



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

**EUROPEAN COMMISSION**  
**FOR THE EFFICIENCY OF JUSTICE**  
**(CEPEJ)**

**PILOT-SCHEME**  
**FOR**  
**EVALUATING JUDICIAL SYSTEMS**



# SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**Country:** **Switzerland**

**Contact Name:** **Daniel Fink (pour les réponses en anglais)**  
**Frank Schürmann (réponses en français).....**

## I. General information

### 1. Number of inhabitants

Number: 7'317'873 Year of reference: 2002

Source: Swiss Federal Statistical Office, Population

### 2. Total annual State/regional public budget

Budget: 82'271'000'000 euros Year of reference: 2001

Source:

### 3. Average gross annual salary

Salary: 3'300 euros Year of reference: 2002

Source : Swiss Federal Statistical Office, Wages and Working Conditions

## II. Access to Justice and to all courts

### II. A. Legal aid/cost of justice

#### 4. Annual public budget spent on legal aid

Annual budget: 39'000'000 euros Year : 2002 / 2003

Source : réponses de 17 cantons sur 26

#### 5. If possible, specify

- the annual public budget spent on legal aid in criminal cases

Annual budget: 13'000'000 euros Year : 2002 / 2003

Source : réponses de 10 cantons sur 26

- annual public budget spent on legal aid in other court cases

Annual budget: 20'000'000 euros Year : 2002 / 2003

Source : réponses de 10 cantons sur 26

#### 6. Total number of legal aid cases (in a year)

Number of cases: 36'709 Year : 2002 / 2003

Source : réponses de 9 cantons sur 26

#### 7. If possible, specify:

- the total number of legal aid cases in criminal matters (in a year)

Number of cases: ..... Year : .....

Source : .....  
.....

- the total number of legal aid cases in other court cases (in a year)

Number of cases: ..... Year : .....

Source : .....  
.....

8. Does your country have an income and asset test for granting legal aid? Yes

9. If yes, what is the maximum income level for granting legal aid?

Income level: le minimum vital Year :

10. Is it possible to refuse legal aid for lack of the merit of the case?  
(eg. for frivolous or vexatious actions, or cases without merit)

Yes

If yes, is the decision taken by : - the court  
- a body external to the court  
(please indicate the right answer) - a mixed decision-making body (court and external)  
- other:

What factors are taken into account ?

Factors: les chances de succès, la situation financière et la complexité de l'affaire

11. In general do litigants have to pay a court tax or fee to start a proceeding at a general jurisdiction court?

Yes

If yes, is this true for : - criminal cases? Yes / No  
- other than criminal cases? Yes / No

12. Does your country have a private system of legal expenses insurance for individuals? Yes

13. Do judicial decisions have an impact on who bears legal costs which are paid by the parties during the procedure?

Yes

If yes, is this true for : - criminal cases ? Yes / No  
- other than criminal cases? Yes / No

14. In your country, have studies been carried out on the costs of cases brought to courts concerning: - users? Yes / No  
- the State? Yes / No

If yes, please indicate the references of these studies published in the year 2002 or 2003:  
(Author / instance) (Title) (Type of courts or costs reported on):

none, all studies are of earlier periods

## II. B. Users of the courts and victims

15. Are there official internet sites/portals (eg. Ministry of justice, etc..) through which the general public may have free access to:

- legal texts (eg. codes, laws, regulations, etc..)? Yes

internet address: [www.admin.ch/ch/f/rs/rs.html](http://www.admin.ch/ch/f/rs/rs.html)

- to the case-law of the higher court/s? Yes

internet address: [www.bger.ch](http://www.bger.ch)

- to other documents (for examples legal forms)? Yes

internet address: [www.ofj.admin.ch](http://www.ofj.admin.ch)

If yes, please give the internet address

16. Is there a public and free-of-charge specific information system to inform and to help victims of crimes? Yes

Comments: prévu par la Loi sur l'aide aux victimes d'infractions (LAVI)

17. Is there a public, free of charge and personalised specific information system, managed by the police or the justice system, on the follow up given to complaints by victims of crime? Yes

Comments: prévu par la LAVI et les codes de procedure pénale

18. Does your country have a public compensation fund to compensate financially victims of crimes? Yes

Comments: prévu par la LAVI

19. Does your country have users' or legal professionals' (judges, lawyers, officials, etc.) surveys to measure public trust and satisfaction with the services delivered by the judiciary? Yes / No

If yes, are these surveys

- at national level Yes / No

- at court level Yes / No

existe seulement dans quelques cantons et pas de manière systématique

20. Is there a national or local procedure for making complaints about the performance of the judiciary (eg. through an ombudsman)? Yes

Please specify:

- at court level/internal procedure Yes / No
- at court level/external procedure Yes / No
- at national level/internal procedure Yes / No
- at national level/external procedure Yes / No

Comments:

21. As a general rule, do the institutions which receive such complaints have an obligation to respond and/or to deal with the complaint within a certain time limit?

- time limit to respond: Yes / No
- time limit for dealing with the complaint: Yes / No

Toute personne a droit à ce que sa cause soit traitée équitablement et jugée dans un délai raisonnable (droit constitutionnel d'être entendu; article 6 CEDH).

### **III. Functioning of courts and efficiency of justice**

#### **III. A. Functioning**

22. Total number of courts

Number of courts: 316 réponses de 18 cantons sur 26

23. Number of general jurisdiction first instance courts

Number of courts: 197 réponses de 18 cantons 26

24. Number of specialised first instance courts

*Please specify the different areas of specialisation*

(area of specialisation)

(number of courts)

82 (réponses de 14 cantons sur 26)

25. Number of professional judges sitting in courts

*(present the information in full time equivalent and for permanent posts)*





- the ministry of Justice (or equivalent) Yes / No
- the Government Yes / No
- the Parliament Yes (niveau fédéral)
- the Judicial Council Yes / No
- the Courts Yes / No
- other: au niveau cantonal: solutions diverses

32. Who manages the budget of the courts?

- the President of the Court Yes / No
- the person administratively responsible for the court Yes / No
- other: différent selon les cantons

33. Which institution is responsible for arranging and scheduling the court hearings/sessions?

- in criminal cases: the court / public prosecutor / lawyer / other: .....
- in other than criminal cases the court / public prosecutor / lawyer / other: .....

<b>III. B. Efficiency</b>
---------------------------

34. Total number of criminal cases received by the public prosecutor (in a year)

Number of cases: ..... Year : .....  
 Source : .....  
 .....

35. Total number of criminal cases dropped by the public prosecutor (in a year)

Number of cases: ..... Year : .....  
 Source : .....  
 .....

Please indicate also, out of this total, those dropped as the offender has not been identified

Number of cases: ..... Year : .....  
 Source : .....  
 .....

36. Total number of criminal cases which are concluded by a sanction/measure, imposed or negotiated by the public prosecutor (in a year)

Number of cases: 81'435 toward adults (entries in the register of convictions – almost no contraventions and no summary penalty order) 12'854 toward minors Year : 2002

Source : Swiss Federal Statistical Office, Statistics on Criminal Convictions

Comment: The figure relates to the total number of convictions imposed by all instances entitled to hand down sanctions/measures and entered into the central penal registry. The number of convictions imposed by all these instances which are not entered into the central penal registry must be a multiple of the figures mentioned.

### 37. Total number of criminal cases charged by the public prosecutor before the courts (in a year)

Number of cases: ..... Year :

Source : .....  
.....

### 38. Total number of incoming criminal cases in the courts involving robbery cases (in a year)

Number of cases: 1'500 suspects Year : 2002

Source : Swiss Federal Police Office: Police crime statistics

### 39. Total number of judicial decisions, involving robbery (in a year)

Number of cases: 351 sentences (towards adults) , 219 convictions (towards minors)Year 2002

Source : Swiss Federal Statistical Office, Statistics on Criminal Convictions

*Please indicate, if possible:*

Number of convicted persons:	% of convicted persons:	0,6%
Number of acquitted persons:	% of acquitted persons:	

Comment: Number of convicted persons understood as convictions.

### 40. Percentage of decisions involving robbery subject to an appeal to a higher court (in a year)

Percentage of decisions: ..... Year :

Source : .....  
.....

### 41. Total number of incoming criminal cases in the courts, involving intentional homicide (in a year)

Number of cases: 232 registered suspects Year : 2002

Source : Swiss Federal Police Office: Police crime statistics

42. Total number of judicial decisions, involving intentional homicide (in a year)

Number of decisions: 56 sentences (towards adults) Year : 2002

Source : Swiss Federal Statistical Office, Statistics on Criminal Convictions

*Please indicate also if possible:*

Number of convicted persons: % of convicted persons: 0,05%

Number of acquitted persons: % of acquitted persons:

Comment: Number of convicted persons understood as convictions.

43. Percentage of decisions concerning intentional homicide subject to an appeal to a higher court (in a year)

Percentage of decisions: ..... Year : .....

Source : .....

44. Total number of incoming civil and administrative cases in the courts (in a year)

Number of cases: 200'585 Year : 2002 / 2003

Source : réponses de 19 cantons sur 26

45. Total number of judicial decisions in civil and administrative matters (in a year)

Number of decisions: 204'300 Year : 2002 / 2003

Source : réponses de 19 cantons sur 26

46. Percentage of decisions concerning civil and administrative matters subject to an appeal to a higher court (in a year)

Percentage of decisions: 6,5% Year : 2002 / 2003

Source : réponses de 13 cantons sur 26

47. Total number of incoming divorce cases in the courts (in a year)

Number of cases: 16'835 Year : 2002

Source : Swiss Federal Statistical Office, Population

48. Total number of judicial decisions in divorce cases (in a year)

Number of decisions: 16'363 Year : 2002  
Source : Swiss Federal Statistical Office, Population

49. Percentage of decisions concerning divorce cases subject to an appeal to a higher court (in a year)

Percentage of decisions: ..... Year : .....  
Source : .....

50. Total number of incoming employment dismissal cases in the courts (in a year)

Number of cases: ..... Year : .....  
Source : .....

51. Total number of judicial decisions of employment dismissal cases (in a year)

Number of decisions: ..... Year : .....  
Source : .....

52. Percentage of decisions concerning employment dismissal cases subject to an appeal to a higher court (in a year)

Percentage of decisions: ..... Year : .....  
Source : .....

**IV. Use of Information Technology in the court**

53. Annual IT budget allocated to the courts (if possible in Euros)

Annual budget: ..... Year : .....  
Source : .....

54. In general, do the courts in your country have computer facilities?

- for judges Yes / No  
- for non-judges court staff Yes / No

55. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary? Yes

If yes, please specify the name and the address of this institution

(Name) ..... (Address) .....

au niveau fédéral: office fédéral de la statistique

au niveau cantonal: les tribunaux ou les autorités de surveillance

56. What kind of facilities can be used by the clients of the courts to communicate with the courts?

- Telephone Yes / No
- Mail Yes / No
- Fax Yes / No
- E-mail Yes / No
- Internet Yes / No

pour la communication informelle: l'ensemble des moyens  
pour la communication formelle: courrier uniquement

57. Is there an electronic form to carry out certain procedural steps?  
pas encore

## V. Fair trial

58. Percentage of adversary judgements in criminal cases in first instance

Percentage of judgements: ..... Year : .....

Source : .....

59. Is there a right to an interpreter for all those within your jurisdiction if the persons cannot understand or speak the language used in court? Yes

60. Is there an effective remedy to a superior jurisdiction for all cases? Yes

61. Are reasons given for all prison sentences? Yes

62. Average length, in days, of robbery cases from the formal beginning of the prosecution until the first instance judgment

Average length:            days            Year :  
.....  
Source :  
.....

63. Average length, in days, of robbery cases from the formal beginning of the prosecution until the appellate judgment

Average length:            days            Year :  
.....  
Source :  
.....

64. Average length, in days, of divorce cases from the deposit of the complaint until the first instance judgment

Average length:            days            Year :  
.....  
Source :  
.....

65. Average length, in days, of divorce cases from the deposit of the complaint until the appellate judgment

Average length:    259    days            Year : 2002  
Source :  
              Swiss Federal Statistical Office, Population

66. Average length, in days, of employment dismissal cases from the deposit of the complaint until the first instance judgment

Average length:            days            Year :  
.....  
Source :  
.....

67. Average length, in days, of employment dismissal cases from the deposit of the complaint until the appellate judgment

Average length:            days            Year :  
.....  
Source :  
.....

68. Do you, on a regular basis, measure the size of backlog cases in the courts? Yes

69. Do you have a way of analysing queuing time during court procedures? Yes

If yes, please specify: par le biais d'un recours auprès du tribunal compétent pour violation du "délai raisonnable" (cf. aussi question 21)

## VI. Judges

70. Gross annual salary of a first instance professional judge at the beginning of his/her career

Annual salary : 100'000 euros Year : 2002 / 2003

Source : réponses de 19 cantons sur 26

71. Gross annual salary of a judge of the Supreme Court or of the highest appellate court

Annual salary : au niveau fédéral 200'000 euros  
au niveau cantonal 150'000 euros Year : 2002 / 2003

Source : .....

72. Can judges combine their work with other professions (for example as a university professor, arbitrator, consultant)? Yes

If yes, please specify: pour les juges travaillant à temps partiel  
pour les juges travaillant à plein temps dans la mesure où l'exercice de leur fonction de juge, l'indépendance et le prestige du tribunal n'en sont pas entravés

73. Are judges recruited and nominated by an independent institution?

en principe nomination par le parlement (plus rarement par le peuple ou par un organe mixte)

(if yes), who are represented in this institution:

- the members of the judiciary Yes / No
- officials not part of the judiciary Yes / No
- a mixture of the two categories referred to above Yes / No

Is the process of selection and nomination of judges carried out according to pre-established procedures ?

pas dans une loi formelle

74. Is there a system of induction and continuation training for judges?

oui, mais en principe pas obligatoire

What is the average percentage of judges who have attended a continuation training session each year?

Percentage of judges: ..... Year : .....

Source : .....

75. Is there a system of supervision and control on the courts - other than through appeal? Yes

If yes, please specify: contrôle administratif par l'autorité de surveillance

76. Is there in your country a system of temporary judges? Yes

If yes, are these temporary judges paid on the basis of their activity? Yes

If yes, please specify: dans la forme des juges suppléants ou des juges travaillant à temps partiel

77. Annual number of disciplinary proceedings against judges

Number of proceedings: ..... Year : .....

Source : .....

78. Annual number of sanctions against judges

Number of sanctions: ..... Year : .....

Source : .....

## VII. Public prosecutors

79. Annual budget for the public prosecution

Annual budget: ..... Year : .....

Source : .....



80. Number of professional public prosecutors (in full time equivalent)

Number of prosecutors: 300 Year : 2002 (not in full time equivalent)

Source : Swiss Conference of Prosecutors, former President

81. Gross annual salary of a public prosecutor at the beginning of his/her career

Annual salary : 63'000 euros Year : 2002

Source : Swiss Conference of Prosecutors, former President of the Conference

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court

Annual salary : 139'000 euros Year : 2002

Source : Swiss Conference of Prosecutors, former President of the Conference

83. Can public prosecutors combine their work with other professions? Yes

If yes, please specify: mêmes conditions que pour les juges (cf. question 72)

84. Are public prosecutors recruited and nominated by an independent institution?

selon les cantons et selon la position du procureur (procureur "ordinaire" ou procureur général)

(If yes), who are represented in this institution:

- the public prosecutors ? No
- other stakeholders outside? No
- a mixture of the two categories referred to above? No

Is the process of selection and nomination of public prosecutors done according to pre-established procedures? Yes

85. Is there a system of induction and continuation training for public prosecutors?

Yes, but not compulsory : Ecole nationale de magistrature, since 2002; decentralized; every two years: 5x3 days; embrionic state of a school.

pour le niveau cantonal cf. question 74

What is the average percentage of prosecutors who have participated in continuation training each year?

Percentage of prosecutors: ..... Year : .....  
Source : .....

86. Is there a system of supervision and control on public prosecutors? Yes

If yes, please specify: Depends on the legislation of the cantons, no national system.  
Prosecutor generals supervise subordinate prosecutors.  
en plus autorité de surveillance et voie de recours contre les activités  
des procureurs

87. Annual number of disciplinary proceedings against public prosecutors

Number of proceedings: ..... Year : .....  
Source : .....

88. Annual number of sanctions against public prosecutors

Number of sanctions: ..... Year : .....  
Source : .....

## VIII. Lawyers

89. Number of lawyers practising in your country

Number of lawyers: 7'056 membres de la Fédération Suisse des Avocats Year : 2004  
Source : [www.swisslawyers.com](http://www.swisslawyers.com)

90. Is there a national bar association? No

91. Have quality standards been formulated for lawyers? Yes

If yes, who is responsible for formulating these quality standards?  
- the bar association Yes: Barreaux cantonaux  
- the legislature Yes: Loi fédérale sur la libre circulation des avocats (LLCA)  
- other Yes / No

92. Can disciplinary proceedings be instituted against lawyers? Yes (LLCA)

93. Annual number of disciplinary proceedings against lawyers

Number of proceedings: ..... Year : .....  
Source : .....

94. Annual number of sanctions against lawyers

Number of sanctions: ..... Year : .....  
Source : .....

95. Is it possible to complain about the performance of lawyers? Yes

If yes, please specify: par l'autorité chargée de la surveillance des avocats cantonaux (LLCA)

96. What is the amount paid to a lawyer by the State in respect of legal aid for a first instance divorce case?

Amount: ..... Year : .....  
Source : .....

dépend des tarifs applicables selon les lois cantonales

**IX. Mediators and mediation proceedings**

97. Number of accredited or registered mediators

Number of mediators: ..... Year : .....  
Source : .....

98. How much public budget is devoted to mediation?

Amount: ..... Year : .....  
Source : .....

99. Number of incoming mediation cases (in a year)

Number of cases: ..... Year : .....

Source : .....  
.....

100. Number of cases solved through mediation (in a year)

Number of cases: ..... Year : .....  
Source : .....  
.....

If possible, please specify:

- number of criminal cases solved through mediation:

- number of cases other than criminal solved through mediation: .....

101. In which areas of law is mediation most practised and successful in your country?

- in criminal cases? Yes / No

- in other than criminal cases? Yes / No

Year : ..... Source : .....

**X. Enforcement agents and execution of court decisions**

102. Number and types of enforcement agents

- in criminal cases:

(Type)	(Number)	(Year)	(Source)
Prison system (Warden(Admn.))	3000	2002	SFSO, Catalogue of Penitentiaries
Probation Officers	300	2002	SFSO, Probation statistics

- in other than criminal cases:

611 2002 / 2003 réponses de 11 cantons sur 26

juges d'exécutions, préposés aux poursuites (Loi fédérale sur la poursuite pour dettes et la faillite LP), préposés aux faillites (LP)

103. Is there an institution to supervise or control the activities of enforcement agents? Yes

If yes, please specify: Head of Prisons/penitentiaries, Directions of probation offices

Head of prison / probation administration of cantons or in some cases  
supervising body of foundations  
autorité de surveillance (plainte et recours)

104. Annual number of disciplinary proceedings against enforcement agents

Number of proceedings: ..... Year : .....  
Source : .....

105. Annual number of sanctioned enforcements agents

Number of agents: ..... Year : .....  
Source : .....

106. Is it possible to file a complaint against an enforcement agent? Yes

If yes, please specify: autorité de surveillance (plainte et recours)

107. Does the court play a role in the execution of court decisions? Yes

If yes, please specify: selon le droit cantonal applicable le juge ou le tribunal (pas  
nécessairement le juge de fond) peuvent intervenir au stade de  
l'exécution

108. Are the courts competent to decide against public authorities? Yes

Are the courts involved in executing decisions against public authorities? Yes

cf. question 107