# **GUIDELINES** for managing Supreme Courts

Supreme Courts as guarantee for effectiveness of judicial systems

Augstākās tiesas kā tiesību sistēmu efektivitātes garants Eiropas Savienībā

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*The Supreme Courts of Latvia, Lithuania, Hungary and Spain, together with Universities of Antwerp and Ljubljana, carried out the European Union co-funded project "Supreme Courts as guarantee for effectiveness of judicial systems in European Union" in 2016-2017. During the project, the performance of the Supreme Courts of the European Union was analysed in four areas: performance of Scientific and Research divisions of the Supreme Courts, general organization of judicial work in order to speed up the deadlines of hearings, communication with the public, work of the Councils for Judiciary.*

*These guidelines summarizes the main best practices of the Supreme Courts of the European Union in the areas mentioned above. These guidelines should be looked at as an inspirational tool for the Supreme Courts to improve their management; as a material for further discussions and exchange of ideas and best pracatices.*

## Research and documentation work within the Supreme Court

**Provide support to judges by establishing a research and documentation unit as well as by appointing research assistants**

*To ensure high-quality judicial decisions, judges must be supported in their research work, meaning that they should be assisted in analysing national case law and legislation, in preparing draft decisions and in monitoring international as well as EU legislation and case law. The tasks between the research and documentation unit and the research assistants should be defined clearly.*

**Monitor EU legislation and the case law of the Court of Justice continuously**

*Given the growing importance of EU law, EU legislation and the case law of the EU Court of Justice must be monitored continuously by the research and documentation unit so that judges are well informed of recent developments.*

## Transparency of the judiciary: focus on access to case law

**Make all judgements available to the public via an online database, accessible free of charge, and provide user-friendly search facilities and summaries of the decisions**

*Access to justice also requires access to relevant case law. The survey results suggest that the majority of the Supreme Courts already publish most if not all of their decisions online. Given this common practice and the fact that this contributes to full transparency and to legal research, Supreme Courts should publish all their judgments online in a database that is accessible to the public free of charge. Paradoxically, the publication of all judgments may lead to a less informed public, due to an overload of information. Therefore Supreme Courts should provide search facilities that make it easy for the interested parties to find the case law that is relevant to them. These search facilities should include a keyword search function, providing references to similar cases, etc. To facilitate the search for foreign case law, the legislator should introduce the use of the European Case Law Identifier.*

**Categorise each decision in the database with an importance level indicator**

*In order to make the database even more user-friendly an importance level indicator can be attributed to every decision, similar to the one used by the European Court of Human Rights.*

**Translate the most important decisions that involve EU law**

*To facilitate the trans-national search for case law, especially in areas involving EU law, the most important decisions should be translated into English. When judges have knowledge of all relevant case law, the quality of judicial decisions and, therefore, of the judicial system increases. In addition, the translation of the most important decisions that involve EU law also increases public access to justice and thus contributes to a more effective justice system.*

## Administration of Supreme Courts: focus on the allocation of cases and length of proceedings

**Implement a(n) (electronic) system to control the length of proceedings through the use of timeframes and the continuous and real-time monitoring of these timeframes**

*Supreme Courts have to set up realistic and measurable timeframes for the different kinds of cases and the different procedural stages. Setting realistic timeframes is not easy and should be done in consultation with other stakeholders. They should be regularly evaluated, especially at the beginning, to determine if they are indeed realistic. However, having timeframes is not enough. Indeed, for the courts to be able to respond adequately to changing circumstances and to have an influence on the achievement of targets, the length of proceedings should be monitored electronically based on accurate and real-time performance date. This permanent monitoring should also be supplemented by an early warning system, allowing proactive case management, so that the accumulation of cases exceeding the predefined target can be limited.*

**Implement the minimum standards regarding allocation of cases as identified by the European Network of Councils for the Judiciary**

*The survey results indicate that not all Supreme Courts have adopted all minimum standards. For example, the case allocation rules are not yet transparent in every Court or automatically available to the public (e.g. in legislation or on the website of the Supreme Court) and parties are not always automatically informed about the judge or chamber to whom their case has been allocated.*

**Provide procedural sanctions against parties causing delay and exhibiting vexatious behaviour**

*The legislator must give courts the potential to sanction parties that cause delay or present vexatious behaviour. There are many options: a fine, declaring belated submissions inadmissible, etc.*

**The allocation criteria include the independence and impartiality of the judge and the judiciary, the competence, experience and specialism of the judge and the weighted workload of the judge**

*The minimum standards developed by the European Network of Councils for the Judiciary require that the allocation of cases is based on pre-established objective criteria determined by a normative enactment, including the independence and impartiality of the judge and the judiciary, the competence, experience and specialism of the judge. Nevertheless, differences in the application of the criteria may of course be required due to the size of the Court. In smaller Supreme Courts for example specialised chambers are most likely not realistic.*

**Implement an electronic document management system and the use of electronic communication**

*Electronic exchange of information is faster and more cost-efficient compared to paper-based communication. Of course, these objectives are partly undermined when there is no electronic document management system and the court has to print out all the documents.*

# Communication

**Establish a press division and designate a judge spokesperson**

*If courts wish to increase transparency and the understanding of judgments and ensure that the public is correctly informed, while still maintaining the impartiality of the judges, they need to establish a press division with a communication advisor and designate one or more specifically trained spokespersons. It is important to not overload judges with extensive non-judicial tasks. The European Judicial Training Network, however, underlines that one of the main goals of judicial communication is to bring the members of the judiciary closer to the media and the people they serve. Therefore, it is important that at least some of the communications are made directly by judges. For this reason, a press judge should be appointed as a spokesperson on behalf of the Supreme Court.*

**If social media are used, develop a strategy and policy**

*If the Supreme Court decides to use social media, it is important to develop a strategy and policy, including target groups and goals for the use of each form of social media. This strategy should also clarify who might be responsible for the administration of these social media accounts, if and how the Court will respond to negative comments, whether the Court will respond to questions asked on social media and other potential issues.*

**Make the case allocation rules publicly available, make the agenda of the hearings publicly available**

*Everyone has the right to a pre-established and reviewable predetermination of which judge will hear their case. The media play an important role in informing society about the judiciary. To enable the media and the public to be present at all hearings they believe to be relevant to society, they need to know the agenda of the Court.*

**Implement the recommendations of the European Network of Councils for the Judiciary with regards to audio and video recording and establish, within the limits of existing legislation, clear guidelines regarding audio and video recording that take into account the different rights at stake**

*There is still no common view on audio and video recording in courts. On the one hand, most hearings are public and everyone enjoys the freedom of speech. On the other hand, audio and video recording may disturb the proceedings and violate the parties' rights. Above all, it is important to have clear, precise and comprehensive guidelines about audio and video recording. Every Supreme Court has to establish, within the limits of existing legislation, clear guidelines regarding audio and video recording that take into account the different rights at stake (freedom of information, protection of human dignity, privacy, reputation and the presumption of innocence).*

**Organise educational activities tailored to society. Arrange press briefings to explain judicial procedures and terms**

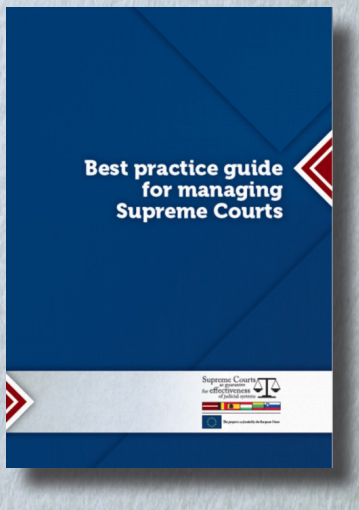
*Supreme Courts should consider a proactive approach and organise public conferences, open days and other activities that make society more familiar with the justice system and the Supreme Court's work, in addition to participating in general framework programmes arranged by other State institutions. In addition to more educational activities, it might be interesting to organise press conferences that are not only specifically tailored to a concrete case that has caught public attention at the time, but also to give a more general presentation of judgments issued by the Court in the foregoing period. While highlighting some cases, this is also an opportunity to present some statistics, inform society about expected future changes and to learn about the needs of the press and society in relation to the Supreme Court.*

# Role of the Councils for the Judiciary

**There is a delicate balance between the Council and the Supreme Court. The Council may be considered as part of the state judicial branch of government, but could at the same time be independent from it, including independence from substantive decision-making of the Supreme Court**

*The Council influences the administration of the Supreme Court in the sense that it has the competence to participate in the process of appointment or release of Supreme Court justices, their promotion and transfer, evaluation of judges and disciplinary proceedings against them. As a rule, the Supreme Court is not directly involved, apart from having Supreme Court justices as members or chairs, in administering the work of the Council (with exceptions, e.g., in Slovenia and Latvia the budget for the functioning of the Council is given to the Supreme Court).*

**The Supreme Court could have their representatives in the Council elected among Supreme Court judges themselves**

*The connection between the Council, as guarantor for the independence of the judiciary, and the Supreme Court is a necessity in order to achieve central involvement of Supreme Court representatives in all matters related to the administration of the judiciary, appointment, promotion, transfer and dismissal of judges, disciplinary proceedings against judges, resolving various disputes and so forth.*

To get more information and read full text, please, see the "Best practice guide for managing Supreme Courts", which can be found here:
**www.ej.uz/SCbestpractice**