THE JUDICIAL WORKPLACE AND THE INTERSECTION

WITH JUDICIAL INDEPENDENCE

Fourth Study Commission Questionnaire—2023

At the time of writing this report, the structure and composition of the courts in Cyprus are undergoing the most significant reform ever since the establishment of the Republic of Cyprus in 1960. This has been enabled by Constitutional amendment which took place in July 2022. The complete implementation of the reform process is scheduled to take place by 1st July, 2023. A number of other legislative amendments have occurred to conform with that objective. Hence, in order to answer thoroughly to this Questionnaire, one ought to take into account not only the current architecture and functioning of the Cyprus Judicature, but also the envisaged changes to it.

By way of historical introduction, it is worth noting that the Republic of Cyprus was established in 1960 and at that time the Constitution stipulated that there would be two courts at the top of the judicial pyramid: the Supreme Constitutional Court and the High Court of Justice. Their composition, the competences and the powers of one vis-à-vis the other, as well as, downstream, vis-à-vis the first instance courts, were clearly delineated in the Constitution: Part 9 (Sections 133 to 151) contained the provisions regarding the Supreme Constitutional Court, whereas Part 10 (Sections 152 to 164) regulated the High Court.

Due to a political dispute between the two Communities constituting the Republic of Cyprus (the Greek-Cypriots and the Turkish-Cypriots) as early as in 1964, the Constitution had soon to be amended, in order to by-pass the inoperability of the Courts which occurred when some members of the top Courts abandoned their seats (further on this point is discussed under Q.1C). A law amending the Constitution was promulgated, namely "The Administration of Justice (Miscellaneous Provisions) Law of 1964" – hereinafter referred to as "Law 33/64" - in order to secure the continuance of the delivery of justice. It merged their jurisdictions and vested the powers of both the top courts (Supreme Constitutional and High Court) to a new one, namely the "Supreme Court of Cyprus". That unified structure is still currently in place.

However, in recent years there have been various rounds of evaluation of the effectiveness of the judicial system of Cyprus. It has become prevalent that the concentration of many major powers into the hands of one and only court, i.e. the Supreme Court, despite its high level of independence and integrity, rendered it ineffective and out of date. Thus, with an aim at achieving conformity with the Rule of Law reports of the European Union and adopting the Opinion of the Venice Commission, as well as the Recommendations of GRECO (the Group of States of the Council of Europe

against Corruption), it was considered necessary to revert to a system of splitting the competences of the Courts at the top level (i.e. to have a distinct "Supreme Constitutional Court" on the one hand and a "High Court" on the other hand). Furthermore, it was considered advantageous to prescribe for a completely separate structure of an "Appeal Court". There were at least three objectives to be fulfilled by adopting this reform: it would enhance the speedy delivery of justice; the specialisation of judges; and the exercise of checks and balances by the members of one Court over another.

The Constitutional amendments to that effect were carried out by virtue of Law 103(I)/2022 on 12.7.2022 and, in parallel, Law 33/64 was amended by Law 145(I)/2022. The President and the members of the new Supreme Constitutional Court, Supreme Court and Appeal Court have already been selected and appointed, but these three Courts will commence deliberating in their new composition and with their newly vested competences and powers on 1.7.2023.

As regards the lower courts, Section 158 of the Constitution has always allowed for such courts to be established by ordinary law and to be empowered with such jurisdictions and to such a number as would be deemed necessary with an aim at delivering justice fairly and expeditiously, without undue delays and in full respect of human rights and liberties enshrined in the Constitution.

Hence, underneath the Supreme Court, there are currently the following first-instance courts:

- The Assize Courts (Law 14/60), formed at a number analogous from time to time to the specific needs of a district (e.g. 2 in Nicosia, 2 in Limassol, whereas 1 in Larnaca, 1 in Paphos and 1 in Famagusta), each comprising of three members (a President of District Court and two other members, whether Senior District Judges or District Judges), collectively adjudicating criminal cases with unlimited jurisdiction.
- The District Courts (Law 14/60) exercising interchangeably the criminal or civil jurisdiction. In criminal cases, they have power to adjudicate summarily criminal offences and to impose sentence of imprisonment not exceeding 5 years and/or a fine not exceeding €85.000 and/or to order the condemned person to compensate the victim of the crime with a sum up to €6000. In civil cases, they have the power to award compensation at three distinct levels of jurisdiction as per their ranking (the Presidents of District Courts may award compensation exceeding €500.000, the Senior District Judges from €100.000 to €500.000 and the District Judges up to €100.000).

- The Administrative Court (Law 131(I)/2015), consisting of the President of the Court and six members who have a status equivalent to Senior District Judges.
- The International Protection Administrative Court (Law 73(I)/2018) comprising of 10 judges (a President and 9 members who have a status equivalent to District Judges).
- The Family Court (Law 23/1990) with specialised jurisdiction as prescribed in that law.
- The Labour Disputes Court (s.12, Law 8/1967) with specialised jurisdiction as prescribed in that law.
- The Rental Protection Court (s.4, Law 23/1983) with specialised jurisdiction as prescribed in that law.
- The Commercial and Shipping Law Court (Law 69(I)/2022). This Court has not been constituted yet, since the appointment of its members has not been completed at the time of writing this report. It will comprise of 5 judges, all of whom will have a status equivalent to that of Presidents of District Courts.

Some amendments to the structure and jurisdictions of the lower courts have also been contemplated in the discussion for reform, but they have been left to be decided at a later stage in the near future.

1. APPOINTMENT TO JUDICIAL OFFICE

A. Please describe the process by which a person is appointed to judicial office in lower courts, intermediate courts and superior courts pointing out any relevant differences between appointment in criminal civil or appellate courts.

Back in 1960, Section 133 para. 2 and Section 153 para. 2 of the Constitution of Cyprus vested the power of appointment of the President and the members of the Supreme Constitutional Court and of the High Court, respectively, in the joint hands of the President and the Vice-President of the Republic.

After the political crisis of 1964 and the promulgation of Law 33/64 by virtue of the doctrine of necessity, the appointments to the Supreme Court, were vested effectively in the hands of the President of the Republic alone, since there was no longer a Vice-President in place. Members of the Supreme Court were considered permanent members of the Judicial Service,

enjoying a right to remain in office up to the 68th year of age. The President of the Republic would select those to be appointed as Justices of the Supreme Court on the basis of the qualitative criterion of having at least 12 years of professional experience as practicing lawyers and being of the highest ethical standard. It was for many years the norm, that the President of the Republic would opt to fill in the vacancy in the Supreme Court, by appointing the person who happened to be at the time the most senior member of the judiciary, out of the rank of Presidents of District Courts.

The criteria and the process of appointment of Justices in the newly set up structures of the Supreme Constitutional Court and the Supreme Court, have been significantly amended by means of Law 145(I)/2022, with effect as from 5.8.2022, in order to enhance transparency and meritocracy. Some transitory arrangements have applied in the interval between 5.8.2022 and 1.7.2023 pursuant to Article 23 of Law 145(I)/2022, to ensure that the current members of the Supreme Court will have an option to retain their seat and get appointed in either of the two new Courts. However, the philosophy behind the new regime is that each new vacant position shall henceforth be filled following an open, public-notice competitive procedure, involving an interview process of the candidates before an Advisory Judicial Council, aiding the President of the Republic to reach an informed choice amongst qualified candidates.

In particular, Article 4 of Law 33/64 was amended by inserting a new section (4) to it, setting up an Advisory Judicial Council to advise the President of the Republic on the suitability of candidates for appointment to the afore-mentioned top courts. The Advisory Judicial Council is an independent body, which drafts a list – in alphabetical order - of at least three times a number of those candidates it considers suitable for appointment by the President of the Republic. That list is supported by a reasoned Opinion about the suitability of each such candidate. There is a proviso to para. (d)(ii) of Article 4(4), ensuring that the Council will take into account the need for enriching the composition of the Courts with qualified lawyers, that is to say that not only judges should be contemplated for appointment to the Courts at supreme level.

The minimum qualifications for appointment to the Supreme Constitutional Court and to the Supreme Court are the same as were applicable in the past: candidates need to have at least 12 years of professional experience as practicing lawyers (including as members of the Judicial Service or as members of the Legal Service of the Republic) and be of the highest professional and ethical standard.

Further to the above minimum requirements, there have been added two distinct provisions (see Article 5(2) and 5(3) of Law 33/64 as amended by Law 145(I)/2022, to the effect that:

- for the appointment of a Judge at the Supreme Constitutional Court, it shall be taken into account if the candidate possesses a wide knowledge of Constitutional and Administrative law and/or of the Law of the European Union and/ or of Human Rights Law or demonstrated experience in handling cases in these fields of law;
- for the appointment of a Judge at the Court, it shall be taken into account if the candidate possesses a wide knowledge of civil or criminal law or of European Union law or of Human Rights Law or demonstrated experience in handling cases in these fields of law.

The Advisory Judicial Council has a different composition when it meets to assess the candidates for appointment to the Supreme Constitutional Court, rather than when it meets to assess the candidates for the Supreme Court.

In the former case, it is composed of the following members:

- The President of the Supreme Constitutional Court,
- the other [8] members of that very Court,
- the Attorney-General of the Republic (without a voting right),
- the President of the Cyprus Bar Association (without a voting right),
- two lawyers of the highest professional standing, themselves possessing the qualifications for appointment as members of the Supreme Constitutional Court, who are designated upon a proposal of the Cyprus Bar Association and upon approval of such proposal by the Supreme Constitutional Court.

In the latter case, it is composed of the following members:

- The President of the Supreme Court,
- the other [6] members of that very Court,
- the Attorney-General of the Republic (without a voting right),
- the President of the Cyprus Bar Association (without a voting right),
- two lawyers of the highest professional standing, themselves possessing the qualifications for appointment as members of the Supreme Court, who are designated upon a proposal of the Cyprus Bar Association and upon approval of such proposal by the Supreme Court.

The Advisory Judicial Council sits in quorum, provided that 5 members of it, including its President, are present at the meeting.

On the other hand, as regards the Appeals Court and all members of the first – instance Courts, irrespective of their rank or jurisdiction (be it civil or criminal, general or specialized), there is a separate appointment process. In particular, Article 10 of Law 33/64 has been amended with effect from 5.8.2022, stipulating that the appointment, the promotion, the transfer, the termination of service, the dismissal and any disciplinary power of members of the Appeals Court and of all lower courts will be decided exclusively by the Supreme Judicial Council, who will duly and satisfactorily reason its decisions. Hence, the President of the Republic has no involvement in the selection of Appeal Court Justices and needless to say the same applies to lower courts.

The Supreme Judicial Council is composed of the President of the Supreme Court and the other (6) members of it. In case it meets to decide on an issue of appointment or promotion of a judge of an Appeal Court or of a lower court, it is possible for the following persons to sit together, albeit without a voting right:

- the Attorney-General of the Republic, or - in case of his absence or temporary incapability – the Deputy Attorney-General (without a voting right),
- the President of the Cyprus Bar Association, or - in case of his absence or temporary incapability – the Vice-President of the CBA (without a voting right),
- two lawyers of the highest professional standing, themselves possessing the qualifications for appointment as members of the Supreme Court, who are designated upon a proposal of the CBA and upon approval of such proposal by the Supreme Court.

Before getting invited for an interview before the Supreme Judicial Council, each candidacy undergoes a screening process as per the Criteria that have been formulated by the Supreme Judicial Council on 2.10.2019, as these have been published on the website of the Supreme Court. In essence:

- The candidates submit to the Secretariat of the Supreme Judicial Council within the deadline prescribed in the invitation for candidacies, (i) their curriculum vitae (CV), (ii) a declaration that there have not been any criminal, civil or disciplinary cases pending against the candidate and (iii) a short description of the personality of the candidate.
- The list of candidates is then circulated by the Secretariat of the Supreme Judicial Council to:

(i) all the Presidents of the first instance courts who collect from the members of their courts (except from those who may be competing themselves for the vacancy) any positive or negative feedback regarding the candidates, and submit thereafter a reasoned report to the Secretariat;

(ii) the Presidents of the Bar Association Councils of each district, so that they submit a reasoned opinion on the candidates;

(iii) the Attorney-General of the Republic, whenever there are candidates who serve in the Legal Service of the Republic.

- Candidates who are not recommended:

  (i) by at least 5 district judges or by 2 judges of any specialized jurisdiction, or a combination of these, or

  (ii) by at least 2 members of the current Supreme Court (or after 1.7.2023 by at least 2 members of the Supreme Constitutional Court or of the new Supreme Court or by 3 members of the new Appeal Court), or

  (iii) by the President and 2 members of the Bar Association of the district where a candidate is registered as a practicing lawyer,

  are excluded from any further step in the evaluation procedure.

- No candidate is evaluated, unless his candidacy fulfills all the eligibility requirements, be they legislative or formal requirements.

- A candidate may be excluded from further evaluation if valid information documented in writing is submitted to the Supreme Judicial Council which justifies excluding or reassessing a candidate. In such a case, the candidate is informed and given the chance to submit reasons why not to be excluded.

- Provided a candidate passes successfully all the above-mentioned stages of the screening process, the candidate is invited for an interview before the Supreme Judicial Council. There a number of qualitative criteria for assessment, each one attached with a certain weight, as follows: (i) the personality of the candidate (30%), (ii) the legal knowledge he / she possesses (30%); (iii) his / her capacity to absorb and analyse information (20%), (iv) the breadth of thought and the general spectrum of knowledge he /she possesses (10%), (v) the capacity to work under strenuous conditions, effectively and quickly (10%).

- The candidates who obtain the highest total marks are short-listed for a second interview, provided that only those who obtain a total mark of at least 50% are called for such a second interview, to the extent

that the short list contains at least twice as many candidates as the number of the vacancies.

- In the context of the second interview, the Supreme Judicial Council may set a problem question in writing to the candidates and ask further questions orally about that problem. What is being evaluated is: (i) the depth of the analytical legal thought (15%), (ii) the depth of knowledge of the relevant caselaw and any related developments (15%), (iii) if the candidate is open-minded and has independent thought (15%), (iv) the capacity to express oneself orally and in writing (15%), (v) the organizational capacity (10%), (vi) the capacity to cooperate (10%), (vii) the capacity to listen to another and respect the opposite thought (10%) and (viii) the technological literacy (10%).
- Those candidates who obtain a mark higher than 70% in total at the second interview, are finally ranked in terms of the following final evaluation weight:

  (i) 50% is attributed to the mark obtained at the second interview;

  (ii) The other 50% is attributed in total to the following:

  a. 20% to the recommendations / opinions expressed by the Presidents of Courts, the Attorney – General and the Bar Associations.

  b. 20% to the academic qualifications.

  c. 10% to professional experience assessed on the basis of the curriculum vitae in general and on the years of practicing the legal profession.

- The Supreme Judicial Council announces in public, on the Supreme Court's website, the list of the selected candidates and sends thereafter to them, in writing, an offer for appointment. If the offer is not accepted by a selected candidate, it offers appointment to the next in the ranking.

The Supreme Judicial Council may from time to time review the above procedure for appointments and any amendments to it shall be published on the Supreme Court's website and elsewhere, as it may be deemed appropriate.

B. If applicable, please identify whether political influences of any description bear upon in any way the appointment of a particular person to judicial office.

There is no room for political influence interfering in the appointment process. On the contrary, the Supreme Advisory Council and the Supreme

Judicial Council have been designed to have a composition securing that only persons of the highest degree of integrity, independence and professionalism, within the legal field, are involved in the evaluation of candidates. The selection criteria themselves are also described in a politically -neutral manner. The screening and evaluation process target at the professional competence and the personality of the candidates, rather than on political beliefs, ideologies etc.

C. Is ethnic or gender diversity in any way relevant to appointment to judicial office, and if so, please describe why and in what respect each may be relevant.

Gender diversity has never been an issue in the selection and appointment process of judges. The eligibility criteria have always been formulated in a manner that is gender-neutral, rather than gender-specific and hence no instances of discrimination (neither direct nor indirect) have ever occurred.

On the contrary, gender diversity has even from the very early years of Justice in Cyprus been respected. The first female Judge was appointed as District Judge in 1986, she reached the rank of President of District Court in 1996 and was eventually the first female member of the Supreme Court appointed in 2004. The Supreme Court was presided for the first time by a woman in 2020. A good half of all Justices, at a pan-Cyprian scale, have been female over the last 10 years.

As regards ethnic origin, things have been more delicate, for political reasons related to the bi-communal character of the Republic of Cyprus as described in Section 2 of the Constitution (of 1960). It comprises of the Greek community (consisting of all citizens of the Republic who are Greek in origin, who speak the Greek language or share the Greek cultural traditions or adhere to the Christian Orthodox religion) and of the Turkish community (consisting of all citizens of the Republic who are Turks in origin, who speak the Turkish language or share the Turkish cultural traditions or are Muslims).

Reflecting the bi-communal character of the Republic, Section 133(1) of the Constitution (of 1960) stipulated that the Supreme Constitutional Court would be constituted by three judges: two citizens of the Republic of Cyprus (one being Greek and the other one being Turk) and by a third person being "neutral" in terms of ethnic origin, the latter being the President of the Court, all of whom would be appointed by the President and Vice-President of the Republic, selected amongst lawyers of the highest professional and ethical standard. Similarly, section 153 of the Constitution (of 1960) stipulated that the High Court of Justice would comprise of four judges: two

Greeks and one Turk (all of them being citizens of the Republic of Cyprus) and one "neutral", the latter acting as President of the Court and possessing two votes instead of one. The selection criteria and appointment process was the same as with that applied for the Supreme Constitutional Court.

The bi-communal rational was reflected also in the Constitutional provisions about the lower courts. Section 159 stipulated that if the litigants in a civil case or criminal case, both belonged to the same Community (i.e. the Greek-Cypriot or, conversely, the Turkish-Cypriot community), then the judges comprising the Court would also have to be from that same Community. Otherwise, if the litigants did not belong to the same ethnic Community, then the Court would comprise of judges belonging to both Communities.

The above Constitutional arrangements did not last for long. Due to a political crisis in Cyprus back in 1964 and the abandonment of all seats that were allocated to Turks and to the neutral members, the composition of the above courts on the basis of ethnic criteria was rendered inoperative. As an immediate consequence, the "The Administration of Justice (Miscellaneous Provisions) Law of 1964" (Law 33/64) was promulgated in order to secure the continuance of the delivery of justice. It vested the jurisdiction and powers of the top courts (Supreme Constitutional and High Court) to a new one, namely the "Supreme Court of Cyprus", comprising of Greek-Cypriot judges only, for as long as this was justified by virtue of the doctrine of necessity, as explained in **The Attorney-General of the Republic v Mustafa Ibrahim and Others** (1964) 1 CLR 195.

As a consequence of the Turkish invasion to Cyprus in 1974, what was initially contemplated to be a temporary arrangement as depicted in Law 33/64, has in fact pertained until today and all courts are being constituted only by Greek-Cypriot citizens of the Republic of Cyprus.

Apart from the Greek – Cypriots (Christians) and the Turkish – Cypriots (Muslims), the Constitution (of 1960) contained provisions regarding three other religious groups in Cyprus: the Maronites, the Armenians and the Latins. These three groups had collectively opted to form part of the Greek-Cypriot Community, in pursuance to an enabling provision of the Constitution. Hence, they have always had equal opportunity for appointment to any judicial position as any other Greek-Cypriot.

It is worth noting that the current President of the Supreme Court of Cyprus, who will be the President of the Supreme Constitutional Court as from the 1st July 2023, is a Maronite in origin. His Honour has been a judge advancing in his judicial career since 1991, purely on a merit basis, at equal terms with all other judges.

D. Describe whether and if so in what way the process of appointment to judicial office is independent of government.

The system of governance in Cyprus is that of Presidential Democracy. The President of the Republic is directly elected by the Cypriot citizens, on universal suffrage. The President appoints thereafter the members of the Council of Minister, including the Minister of Justice and Public Order, who is the competent minister in the field of the administration of justice, the functioning of the police and the cooperation in police and judicial matters at both European and International level, bilateral and multilateral.

The Constitution of Cyprus secures the separation of powers of the Executive, the Parliament and the Judiciary, delineating the boundaries of powers and establishing checks and balances of one over another.

Having said that, the process of appointing the members of the Judiciary has been carefully designed, in full compliance with the Venice Commission's Opinion and Greco's Recommendation, so that there is no participation or representation of the minister of Justice and Public Order or of any member of Parliament or of any political groups in the Supreme Advisory Council or in the Supreme Judicial Council.

2. PROMOTION WITHIN THE JUDICIARY

A. Does scope exist for promotion within the judiciary and if so, please describe how and in what circumstances a magistrate or judge may be promoted.

District Judges may be promoted, first, to Senior District Judges and, then, to Presidents of District Courts. Judges who are members of specialized courts may be promoted to Presidents of their Courts.

There are distinct criteria for the promotion of judges, compared to the criteria for their initial appointment. They have been decided by the Supreme Judicial Council on 2.10.2019 and have been published on the Supreme Court's website.

Normally, a judge ought to have completed a minimum number of years of work experience at the immediate lower rank of judges, in order to be eligible for appointment to the immediate higher rank. It is specified that District Judges need to have served for at least 5 years before applying for promotion to the rank of Senior District Judges and the latter need to have served for 3 years prior to applying for promotion to the rank of Presidents of District Court. There may be an exception to this rule, if the number of vacancies is bigger than the number of judges who serve at the time at the immediate lower position and who are eligible for promotion.

The vacancies are advertised in public by the Secretariat of the Supreme Judicial Council and a deadline is set for submitting an application.

Each application for promotion shall be accompanied by a short (2 pages long) description of the judicial performance of the candidate in the previous years, together with a copy (in electronic format) of the ten most recent judgements they delivered, pointing out which 3 out of those 10 judgements they consider the most important and why is that so.

Candidates who satisfy the eligibility requirements (both legislative and formal) are invited for an interview before the Supreme Judicial Council, which evaluates (i) their personality, attaching to it a weight of 20%, (ii) the breadth and independence of their thought (20%), (iii) their effectiveness and ability to fulfill their new tasks – based on statistical data regarding the quality and quantity of their judicial activity thus far (60%).

The result of the interview counts for 50% of the overall mark attributed to each candidate. The rest 50% is derived from the Opinion expressed by the Administrative Presidents of the Courts (20%), the seniority of the candidate (20%), the curriculum vitae of the candidate (10%).

The decision as regards which candidates have been selected as suitable for promotion is published on the website of the Supreme Court and a letter in writing is sent to the candidates themselves offering them the promotion.

B. To what extent is political affiliation of political partisanship relevant to promotion within the judiciary.

There is no room for such relevance.

[Please refer to the answer to Question 1B above, which applies equally to this question.]

C. Describe the transparency involved in the process of promotion within the judiciary.

The procedure is wholly transparent, because:

(i) The promotion criteria are published in advance.

(ii) The vacancies are publicly advertised and there is an open call for candidacies not only from judges, but also for practicing lawyers who may wish to compete judges in getting appointed at their place.

(iii) The selection process is carried out with the involvement of an independent body as is the Supreme Judicial Council, who collects and reflects the opinion not only of judges – peers, but

also of external professionals, including the Bar Associations and the Attorney General of the Republic.

(iv) There is an interview before the Supreme Judicial Council and an evaluation process that leads to a public announcement of those considered suitable for promotion.

(v) Every candidate may put in writing a request to have access to the minutes that are kept in record for each stage of the selection process.

3. WORKLOAD WITHIN THE JUDICIARY

A. In broad terms, what are the requirements for magistrates and judges in relation to the number of sitting days per year or other measurement of judicial workload requirements?

The courts are fully functioning every working day, save for the public holidays, including the Christmas and Easter vacations. The summer holidays last from the 10th of July to the 9th of September, but judges are usually split into two groups, one group being in office between the 10th of July – 9th of August and the other group being in office between the 10th of August and 9th of September. Each judicial year commences on the 10th of September.

The Registry of the courts divides the workload amongst the various judges exercising the same jurisdiction, at an equal proportion of fresh cases. Apart from that, it is up to each judge how to organize the daily schedule, in order to deal effectively with the volume of cases.

Furthermore, at the beginning of each judicial year (i.e. in September), the Registry looks into the backlog of cases and seeks to redistribute old cases to the judges, so as to achieve collectively the result of reducing heavy delays in the administration of justice.

The Registry maintains on a monthly basis statistical data measuring the productivity of each judge, in the sense that it keeps record of how many final judgments or interim judgments were delivered during the month, whether this was done in the course of a full trial or a partial trial or in the context of an out of court settlement of the case (in civil cases) or upon a plead of guilt (in criminal cases). Further, a list of all judgments reserved (whether final or interim) is also kept in record and up-dated from month to month. These data are transmitted to the Supreme Judicial Council.

B. If a judge is encountering trouble keeping up with the workload, describe the regime that applies by which –

(i) that judge's workload is allocated to other judges.

(ii) the overloaded judge can recover from workload arrears and from any other disabling factor that led to overload.

(iii) there are other mechanisms to address judicial delinquency.

The answer to (i) – (iii) above lies in the Procedural Regulations that were first issued by the Supreme Court back in 1986, about the timely delivery of judgements by courts (Procedural Regulation 11/1986). Since then, it has revised the regulations (Amending Regulation 28/2002 and Amending Regulation 25/2022).

They require that in a civil case or other application for the commencement of proceedings before the court, each final judgment is issued within 6 months form the date it was reserved and each interim judgment is issued within 2 months from the date it was reserved.

If a judgment is reserved for a period exceeding 9 months (for a final judgment) or 3 months (for an interim judgment), then the Supreme Court may set itself a new deadline for the judge to issue judgment. In such an event, the Supreme Court shall give prior notice to the litigants of its intention to set a new deadline for the first-instance court to act upon. If the litigants file an objection to such an order of the Supreme Court, then they will be heard by the Supreme Court with a view at issuing any other remedy as stipulated below.

In particular, the Supreme Court may either (a) order that the case is allocated to another judge for adjudication, or (b) prescribe itself a new deadline for the judge who has already reserved judgment, in order to issue the judgement within that new deadline, under the proviso that if he/she fails to meet this new deadline then the case will be allocated to another judge for adjudication, or (c) to issue any other order which it deems necessary for the proper delivery of justice.

C. Are judges expected or required to assist other judges who may be adversely affected from overload so as to ensure that the business of the court is discharged in a timely manner.

Please refer to the answers to Q.3A and 3B above.

4. REMOVAL FROM JUDICIAL OFFICE

A. Does a regime currently exist in your country pursuant to which a sitting judge may be removed from office. If so, please describe any such regime, giving all relevant details including-

(i) who decides that the judge is to be removed from office;

(ii) does the judge have a right of audience on any such motion or otherwise possess a right to be heard against the removal and is there an appeal process if removed;

(iii) what are the grounds for seeking the removal of a sitting judge;

(iv) what is the relationship between violation of the ethics code/principles and removal; and

(v)describe the transparency in the process.

The matter of the dismissal (i.e. the removal from office) of a judge has last been regulated by "The Exercise of the Disciplinary Power of the Supreme Judicial Council Procedural Regulation of 2022" (Disciplinary Regulation 29/2022, henceforth referred to as "DR 29/2022"), that has been published in the Official Gazette of the Republic on 3.6.2022. This new Regulation has repealed the earlier disciplinary regulations of 2000, 2016 and 2019.

A judge may be removed from office, only if he is found guilty of "improper conduct" (see Regulation 17 of DR 29/2022). Otherwise, if he is found guilty of any other disciplinary offence, he may be sentenced only to reprimand (see Regulation 19(a) of DR 29/2022) or to a reprimand that is published in the Official Gazette of the Republic (see Regulation 19(b) of DR 29/2022).

"Improper conduct" is defined as having the meaning attributed to this term by Sections 133.7(4) and 153.7(4) of the Constitution. Without prejudice to the generality of this definition, it is stipulated that any serious contravention of the Guide of Judicial Conduct, in the terms of para.B.3 of that Guide, may constitute "improper conduct".

It is useful to bear in mind that the Guide of Judicial Conduct was issued by the Supreme Judicial Council of Cyprus along the same lines as the Bangalore Principles of Judicial Conduct and the Guide to Judicial Conduct which is applicable in England.

Regulation 3 of DR29/2022 provides that, whenever the Supreme Judicial Council receives a complaint or information that a Judge (a) has become incompetent, or (b) has acted improperly or (c) has committed a disciplinary offence, then it brings to the attention of the judge concerned these allegations, as well as the complaint or information and it sets a deadline within which the judge may express his/her views in reply to them. Upon receiving his/her views on the matter, or, in case he omits or fails to reply within the deadline, at the expiry of the set deadline, the Supreme Judicial Council decides if there are reasons to investigate further the matter (see Regulation 4 of DR 29/2022). If it arrives at the conclusion that it is not necessary to investigate it further, then it informs accordingly both the complainant and the judge concerned (see Regulation 5). If, on the contrary,

it considers it justified to investigate the allegations, then it appoints an Investigator Judge, who ought to be of the same or of higher seniority than the person under investigation. It may even be a member of the Supreme Court, in which case his or her recusal from the meetings of the Supreme Judicial Council is deemed necessary (Regulation 6).

The Investigator collects information by whoever person may possess information relevant to the allegations. The Investigator may also receive a testimony orally or in writing form the judge under investigation, provided that the latter is informed of the possibility that such a testimony may be used for the purposes of any future disciplinary procedure. The Investigator drafts a reasoned report on the issue of whether the judge should be put to disciplinary trial, in which case an indictment is drafted within 15 days and is filed before the Supreme Judicial Council. The indictment shall specify the exact disciplinary accusation and the details of facts on which it is based. The indictment is served on the judge concerned, together with all the evidentiary material that was collected by the Investigator.

The Attorney-General reads the accusations to the accused before the Supreme Judicial Council and if a plea of no guilt is entered, then a trial is set at another date and is carried out mutatis mutandis as a criminal trial. During the disciplinary trial, the accused judge has all the rights that are granted to an accused by virtue of Section 12.5 of the Constitution of Cyprus. At the end of the trial, the accused may either be condemned or acquitted (Regulations 14 and 15 of DR 29/2022).

Otherwise, if a plea of guilt is entered, then the Attorney – General presents the case as per the evidence available, the Supreme Judicial Council hears in sequence the accused (see Regulation 16) and it decides on the sanction to be imposed.

B. If removed from office, describe the adverse consequences that may affect the removed judge including –

(a) financial (especially pension) consequences;

(b) future employment consequences following removal;

(c) societal consequences including loss of title or civic decorations; and

(d) disciplinary steps that may be taken against the removed judge.

One may anticipate consequences of the type mentioned in (a) and (b) above, upon being removed from office. As regards the consequences described in (c) and (d), it depends on whether a judge received any civic decorations by

virtue of his judicial capacity or if he/she enrolled with any association or body requiring to have had a personal record clear from any disciplinary sanctions.

Anne Pantazi – Lamprou

District Judge

On behalf of the Cyprus Judges Association

April 2023