract staff working in the judiciary are well below the national average, as the judiciary is not provided with the necessary funding. Even the salary coefficients of long-serving civil servants, most of whom are judicial assistants and court hearing clerks, are in most cases below the average of the minimum and maximum coefficients for that post as laid down in the Law on the Civil Service.

Furthermore, there are almost no candidates for these positions as well as competitions do not take place, because there are no candidates who would like to participate in them, or candidates who have registered do not come to the competition or do not collect the minimum number of points. Therefore, courts cannot find competent, and sometimes any staff, while offering the current salary, and such a situation has a direct negative impact on the quality and duration of the proceedings and the service of individuals in the courts.

In 2023, preparing the State budget for 2024, additional allocations have been allocated to the courts for 2024 in order to increase the official salary coefficients of judicial assistants, court hearing clerks and psychologists. However, while having such low salaries, it is obvious that one additional allocation of funds does not solve the problem of long-term salary backlog.

- **Raad voor de Rechtspraak/The Netherlands Council for the Judiciary**

The Council represents the interests of the courts in the political arena and in (national) administration and government, notably the Minister of Security and Justice. The Council is the coordinating administrative body for the Judiciary. While the Council for the Judiciary forms part of the Judiciary, it does not administer justice itself.

The Council does not fall under the responsibility of the Minister of Justice or any other government body. This special position can be derived from the principle that the Judiciary must be impartial and independent, which applies both to the Council and to the Judiciary as a whole. The special status of the Council is enshrined in the Judicial Organisation Act.

The Netherlands is a high-trust society, which means that actions are often taken based on unwritten constitutional law. The systemically responsible Minister is involved in appointment procedures, but - on the basis of unwritten agreements - the Minister has never intervened in practice. As a rule, the Minister will accept a candidate proposed by the Council. This is a sign of a high-trust society. In many cases, the independence of the judiciary is more strongly safeguarded by this culture than by acts of parliament or procedures.

In a letter to the Commission of State on the Rule of Law, the Council for the Judiciary has made a number of recommendations to strengthen the rule of law.²⁵ One of the recommendations is to safeguard the independence of the Judiciary (and thus the balance

²⁵ [Brief Raad voor de rechtspraak \(Rvdr\) aan de Staatscommissie rechtsstaat | Brief | Staatscommissie rechtsstaat](#)

within the Trias), by changing the appointment procedure to the judiciary to mostly administrative act by Royal Degree.

Another recommendation relates to the budget of the judiciary, which depend on the budget of the Minister of Justice and Security. At present, the Judiciary has to compete with other policy goals of the ministry and therefore funding the judiciary becomes a political choice. The judiciary is a core function of the state and needs an appropriate independent funding.

Also, the judiciary has long called for continued dialogue between the legislative, executive, and judiciary. There is not yet a permanent dialogue structure within which state powers can engage in proper dialogue concerning the functioning of the rule of law and the balance of powers with each other. Such a structure, for consultation between the state powers, may greatly enhances the functioning of the rule of law.

One of the challenges the judiciary is noticing is that more politically sensitive issues (for example relating to climate or asylum policies) coming into the courtroom. This development demands more and more of the judiciary, whereas such issues should be settled in the political arena in the first place. For good balance of state powers it is important that each takes its role.

Recently, the government had a new proposal to carry out sentences differently than imposed by the judiciary due to staff shortages in the prison system. To the opinion of the Council for the Judiciary the proposal undermines the authority of the judiciary. There is also a threat of legal inequality if the plans go ahead.

- **Conselho Superior da Magistratura/CSM Portugal**

In 2002, the Judicial High Council maintained a very high level of institutional cooperation, cooperating with the Government and Parliament whenever requested to do so, in particular by issuing opinions on legal diplomas relating to the organisation of the judiciary and on matters concerning the administration of justice.

However, a number of important aspects need to be improved, most of which are the same as those identified in the last report and depend on government action:

- The approval of the revision proposal submitted by the Judicial High Council to the Ministry of Justice for the revision of Law no. 36/2007, of 14 August, which approves the organization and functioning regime of the Judicial High Council. Law No. 36/2007 is out of touch with reality in view of the changes made to the composition, functioning and powers of the Judicial High Council as the administrative body of the courts. It has become imperative to realign the organisation and functioning of the Judicial High Council with Law No. 67/2019 of 27 August, which approved the amendments to the Statute of Judicial Magistrates, with effect from 1 January 2020. After an interregnum due to the dissolution of Parliament on 5 December 2022, with a new government taking office on 30 March 2023, there have been no further developments, despite contacts made by the Judicial High Council.

- The financing system of the courts and of the Judicial High Council, in particular the process of allocating budgetary credits, the amounts of which have systematically proved to be lower than the needs, which ultimately determines the activity of the Courts and the Council.

- The number of judicial officers in the courts is extremely low in relation to the volume of work, and this is compounded by the fact that the average age of judicial officers is over 50. Government initiatives to address this problem have proved insufficient. A competition was launched in 2023 to recruit 200 new judicial officers, but this is still not enough to address the existing shortage of court staff, with a national deficit of around 1,000 officers.

- The revision of the statute of judicial officers presented in 2023 also gives cause for concern. The draft dissolves the career of judicial officers, removes them from the autonomous management structure of the courts, makes them indistinct in their assistance to judges or the Public Prosecutor's Office, bureaucratises them into functional blind spots, removes them from the configuration of the exercise of public authority, modifies the evaluation system by removing it from the common system in the public judicial professions and removes the Council from the corresponding evaluation, against the constitutional command recognised by the Constitutional Court two decades ago. The project also weakens an advisory structure for judges managed autonomously by the Judicial High Council and the presidents of the courts, a structure provided for in the law on the organisation of the judicial system, and creates a redundant advisory body, not wanted by the courts, dependent on the Government of the Republic, in clear violation of the separation of powers, in its organisational dimension.

Without judicial officers with the technical capacity and the culture of service that our judicial officers have, integrated in offices that are properly organised from a functional point of view and with the correct chains of command, it is not possible to build quality.

-Difficulties relating to equipment, where, for example, the delay in the preparation and installation in the courts of Internet network structures compatible with the mass use of electronic transmissions is still a cause for concern.

- The deterioration of a large part of the judicial buildings, which requires urgent intervention. In 2023, the Government of the Republic announced a programme for the construction and rehabilitation of the courts. It doesn't address all the problems outlined in the survey that the Council finalised last June in a detailed report drawn up with the presidents of the courts, but the Council welcomes the initiative and will follow with concern the outlines of its implementation and the execution capacity that will be allocated, which is necessarily demanding and complex.

- The ownership and control of the digital platform for the electronic management and processing of judicial proceedings also needs to be addressed. This platform (which contains all procedural data of the courts) remains under the exclusive ownership and control of the Ministry of Justice, a situation which is contrary to the principles of separation of powers and independence of the judiciary.

- **Superior Council of Magistracy of Romania**

During 2023, as well, the Superior Council of Magistracy was actively involved in matters concerning the judicial authority, in accordance with the regulations on the judiciary and in direct cooperation with the other powers envisaged by the rule of law.

There should be mentioned that, during this year, the negotiations of the representatives of the judicial system, including representatives of the SCM, with representatives of the other state powers, did not benefit of/received, all the time, an answer according to the principle of loyal cooperation among the state authorities. At the same time, whenever the public discourse of certain political vectors has been such as to affect the independence, dignity or professionalism of a magistrate or to affect the judicial system as a whole, the Council has reacted by taking firm public positions/stands²⁶.

The relations of the Superior Council of Magistracy with the Romanian Parliament resulted mainly in the approval of the legislative proposals under parliamentary debate and in expressing views on a series of legislative proposals, both by the Plenum and through the specialised commissions.

It is also worth mentioning the participation of Council representatives in the meetings of the specialised committees of the two chambers of the Parliament where normative acts concerning the judicial system were discussed, as well as in meetings within the Parliament where issues related to it were discussed.

In this respect, it is necessary to mention the participation of the representatives of the Superior Council of Magistracy at the meeting of 16 October 2023 of the Labour and Social Protection Committee of the Chamber of Deputies, in which the Law amending and supplementing certain legislative acts in the field of service pensions and Law No 227/2015 on the Fiscal Code were discussed.

As regards the relations of the Superior Council of Magistracy with the executive power, the collaboration with the Ministry of Justice from the perspective of the legislative process is highlighted, in which the Council exercised its powers regarding the approval of the normative

²⁶ <https://www.csm1909.ro/PageDetails.aspx?FolderId=10789>

<https://www.csm1909.ro/PageDetails.aspx?FolderId=10786>

<https://www.csm1909.ro/PageDetails.aspx?FolderId=10751>

<https://www.csm1909.ro/PageDetails.aspx?FolderId=10549>

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<https://www.csm1909.ro/PageDetails.aspx?FolderId=10398>

<https://www.csm1909.ro/PageDetails.aspx?FolderId=10293>

[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10877&FolderTitle=COMUNICAT%20DE%20PRES%C4%82-\(2023-11-28\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10877&FolderTitle=COMUNICAT%20DE%20PRES%C4%82-(2023-11-28))

[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10886&FolderTitle=Comunicat%20de%20pres%C4%83%20%20referitor%20la%20%C3%AEnc%C4%83Icare%20independen%C8%9Bei%20judec%C4%83torilor%20din%20cadrul%20Tribunalului%20Bra%C8%99ov%20%C3%AEn%20raport%20cu%20afirma%C8%9Biile%20unor%20membri%20CNCS-\(2023-12-06\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10886&FolderTitle=Comunicat%20de%20pres%C4%83%20%20referitor%20la%20%C3%AEnc%C4%83Icare%20independen%C8%9Bei%20judec%C4%83torilor%20din%20cadrul%20Tribunalului%20Bra%C8%99ov%20%C3%AEn%20raport%20cu%20afirma%C8%9Biile%20unor%20membri%20CNCS-(2023-12-06))

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acts concerning the activity of the judicial authority, provided for in Article 39(3) of Law No 305/2022 on the Superior Council of Magistracy.

Another important component of these reports is the referrals sent to the Ministry of Justice through the Plenum or its specialised commissions, in the context of the cooperation between these institutions and the need to ensure the proper functioning of the judicial authority. Also, at the request of the Ministry of Justice, the specialised commission of the Superior Council of Magistracy submitted a number of points of view regarding the adoption, amendment or completion of certain normative acts.

Also from the perspective of collaboration with the executive power, the Superior Council of Magistracy also expressed views at the request of other ministries or other public authorities. Last but not least, the participation of Council representatives in the work of the various inter-institutional working groups set up at the level of the Superior Council of Magistracy, the Ministry of Justice or, where appropriate, at the level of other institutions, on issues relating to the judiciary should be mentioned. Also, representatives of the Superior Council of Magistracy participated in several working meetings organised by the Ministry of Justice.

As regards the relationship of the Superior Council of Magistracy with the President of Romania, this is regulated under Article 134 of the Romanian Constitution, republished, Law No 305/2022 on the Superior Council of Magistracy and Law No 303/2022 on the status of judges and prosecutors. Thus, the decisions of the Sections of the Superior Council of Magistracy on the proposals for appointment and release to/from the positions of judge and prosecutor were submitted to the President of Romania.

As previously pointed out, it is also worth mentioning in this context some relevant aspects of the project “TAEJ-Transparency, Accessibility and Legal Education by improving public communication in the judicial system” (SIPOCA code 454/code MySMIS 118765), financed under the Operational Programme Administrative Capacity, which was implemented by the Superior Council of Magistracy in partnership with the National Institute of Magistracy, the National School of Clerks, the Ministry of Justice, the Judicial Inspection and the Prosecutor’s Office attached to the High Court of Cassation and Justice. The overall objective was to improve an unified approach to public communication within the judiciary in order to strengthen its image, to ensure greater transparency within and outside the system, as well as to improve access to justice by raising awareness of citizens’ rights and developing legal culture.

Thus, with reference to the outcome proposed in the Project, on the transparency and clarification of the relationship of the judiciary with the executive and legislative powers, it should be noted that during the reference period the final version of the Good Practices Guideline on the relationship of the Superior Council of Magistracy with the legislative power was agreed at the level of both parties and updated with the changes resulting from the amendment of the justice laws at the end of 2022, being assumed bilaterally at the level of the Superior Council of Magistracy (by Decision No 46/2023 of the Superior Council of Magistracy) and at the level of the Romanian Parliament (in the meeting of the Permanent Bureau of the Romanian Senate on 20 March 2023), and, as regards the Guideline of Good Practice on the Judicial System’s relationship with the executive power, an agreement partnership was adopted for ensuring a functional framework for the communication between the executive power and the judicial system by approving/agreeing on the Guideline on good practices on the relationship of the judicial system and the Executive. After agreeing

the final form and integrating the observations of the other power, the Guideline was approved, by Memorandum, in the Government meeting of 17 May 2023, as well as by the decision of the CSM Plenum no. 89/18.05.2023; the guidelines are available on the page dedicated to the project <https://sites.google.com/csm.csm1909.ro/poca/rezultate>. Last but not least, paper copies of both deliverables were distributed to the target audience during June and published on the website of the Superior Council of Magistracy.

Moreover, in June 2023, the Superior Council of Magistracy received the ENCJ Award for positive change, at the General Assembly of the European Network of Councils for the Judiciary. On this occasion, the TAEJ project ranked first in the Positive Change 2023 competition, an initiative aimed at awarding the most innovative projects and/or best practices implemented at the level of the justice systems in the Member States of the Network, which generated a change.

As regards possible challenges to judicial independence, it should be noted that in 2023 there was no request/referral to defend the independence of the judicial authority as a whole, and no specific case had been referred to the Council on the existence of an impact on the independence of the judicial system; The Council ruled, through its Sections, only on referrals to defend judges' professional reputation (by admitting one such request and rejecting four other applications for defending the reputation of judges) and prosecutors' reputation (by admitting one such request and rejecting another request to defend the reputation of a prosecutor) and on referrals concerning defending the independence of the judiciary (3 such referrals/requests were admitted) and on defending the independence and impartiality of the prosecutors of the Public Ministry (2 such referrals were admitted).

- **Sodni Svet/Judicial Council of Slovenia**

As already mentioned in 2022 Questionnaire, systemic incomparability in salaries of judges to those of officeholders in the other two branches of power, and within the public sector, continues to be the most pressing issue related to judicial independence.

The salary situation of judges has been the subject of public debate for several years. In January 2023, the President of the Government publicly promised a € 600 supplement to the salaries of judges and public prosecutors, but the bill that would have made this a reality was withdrawn. A faculty of law opinion was issued on the constitutionality of such a salary increase for judges, but the Government did not proceed with the bill. In parallel with these developments the Government adopted the starting points for a systemic reform of public sector salaries. The Judicial Council has consistently insisted that regarding the judges, the unconstitutionality of the salary situation should first be eliminated, and that this should not be part of the negotiations on a new salary system in the public sector.

Already in 2021, the Judicial Council filed a request for a review of the constitutionality of the regulation governing judicial salaries in the Public Sector Salary System Act. By decision of June 1, 2023, the Constitutional Court found the provisions on judges' remuneration and on the readjustment of the amount of judges' salaries to be inconsistent with the constitutional

requirements of the stability of judges' salaries and the principle of separation of powers. One of the findings of the Constitutional Court was that judges' salaries had significantly lost their real value over the past ten years. The Constitutional Court issued a declaratory decision and set a six-month deadline for the legislative body to remedy the unconstitutionality found, considering that the legislator and the Government have been aware of the issue for a long time.

By July 2023, an agreement on the regulation of the salaries of the officials of the Constitutional Court of the Republic of Slovenia, the judiciary and prosecutors had been reached. However, as in August 2023, Slovenia was hit by severe floods, which caused enormous damage, the legislative initiative to reform the salary system for judges (and the public sector) was halted. Since then, the Ministry of Justice has made several attempts to resolve the situation, at least temporarily and at least partially, but there was no needed support in the governing coalition.

The deadline for complying with the Constitutional Court's decision expired on January 3, 2024. Prior to that the president of Slovenian Government Mr. Robert Golob stated that the judge's salaries will be regulated by the new law on wages in the public sector, the content of which has not yet been determined, nor is it clear if and when it will be submitted to the parliamentary procedure. The Judicial Council of the Republic of Slovenia stated on several occasions that the negotiations regarding the new law on wages in public sector are not directly related to the implementation of the decision of Constitutional Court regarding judge's salaries. Moreover, it considers that nonimplementation of the decision of the Constitutional Court not only as a significant interference with the independence of the judiciary but also as a serious breach of the principles of the rule of law and separation of powers as the foundations of the constitutional system of the Republic of Slovenia as well as European Law. The issue has been brought to the attention of the European institutions.

On January 4, 2024, the Slovenian Judges' Association issued a statement of protest, meanwhile the judges protested by suspending individual hearings and sessions for one hour. The judges were joined by the prosecutors in suspending their work for one hour. The same day, the state secretary of the Ministry of Justice resigned due to the non-compliance with the Constitutional Decision. Announcements of further tightening the measures in case the decision of Constitutional Court will not be implemented, are expected.²⁷

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The procedure for amending the Constitution, which was mentioned in point 1 of this Questionnaire, also opened the possibility of amending Article 129 of the Constitution, which provides for the permanence of the judicial office. In the same proposal with which the members of the Parliament proposed a change in the power for appointing judges, it has been proposed that a judge be appointed to a permanent mandate only after three years of judicial service. The stated reason behind this change is to ensure, within a limited timeframe, that

²⁷ The revision of the text was completed on January 5, 2024, at 12:00.

judges will be able to judge professionally, independently, and successfully, and that the Judicial Council should verify a judge's competence before appointing him/her to a permanent term of office. As a result of the introduction 1 The revision of the text was completed on January 5, 2024, at 12:00. of time-limited judicial service for novice judges, the proponents consider that it is no longer necessary for the Constitution to set an age limit for the election of a judge. The Expert Group, formed by the Constitutional Commission, that has discussed the proposed amendments to the Constitution, is opposed to the introduction of such a probationary period for newly appointed judges. However, it advocates a complete overhaul of the existing system of training for judicial service, through practical training for candidates for permanent judicial office. The Expert Group is of opinion that there are serious shortcomings of the current career system for judges in the Republic of Slovenia in that there is no systematic practical training of candidates for judicial office and verification of their qualifications. The Judicial Council has expressed its opposition to the proposed change of the Constitution on several occasions, as the permanence of judicial office is an essential prerequisite for judicial independence.

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The proposal to initiate the procedure for amending the Constitution, already mentioned under point 1 of this Questionnaire, proposes an amendment to Article 132 of the Constitution (Termination of and Dismissal from Judicial Office). The proposal introduces a mandatory dismissal of a judge who, in the exercise of his or her functions, violates the Constitution or seriously infringes the law. The President of the Republic would have the power to dismiss a judge on a proposal from the Judicial Council. The proposed amendment does not set out an objective criterion as to when judicial misconduct is of such gravity as to justify the mandatory dismissal of a judge. However, the legislator could consider that the dismissal should be mandatory regardless of the gravity of the judge's conduct, which, in the opinion of the Expert Group, does not comply with international standards. Under the current legal regime, the Judicial Council has the discretion to assess whether a judge is personally unfit because of the nature of the offence. The Expert Group and the Judicial Council are therefore both in favour of keeping the text of this part of the challenged Article of the Constitution unchanged.

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There is one request for a review of the constitutionality of laws affecting the status of judges, submitted by the Judicial Council, that has not yet been resolved. It relates to Article 71 of the Courts Act which regulates the manner, procedure, and conditions for the assignment of judges to specific areas or sub-areas of law by means of an annual work schedule adopted by the President of the Court. The request for a review of the constitutionality of the Public Sector Salary System Act, by which the Judicial Council claimed that a provision on a deferred effect of the acquisition of the right to a higher salary based on promotion, was unconstitutional, was rejected on procedural grounds, by a June 8, 2023, Constitutional Court's decision.

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In the area of supervision of the court administration, certain issues were raised regarding the overstepping of the powers of the Service for the supervision of court administration. The supervision service was established within the Ministry of Justice, and following the Courts Act it has the power to supervise court administration, particularly about the organisation of court administration, to supervise compliance with the required quality of work of courts in dealing with court administration matters, to supervise the charging and payment of fees, and to supervise the implementation of the Rules of Court. When considering the annual report of the supervision service, the Judicial Council found that the service had exceeded its powers on several occasions by stepping into the powers of the Minister for Justice and has violated procedural rules. The Judicial Council informed both the Ministry of Justice and the public about its findings.

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As already commented upon in the 2023 Rule of Law report, only some progress has been made since January 2021, when the Parliamentary Inquiries Act and the Rules of Procedure on Parliamentary Inquiry were declared to be incompatible with the principle of judicial independence. The Judicial Council has not yet been informed of any legislative action to remedy the unconstitutionality identified.

- 3. If there were any challenges concerning the Council for the Judiciary (its functioning/independence etc) identified or recommendations made in the 2023 Rule of Law report, have these been addressed by the other State Powers or by the Council?**

- **Supreme Judicial Council of Bulgaria**

The Supreme Judicial Council has already received a request for information from the Ministry of Justice and has presented its input on the actions taken, the progress made and the development of the topics covered by the relevant country chapters of the European Commission Rule of Law Report, as well as on other significant changes that occurred after January 2023.

- **State Judicial Council of Republic of Croatia**

During the implementation of the warning measures, all measures were taken to protect the interests of the parties in court proceedings.

In relation to the salaries of judicial officials, the Law on Amendments to the Law on Salaries of Judges and Other Judicial Officials entered into force on July 1, 2023. These Amendments prescribe an increase in the base for calculating the salaries of all judicial officials by 13,004% and an increase in the coefficient for calculating the salaries of judicial officials in first-instance judicial bodies from 3,54 to 4,21. This Law was agreed with representatives of judicial officials as the first phase and the initial step in improving the financial position of judicial officials. Regardless of this Law, the established working group, comprised of judges and deputy state attorneys from all levels of judicial bodies, held a meeting on November 3, 2023 and continues to work on finding an adequate solution for the comprehensive regulation of the salary system of judges and deputy state attorneys, which includes the indexation of the base for salary calculation and the introduction of salary grades for judicial officials in first- instance judicial bodies, as well as other material rights of judicial officials.

- **Domstolsstyrelsen/ Court Administration of Denmark**

Updates on the recommendations in the 2023 Rule of Law report:

- Ensure adequate human and financial resources for the justice system in the next multiannual framework, building on the increases in 2023, taking into account European standards on resources for the justice system.

The Danish Parliament has agreed on a new multi-year agreement for increasing financial resources to the courts in 2024-2027 with approximately DKK 2.3 billion over the period. The added funds will support an effort to reduce case processing time by adding more human resources to the courts, modernize and increase the capacity of courtrooms, and further digital developments in the judiciary.

- Introduce rules on ‘revolving doors’ for ministers and on lobbying and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions.

The recommendation does not concern the Court Administration authority. However, no new rules regarding lobbying and “revolving doors” for ministers or members of Parliament have been introduced in 2023.

- Ensure the collection of data on investigations and prosecutions of corruption-related offences at national and local level.

The recommendation does not concern the Court Administration authority.

- Advance with the process to reform the Access to Public Administrative Documents Act in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents.

No changes have been made to the Access to Public Administrative Documents Act since 2020 nor to the Administration of Justice Act that regulates public access to court documents.

- **Conseil Supérieur de la Magistrature France**

The Council has no jurisdictional competence and no direct competence in the implementation of public policies, including in the field of justice.

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

- **Supreme Judicial Council for Civil and Criminal Justice & Supreme Judicial Council for Administrative Justice of Greece**

Digitalization of justice is progressing in both civil/criminal and administrative jurisdiction, albeit slowly. Press judges have been appointed in most courts. Main recommendation about the involvement of the judiciary in the appointment of President and Vice-President of the Council of State, the Supreme Court and the Court of Audit has not been addressed in 2023, as the appointment procedure is stipulated in the Constitution. Discussions about amendment of the Constitution in that regard.

- **Consiglio di Presidenza della giustizia amministrativa (CPGA)/ Council of Administrative Justice of Italy**

There are not challenges concerning the Council for the Judiciary (its functioning/independence etc) identified or recommendations made in the 2023 Rule of Law report.

- **Tieslietu padome/Judicial Council of Latvia**

On October 5, 2023, the Saeima supported Sanita Osipova's candidacy as a Supreme Court judge. Osipova was redirected as candidate to the post after the previous Saeima term had unexpectedly and controversially rejected her candidacy.²⁸

- **Teisėjų Taryba/The Judicial Council of Lithuania**

Yes. Please, see the answers to the previous questions.

- **Raad voor de Rechtspraak/The Netherlands Council for the Judiciary**

Two recommendations were made in the 2023 Rule of Law report that touch on to the responsibilities of the Netherlands Council for the Judiciary:

- 1) Improve digitalization of the justice system: there is ongoing progress in the level of digitalization of the justice system, in particular in regards to the publication of judgements. One of the components being looked at is the development of ICT tools for pseudonymising judgments in the judiciary.

The judiciary develops digital systems step by step, using proven technologies. To minimise risks, the next step is taken only when the technology has proven itself in practice. The introduction of digital systems always starts with one or a few courts first. When all parties involved find that the systems work well enough, digital litigation in those cases becomes possible in all courts.²⁹

- 2) Further continue the comprehensive follow-up to the childcare allowances affair, involving all relevant state authorities, building also on the work of the Commission of State on the Rule of Law: 2021 was the year of the childcare allowance affair. It came out that over the years thousands of parents were unjustly accused of fraud, causing many families to go into debt by ordering them to repay childcare allowances. In this case government, parliament as well as the Judiciary were criticized to uphold a system in which laws and judgments were too strict for citizens to achieve justice.

In reaction a working group of Dutch administrative judges has reflected on the affair in a report in 2021. The administrative judges have subsequently acted on the 'lessons' mentioned in the report in several ways, including applying a proportionality test in appropriate cases and applying more customized justice. These developments continued into 2023. Furthermore, there is and will be continued structural focus on issues that touch on 'sense of justice'.

²⁸ See the publication on Latvian news portal: <https://eng.lsm.lv/article/politics/saeima/05.10.2023-sanita-osipova-confirmed-as-supreme-court-judge.a526570/>

²⁹ For example, lawyers can litigate digitally in commercial and family cases at the Rotterdam District Court since 16 October 2023. After a successful pilot, the other courts will also start digital access.

In 2022 family law judges started a reflection process as well. As it was speculated that one of the effects of the child care allowance affaire might have been the out-of-home placement of children. The report on this matter was published at the beginning 2023. The family and juvenile courts and courts of appeal will work on the recommendations.

With regard to establishing the necessary conditions, the Council will call on other actors responsible, in consultation with the juvenile courts, to implement the recommendations. In response to the benefits affair, the judiciary also decided to identify legislation that could lead to insufficient legal protection of citizens, so that other state powers could address this from their roles and responsibilities. The judiciary did this for the first time in the annual report of 2021, but also in the annual report of 2022. Such signals can contribute to the dialogue between the state powers.

- **Conselho Superior da Magistratura/CSM Portugal**

As mentioned in the answers to the previous questions, the challenges identified with regard to the functioning of the Judicial High Council and the independence of the judiciary and judges have not yet received a satisfactory response from the other State Powers.

Within the limits of its competences and powers, the Council has endeavoured to address some of these challenges. Here are some examples:

- The Judicial High Council has included on its agenda issues relating to the digital environment that shapes the processing of cases, judges' hardware, computer programmes, network infrastructures, training and personalised technical support". Since 2023, it has been designing and developing innovative solutions with PRR funding of around two million euros. The Council has recently set up the Support Group for the Electronic Processing of Proceedings (GATEP) to promote the development of IT tools in this area for use in the courts and to provide support for the use of these tools by judges. More and better technology will save each judge many hours of work, thereby reducing unsustainable service pressures.
- The Judicial High Council is studying and safely implementing a new advisory structure for judges, both at first instance and in the Courts, fully subordinated to managing the Courts.
- An occupational health service has now been set up in all courts - under the responsibility of the Judicial High Council in the first instance courts - to prevent health risks, particularly those associated with burnout.
- The Council is currently working with the General Retirement Fund on new procedures with the social security systems to implement the special mechanisms for professional retraining and early retirement in the event of incapacity, which are provided for in the Statute for Judicial Magistrates and have not been applied as they should have been.

- **Superior Council of Magistracy of Romania**

In the 2023 EC Rule of Law Report – Chapter on the rule of law situation in Romania, one of the recommendations referred to **completing the process initiated in view of taking into account the recommendations contained in the opinion of the Venice Commission on the Justice Laws, in particular by finalising the assessment being carried out by the panel of high-level experts** (on the appointment of high-level prosecutors and deputy heads of courts and prosecutors' offices).

There should be mentioned that these aspects are regulated by Law No 303/2022 on the statute of judges and prosecutors, which entered into force on 16.12.2022 (Art. 144-166). From the perspective of the Superior Council of Magistracy, it is relevant that, during the referred period, in order to bring the secondary legislation in line with the new statute of judges and prosecutors, regulations on the appointment in leading positions of judges and prosecutors were adopted.

Thus, the Regulation on the appointment of judges in leading positions, approved by Decision no. 266/16.02.2023 of the Section for Judges, published in the Official Gazette Part I, no. 144/21.02.2023 and the Regulation on the appointment of prosecutors in leading positions, approved by Decision no. 506/11.04.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 356/27.04.2023 were adopted.

As regards the new justice laws adopted in December 2022, it should be noted that in terms of the management of the prosecutors' career, in relation to some specific issues identified along their implementation, a review/re-analysis was deemed necessary; in this regard discussions have already been initiated with the Ministry of Justice, and depending on the need for possible legislative changes, they will be resumed in the second half of 2024.

At the same time, regarding the appointment of prosecutors in leading positions at the Prosecutors' Office attached to the High Court of Cassation and Justice, the Directorate for Investigating Organised Crime and Terrorism and the National Anticorruption Directorate, there should be mentioned the positive endorsements given by the Section for Prosecutors of the Superior Council of Magistracy, for the majority of the proposals of the minister of justice, currently the procedure for appointing the chief prosecutors being ongoing.

Another recommendation made in the 2023 EC Rule of Law Report aimed to **continuing efforts to ensure adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system**.

In this respect, there should be mentioned that, in order to adapt the secondary legislation to the new legal framework, created as a result of the entry into force of the new justice laws at the end of 2022, the following regulations and methodologies were adopted by the Superior Council of Magistracy:

— The Regulation on the competition for admission in magistracy, approved by Decision of the Plenum of the Superior Council of Magistracy no. 115/28.06.2023, published in the Official Gazette of Romania, Part I, no. 605 bis/03.07.2023;

- The Regulation on admission to the National Institute of Magistracy, approved by Decision no. 114/28.06.2023 of the Plenum of the Superior Council of Magistracy, published in the Official Gazette of Romania, Part I, no. 605/03.07.2023
- The Regulation on the appointment of prosecutors in non-leading positions at the National Anticorruption Directorate and the revocation from these functions, approved by Decision no. 1107/31.08.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 795/4.09.2023;
- The Regulation on the appointment of prosecutors in non-leading positions at the Directorate for the Investigation of Organised Crime and Terrorism and the revocation from these positions, approved by Decision no. 843/13.06.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 578/27.06.2023;
- Methodology on re-appointment as a judge/in the judge position, approved by Decision of the Section for Judges no. 423/23.03.2023;
- Methodology on re-appointment as a prosecutor/in the prosecutor position, approved by Decision no. 240/04.04.2023 of Section for Prosecutors.

In order to avoid, among other aspects, the situation of massive exiting the system/the magistracy and to ensure the stability of human resources, the Superior Council of Magistracy was involved, as guarantor of the independence of the judiciary, in the legislative steps/proceedings to amend the regulations on the service pensions of judges and prosecutors, by issuing opinions/endorsements and points of view, convening the general assemblies of judges and prosecutors, participating in parliamentary debates.

At the same time, in relation to the provisions of the Government Emergency Ordinance no. 34/2023 on certain fiscal-budgetary measures, the extension of some deadlines, as well as for amending and supplementing certain normative, the Superior Council of Magistracy appreciated the need for the Government of Romania to approve, through memorandum, the organization of the competition for admission in the magistracy, under the conditions laid down in Article 63 of Law no. 303/2022 on the statute of judges and prosecutors, for filling in the vacancies at the level of the first instance courts and at the prosecutors' offices attached to the first instance courts and, therefore, the matter was referred to the decision-making authorities.

In this respect, there should be underlined the continuing/constant concern of the Superior Council of Magistracy, considering its legal attributions, for organising competitions for admission in profession, appointments in office, transfer procedures, promotion procedures etc.; in this regard, relevant statistical data in this matter are being detailed in the country contribution to the RoL 2024 submitted to the EC.

Moreover, an inter-institutional working group was established at the level of the Superior Council of Magistracy to develop a human resources strategy, in line with specific objective 3.7. of the Strategy for the development of the judicial system (SDSJ) 2022-2025 and its Activity Plan (PASDSJ), as well as with the measures agreed at the Strategic Management Council meeting on April 27, 2023, aiming to develop a study/concept on a new map of courts and prosecutors' offices, as well as a long-term human resources strategy, including elements of demographic dynamics and economic development of regions to address the vulnerability of human resources shortages in the judiciary.

- **Sodni Svet/Judicial Council of Slovenia**

Concerning the Judicial Council of the Republic of Slovenia there were no recommendations made in the 2023 Rule of Law report.