



# European judicial systems

Edition 2012 (2010 data)  
Efficiency and quality of justice

AN OVERVIEW

Commission européenne pour l'efficacité de la justice  
European Commission for the Efficiency of Justice

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## **European judicial systems**

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**European Commission for the Efficiency of Justice  
(CEPEJ)**

## **The European Commission for the Efficiency of Justice**

The European Commission for the Efficiency of Justice (CEPEJ) is entrusted by the Committee of Ministers of the Council of Europe with proposing concrete solutions, suitable for use by Council of Europe member states for promoting the effective implementation of existing Council of Europe instruments relating to the organisation of justice (normative "after sale customer service"), ensuring that public policies concerning the courts take account of the needs of users of the justice system and helping to reduce congestion in the European Court of Human Rights by offering states effective solutions prior to application to the Court and preventing violations of Article 6 of the European Convention on Human Rights. The CEPEJ is today a unique body for all European States, made up of qualified experts from the 47 Council of Europe member states, to assess the efficiency of judicial systems and propose practical tools and measures for working towards an increasingly efficient service to the citizens.

The CEPEJ website: [www.coe.int/CEPEJ](http://www.coe.int/CEPEJ)

## Presentation

With this fourth biennial evaluation cycle, the CEPEJ aims to provide policy makers and justice professionals a practical and detailed tool to better understand the operation of the public service of justice in Europe in order to improve its efficiency and its quality in the interest of 800 million Europeans.

The CEPEJ presents today the 2012 Edition of its report, based on the 2010 data. The report has been adopted by the CEPEJ in July 2012<sup>1</sup>. The number of subjects and states that are addressed make it unique.

The methodology used, alongside the important contribution and support of the member states of the Council of Europe, makes it possible to present a analysis, which is increasingly detailed from one edition to another, of the judicial systems of 46 European states<sup>2</sup>.

The quality of the data available allows to compose and analyse statistical series. These series are designed to measure the main trends in Europe as regards the evolution of judicial systems and reform processes. Relying on those data, the CEPEJ can propose concrete solutions to evaluate and improve the quality and efficiency of justice in Europe.

The CEPEJ highly encourages policy makers and researchers to use this unique information to develop studies and feed the indispensable European debate and reforms, the necessity for which is regularly reminded by the case-law of the European Court of Human Rights and the events in the member states and entities.

**The purpose of this document is not to provide a synthesis of a voluminous report, but is only to highlight, in an easily readable format, some of its elements and incite the readers into taking time “to go further”. In this overview, only brief comments follow the graphs and tables extracted from the report, but they refer to the full report which enables a deeper approach with all the necessary methodological elements for rigorous analysis and comparisons (see [www.coe.int/CEPEJ](http://www.coe.int/CEPEJ)).**

All the data given by the member states are available on the CEPEJ website. The national answers also contain descriptions of the judicial systems and explanations which contribute to a large extent to the understanding of the given data. Thus, a

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<sup>1</sup> The report is based on a draft prepared by the CEPEJ working group chaired by Jean-Paul JEAN (France) and composed of Munira DOSSAJI (United Kingdom), Beata Z. GRUSZCZYŃSKA (Poland), Ramin GURBANOV (Azerbaijan), Adis HODZIC (Bosnia and Herzegovina), John STACEY (United Kingdom, President of the CEPEJ), Georg STAWA (Austria), Frans van der DOELEN (Netherlands) and the scientific experts Julien LHUILLIER and Daria SOLENIK.

<sup>2</sup> 46 member states out of 47 have participated in the evaluation process. Only Liechtenstein have not been able to provide data for this report. The results for the United Kingdom are presented separately for England and Wales, Scotland and Northern Ireland, as the three judicial systems are organised on different basis and operate independently from each other.

genuine database of the judicial systems of the Council of Europe's member states is easily accessible to citizens, policy makers, legal practitioners, academics and researchers.

## **Warning**

Throughout its report, the CEPEJ has highlighted the numerous methodological problems encountered and the choices which have been made. It is advisable to refer to them constantly to avoid hasty analyses and meaningless conclusions. Comparing quantitative figures from different states or entities, with different geographical, economic, and judicial situations is a difficult task which must be addressed cautiously. To compare the judicial systems of various states, it is in particular necessary to highlight the specificities which explain variations from one state to another (level of wealth, different judicial structures, data collection). A detailed attention was paid to the terms used and to the definition and use of concepts, which were specified with the national correspondents entrusted with the coordination of data collection in the states or entities. Only a careful reading of the report and a rigorous comparison of data can make it possible to draw analyses and conclusions. Figures cannot be passively taken one after the other, but must be interpreted in the light of the methodological notes and comments.

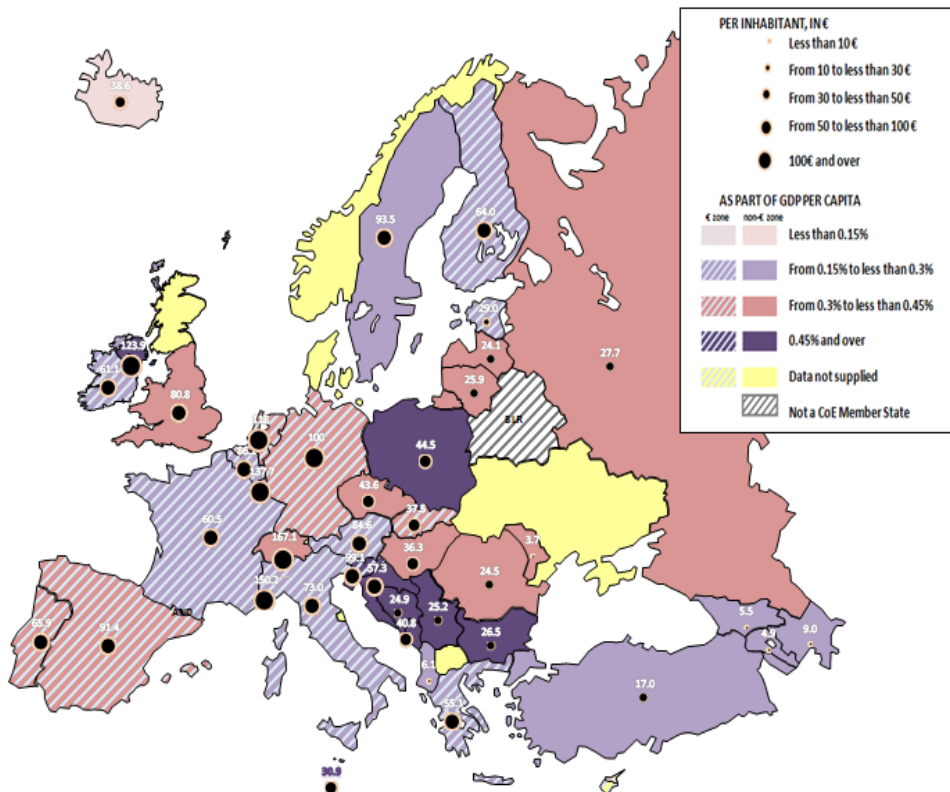
Comparing is not ranking. But each rigorous reader has with this report a sum of data and methodological elements for an in-depth study by choosing relevant clusters of states or entities: according to the characteristics of the judicial systems (for instance civil law and common law entities; countries in transition or with old judicial traditions), geographical criteria (size, population) or economic criteria (for instance within or outside the Euro zone). The size of the states or entities is also a discriminating element. Thus, the smallest states of the Council of Europe (**Andorra** or **Monaco**) cannot be compared according to a scale "per 100.000 inhabitants". Other complementary comparisons are proposed, by using ratios such as the GDP and the average gross annual salary per inhabitant.

## 1. Public expenditures allocated to courts, prosecution system and legal aid

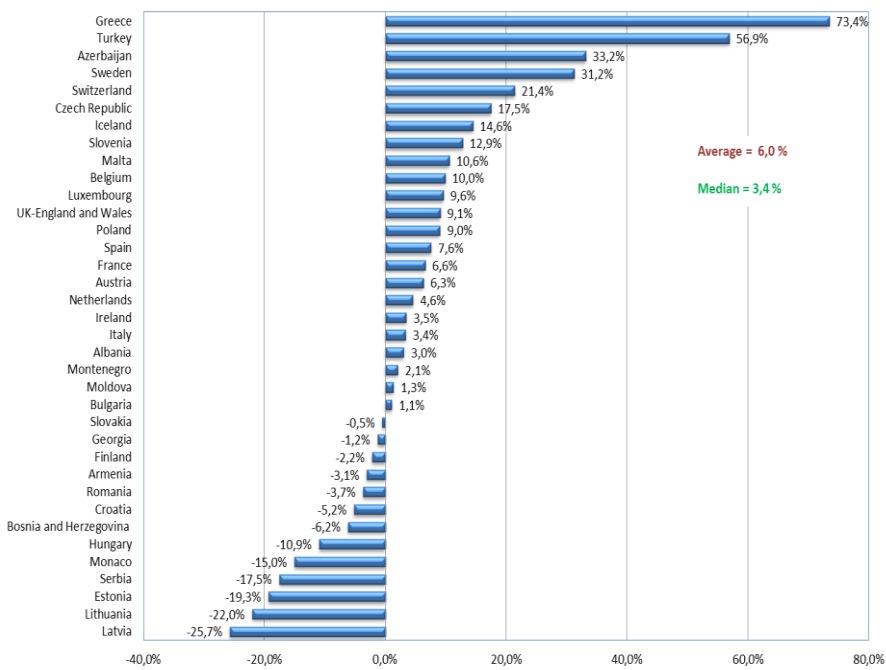
According to the states, there are common or distinct modalities for funding courts, public prosecution systems and legal aid. These three elements have been divided as much as possible so as to allow comparisons, both of the means allocated to prosecution or judgement activities (despite the differences between the organisation of the systems) and of the amounts allocated to access to justice. This information thus gives an overall view of the budgets concerning most of the member states of the Council of Europe.

the data of the wealthiest states or entities must here be reported once more to the level of prosperity of the state; otherwise it might be wrongly interpreted that they allocate a little amount of budget to their judicial system, because of their high GDP. This is namely the case for **Norway, Luxembourg, Finland, France, Sweden, Monaco** and to a certain extent for **Austria** and **Belgium**. This fact must be taken into account if relevant comparisons between comparable states had to be drawn (cf. group of states with an equivalent GDP level per inhabitant, figure 2.36 of the report).

**Figure 2.33 Total annual public budget allocated to all courts, public prosecution and legal aid per inhabitant in €, and as part of the GDP per capita, in 2010**



**Figure 2.34 Average annual variation of the total approved public budget allocated to all courts, legal aid and public prosecution (in %) between 2008 and 2010 (Q6, Q12, Q13)**

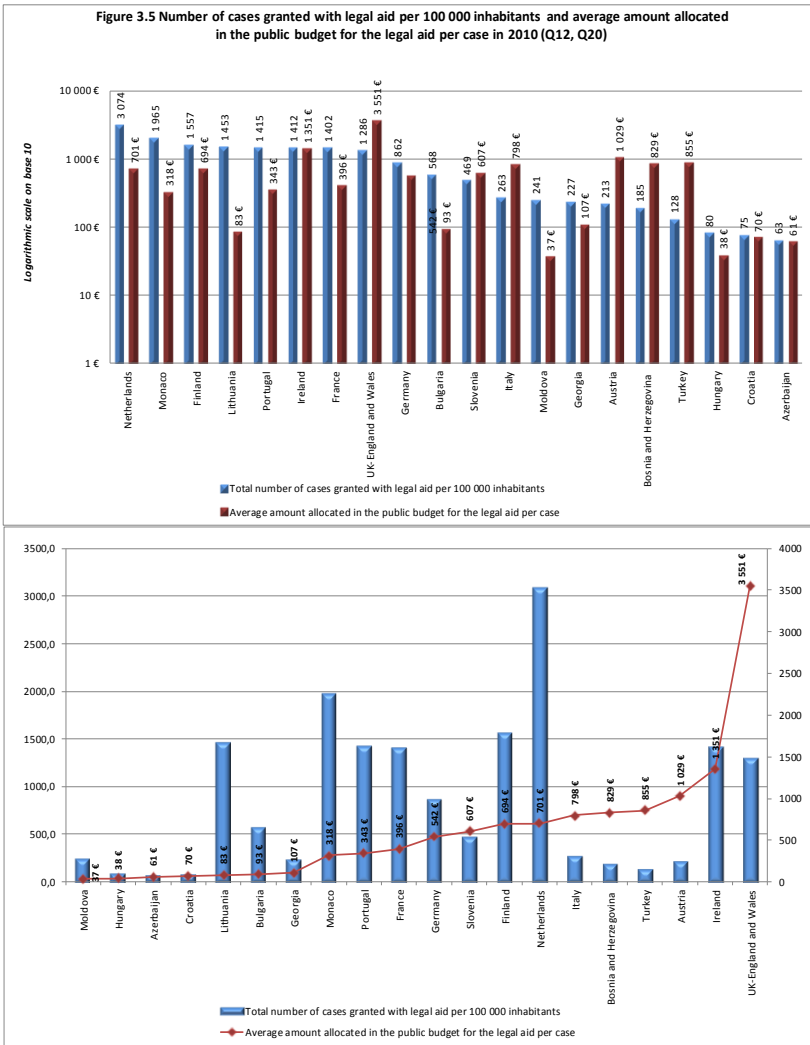


It is possible to measure changes between 2008 and 2010 budgets aggregating the budget of courts, prosecutors and legal aid for 36 states or entities. 23 states concerned have increased their budget whereas 13 states have decreased it. An average growth of 6% in Europe can be noticed as regards the evolution of the public budget allocated to the overall judicial system. Yet, this evolution must be tempered by variations in exchange rates that inflate artificially some data provided by countries outside the Euro zone (for instance **Azerbaijan, Iceland, Poland, Czech Republic, Sweden, Switzerland**). Beyond the technical explanations mentioned above, the effects of the financial and economic crisis can be seen in some countries where the budgets of judicial systems have been decreased (**Bosnia and Herzegovina, Bulgaria, Finland, Hungary, Latvia** (mainly a reduction in the salaries), **Lithuania**). The case of **Greece** must be considered apart, as the budgets voted and indicated here were not executed as such because of the crisis. Indirect impacts of the crisis on the volume of judicial cases, and subsequently on the budgets, can also be observed: commercial cases, bankruptcy and labour litigations are affected by the worsening economic situation. But, a majority of states have continued to increase the budget of their judicial system, though this increase is much more limited than in previous periods observed. Some states that had launched major reforms on their judicial systems, often supported by international funds, have now entered into a “cruising speed” (**Montenegro**,



**Republic of Moldova, Bulgaria**). On the contrary, other states have maintained a sustained rhythm (more than 10 % in two years) in the increase of their judicial budget (**Azerbaijan, Czech Republic, Slovenia, Malta**), and others have even accentuated the effort dedicated to their judicial system (**Turkey, Switzerland**). Other states have clearly inverted the trend, towards an increase in their budget (**Sweden, Iceland**). Specific efforts for increasing the budget of judicial systems can also be noted in **Belgium, Luxembourg, Poland, Austria**. Other states have pursued the same increasing trend, though slowing down the rhythm (**Spain, France, Netherlands, Italy**).

## 2. Access to justice



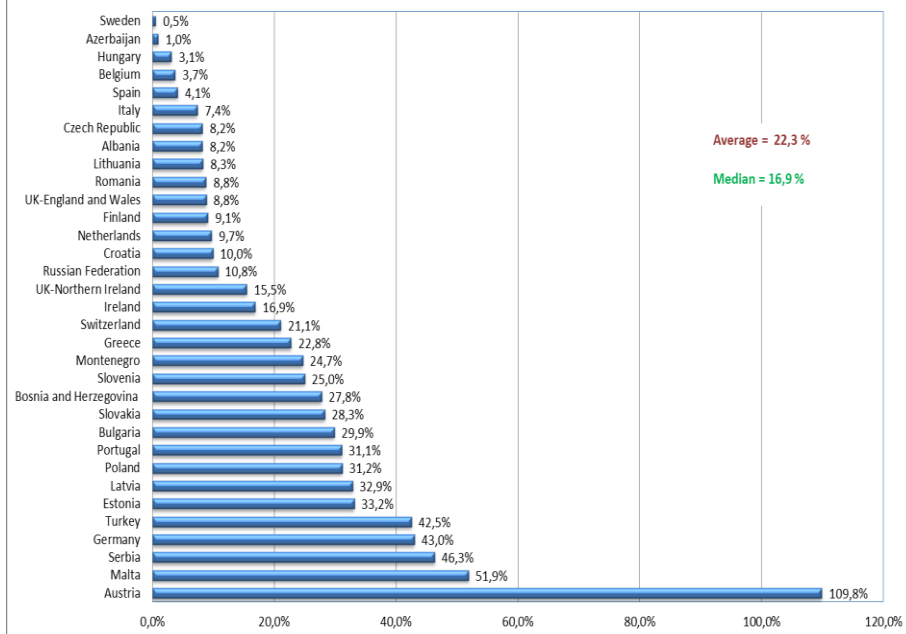
The global legal aid budgets increased in average by 18 % between 2008 and 2010 in Europe, but this evolution does not show as such significant discrepancies between several groups of states or entities:

- **UK-England and Wales** grant an average of 3 551 € per case
- other states allocate also a significant amount to legal aid (more than 1.000 € per case): **Ireland, Austria**

- in the group of states which dedicate between 500 € and 1000 € per case can be noted **Germany, Slovenia, Finland, Netherlands, Italy, Bosnia and Herzegovina** and **Turkey**
- several states spend between € 300 and € 500 per case: **Monaco, Portugal, France**
- other a little more (**Georgia**) or less (**Republic of Moldova, Hungary, Azerbaijan, Croatia, Lithuania, Bulgaria**) than 100 € per case, but the evolution is positive in these states where the development of the legal aid system is relatively recent.

Furthermore, the amounts allocated per case can be fully analysed only when considering the volume of cases concerned, which makes it possible to highlight more clearly the political choices of the states for legal aid. Arbitrations can be made between quantity (number of cases concerned) and quality (amount allocated per case). Some states have a low number of cases concerned but which can benefit from legal aid but allocate high amounts per case (**Austria, Turkey, Bosnia and Herzegovina, Italy, Slovenia**), whereas other states, on the contrary, have chosen to limit the amounts allocated per case but to open more widely the conditions for receiving legal aid (for example **France, Portugal, Monaco, Lithuania**). Other states are both generous as regards the amounts allocated per case and the number of cases which can benefit from legal aid (**UK-England and Wales, Ireland, Netherlands, Finland**).

Figure 3.15 Share of court fees (or taxes) in the budget allocated to courts, to legal aid and public prosecution in 2010 (Q6, Q9, Q12, Q13)



For a majority of European states and entities, and more and more, the court taxes and fees constitute significant financial resources, allowing some to cover a major part of the court operating costs, or even to generate a net profit (**Austria**). Such a system, if accompanied by an effective legal aid system for enabling access to court to litigants who would not have sufficient means, is part of the current strong trend of public policy aimed at partly balancing the costs of public services between the users and the tax payers. However, in this regard, it is important to distinguish, on the one hand, fees to obtain information, make entries in land or commercial registries or other records, and, on the other hand, the costs of judicial proceedings. Payment of court fees is now widespread in Europe.

### 3. Users of the courts (rights and public confidence)

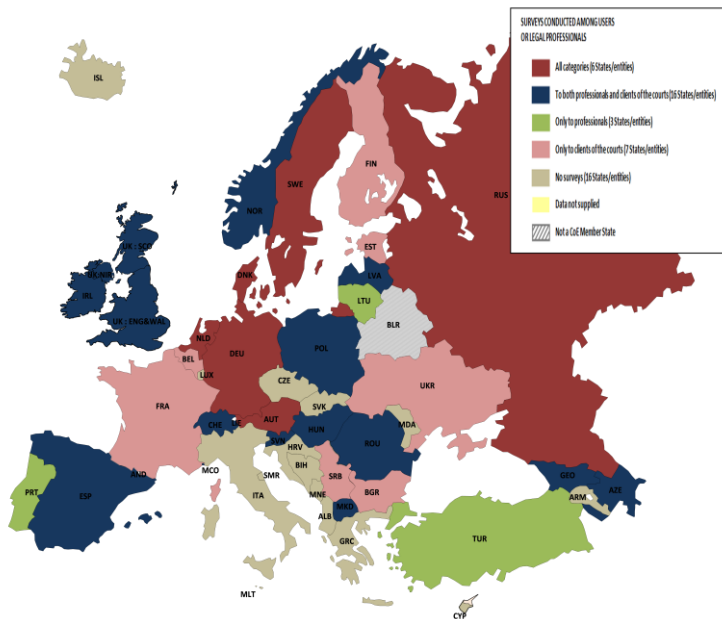
In more and more European states can be noticed a trend by which citizens and legal professionals can retrieve information about relevant laws, court activity and legal proceedings easily and free of charge via the Internet. Only a few states have specific arrangements to inform the court users on the foreseeability of procedures (i.e. the expected timeframes of a procedure) or on the efficiency of procedures. Specific information, intended to victims of crime, seems to be widespread since it is provided in 43 states or entities.

With respect to vulnerable persons, victims of rape, children, and juvenile offenders are the categories which are the best protected by specific provisions of judicial proceedings. This is done mostly by specific modalities for access to information, support and the process of hearings. In 39 states or entities, public prosecutors have a role to play vis-à-vis victims of crimes. The majority of countries also have now a compensation procedure for victims of crimes.

To address court dysfunctions, compensation procedures have been set up for court users. In 32 countries or entities, there is a compensation mechanism for excessively long proceedings and in 24 countries or entities for non-execution of a court decision. Almost all the countries have provision for compensating a person in cases of wrongful arrest or wrongful conviction.

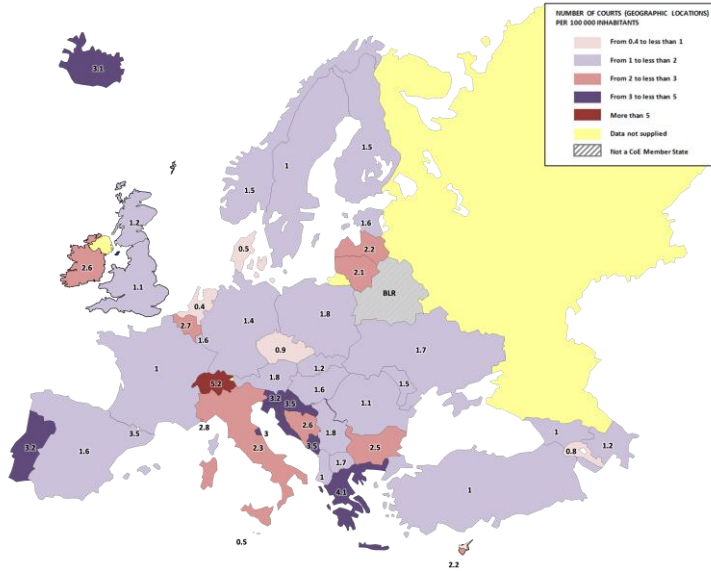
Due to increasing attention paid to the needs and expectations of the court users, there is thus a growing trend in Europe for the introduction and use of surveys, to evaluate court users' level of satisfaction or public confidence in courts. In several European countries, it is common practice to conduct a survey at a national level or court level on a regular basis. The model survey and the methodological guide provided by the CEPEJ facilitate future implementation of the surveys conducted among court users to improve the quality of the public service of justice ([www.coe.int/cepej](http://www.coe.int/cepej)).

**Figure 4.11. Surveys conducted among users or legal professionals to measure public confidence and/or satisfaction**



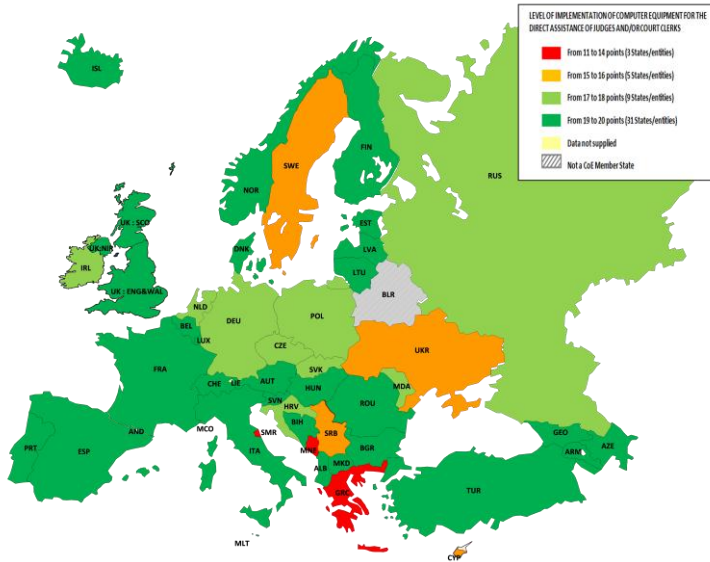
#### 4. The courts

**Figure 5.5. Number of all courts (geographic locations) per 100.000 inhabitants in 2010**



Considering the evolution of the number of first instance courts in Europe, it is not possible to draw a major trend as regards the organisation of the judicial map. While a majority of states have not modified their court organisation between 2006 and 2010. Among those states that are modifying their judicial maps two different trends can be noticed. Some states are reducing the number of courts, mainly for budgetary reasons, seeking more efficiency in economies of scale and specialization (namely **Croatia, Finland, Georgia, Serbia, Ireland, Sweden, France, Belgium, Denmark, Netherlands**). On the contrary, other states increase in the number of courts often within larger justice reform strategies (namely **Armenia, UK-Scotland, Slovakia, Bulgaria, Latvia, Iceland, Spain, Greece, UK England and Wales, Bosnia and Herzegovina**).

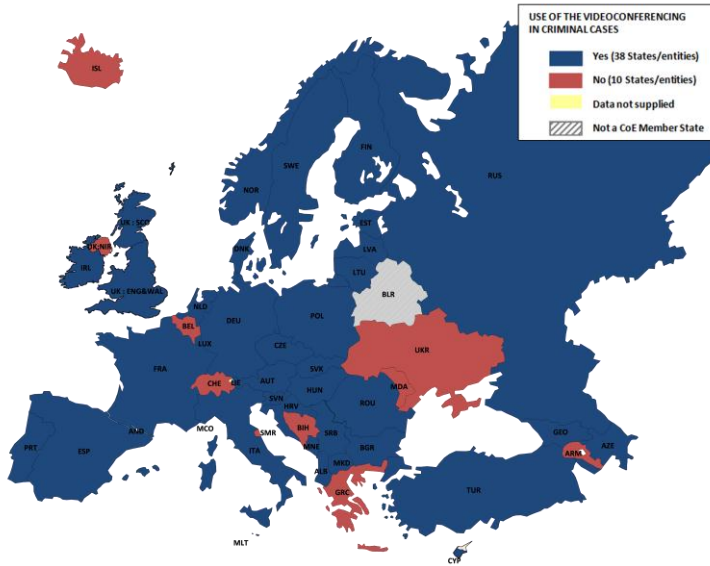
**Figure 5.13 Level of implementation of computer equipment for the direct assistance of judges and/or court clerks**



A positive evolution can be noted as regards ICT in courts even if the results are not always visible confronting quantitative data. The development of e-justice and e-courts is a strong European trend. A lot of states informed about recent or on-going reforms in fields such as electronic registers, databases for judicial decisions, electronic court files and electronic signature or case management systems. The results of reforms are clearly visible in the improvement of computer equipment for the direct assistance of judges and court clerk and for the communication between the court and the parties. Several countries have now developed and implemented ICT systems to support simplified procedures such as payment orders and small claims.



**Figure 5.16 Use of the videoconferencing in criminal cases**



The use of videoconferencing is increasing in European judiciaries, to speed up procedures and reduce costs in non criminal cases, to interview parties, experts and witnesses, but also when particular conditions of security or privacy arise in criminal cases, in order to allow victims and witnesses, accused persons who are in custody, to safely attend hearings or being interviewed from safe locations. In almost 80% of the state videoconferencing is used in criminal cases. The video conference technology offers judges and prosecutors the possibility to question people summoned to a court that is nearest to their domicile and equipped with a video conference system (**Austria**) or accused/convicted persons who are in custody from specially equipped rooms (**UK-England and Wales**) or in the detention facilities (**France, Italy, Netherlands**). Child victims and witnesses of violent crime are increasingly heard in specially-equipped questioning rooms (i.e. **Azerbaijan, Germany**). Videoconferencing is less diffused in civil and commercial cases, in a little bit more than half of the states.

## 5. Alternative Dispute Resolution

Access to justice may also be facilitated thanks to the promotion of Alternative Dispute Resolution (ADR). When implemented within a judicial framework, they contribute to limiting the need to bring issues before a court and to involving professionals other than judges.

**Table 6.4. Judicial mediation in *civil and commercial* cases in 2010**

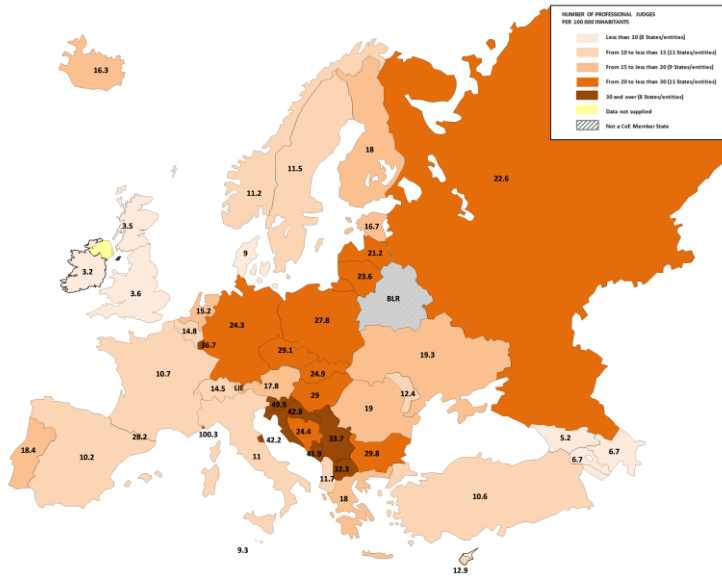
Court annexed mediation - 22 States/entities -	Private mediator - 26 States/entities -	Public authority - 9 States/entities -	Judge - 13 States/entities -	Public prosecutor - 1 State/entity -
Belgium	Albania	Bosnia and Herzegovina	Albania	Croatia
Croatia	Belgium	Finland	Croatia	
Denmark	Bosnia and Herzegovina	Germany	Denmark	
Finland	Bulgaria	Hungary	Finland	
Germany	Croatia	Malta	Germany	
Greece	Estonia	Montenegro	Iceland	
Hungary	Finland	Portugal	Italy	
Ireland	France	Serbia	Lithuania	
Lithuania	Germany	Spain	Monaco	
Malta	Hungary		Norway	
Monaco	Ireland		Russian Federation	
Netherlands	Italy		Serbia	
Romania	Lithuania		Sweden	
Russian Federation	Luxembourg			
Serbia	Netherlands			
Slovenia	Norway			
Spain	Poland			
Sweden	Romania			
Switzerland	Russian Federation			
Turkey	Serbia			
UK-England and Wales	Slovakia			
UK-Northern Ireland	Slovenia			
	Sweden			
	The FYROMacedonia			
	UK-England and Wales			
	UK-Northern Ireland			

Mediation (recommended, carried out or approved by justice) is a growing field in Europe: more and more states or entities are introducing mediation and the number of accredited mediators is growing. Mediation is successfully applied in many states or entities especially in the field of family law (divorce cases), commercial disputes and criminal law (compensation procedures for victims). An increasing number of states or entities grant legal aid for initiating a mediation procedure. However, it must be noted that other kinds of ADR, such as arbitration and conciliation, are widely used in some member states or entities.

## 6. Judges

To better take into account the diversity in the status and functions which can be linked with the word "*judge*", three types of judges have been defined in the CEPEJ's scheme. *Professional judges* are described in the explanatory note of the evaluation scheme as "those who have been trained and who are paid as such". They must be distinguished for *professional judges* "who sit in a court on an occasional basis" (and who are remunerated). *Non-professional judges* (volunteers who are compensated for their expenses) sit regularly in courts. Data concern the posts effectively occupied and in full time equivalent (FTE) for professional judges.

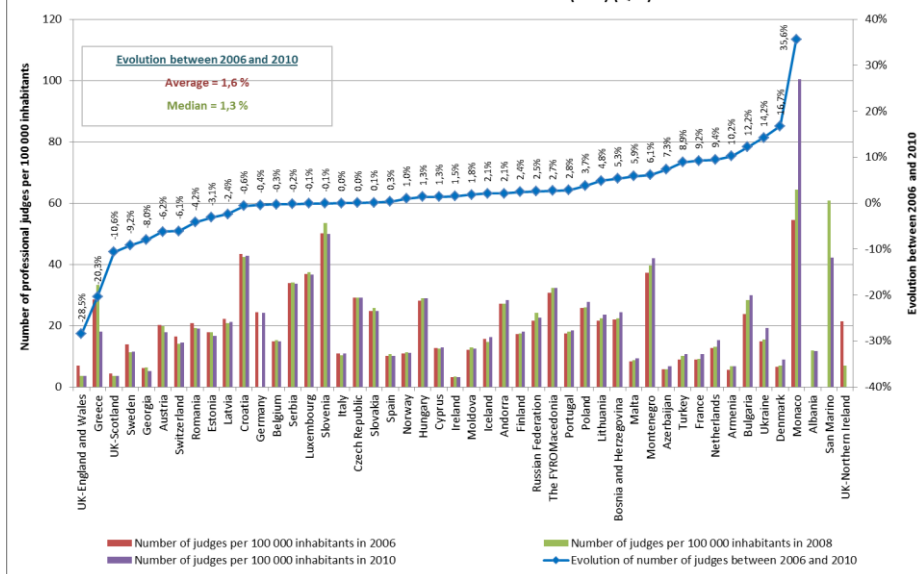
**Figure 7.2. Number of professional judges sitting in courts (FTE) for 100.000 inhabitants, in 2010**



In general, the judicial systems of the member states of Central and Eastern Europe operate with a ratio of judges per inhabitant higher than in the states of Western Europe. A majority of European states or entities tend to have a stable number of judicial staff in the period 2006 - 2010, although structural or organisational reforms tend to reduce the proportion of permanent professional judges in some states or entities (**Sweden, Switzerland, UK-Scotland**), some of them having occasional judges. On the contrary, some member states in transition continue their reforms by increasing human resources devoted to the judicial function (**Azerbaijan, Bosnia and Herzegovina, Armenia, "the former Yugoslav Republic of Macedonia"**).

The composition of the judiciary between professional judges, occasional judges and lay judges feature strongly different types of judicial systems. Some systems are fully professionalised, or rarely use lay judges, while other systems (Northern Europe) rely heavily on lay judges. For states experiencing the coexistence of professional and lay judges, the evolution tends mainly towards an increasingly professional judiciary. Europe is divided on the use of juries, and a fairly clear division can be noted between Western Europe (in addition to **Azerbaijan** and the Russian Federation), supporting such a system (mainly the most serious crimes), and Central and Eastern Europe, whose states do not provide such a system.

Figure 7.3 Number of professional judges per 100 000 inhabitants in 2006, 2008 and 2010 and its evolution between 2006 and 2010 (in %) (Q46)

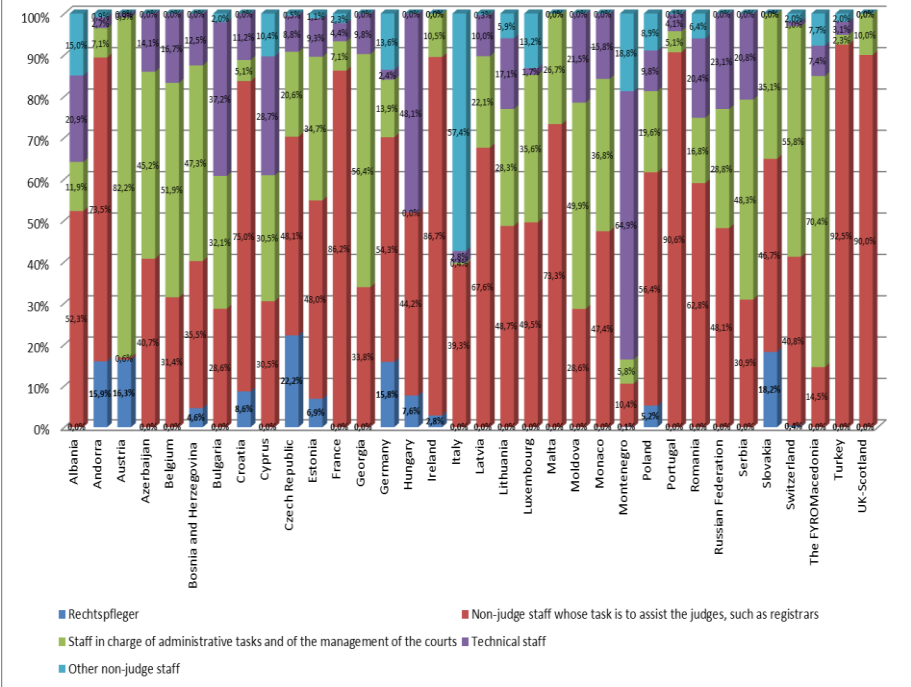


When comparing the trend since 2006, it can be noted that in Europe, the number of professional judges per 100.000 inhabitants has increased in average by + 1.6%, and at the same time, a trend towards relative stability in the number of judicial staff in the majority of European states or entities is discernible. In 16 states or entities out of 48, essentially in Western Europe, the number of professional judges per 100.000 inhabitants has decreased. The analysis of the gross number of judges between 2008 and 2010 explains this trend as resulting essentially from demographic effects: the states concerned are small states where the general population has significantly increased, which constitutes the main explanation for the variation in the ratio. In fact, among those states where professional judges per inhabitant are decreasing (in absolute figures), the number of judges in 2010 decreases significantly only in **Greece**. Structural reforms can result in the reduction of posts, some states or entities having chosen to increase the number of assistant judges or non-professional judges as well as the function of single judge. By contrast, some states in transition continue their reforms by increasing human resources devoted to the judicial function (**Azerbaijan, Bosnia and Herzegovina, Montenegro, "the former Yugoslav Republic of Macedonia"** and **Ukraine**). The influence of recent membership or application to the European Union may be an explanation for this trend of increasing numbers of judges (**Bulgaria, Turkey, Denmark, the Netherlands** and **Poland**, also increased significantly the number of professional judges. Some decreases or increases can simply be explained by the filling of existing free places for judges (**Russian Federation** or **Lithuania**).

## 7. Non-judge staff

A distinction is made between four types of non-judge staff. A specific category of non-judge staff are the "Rechtspfleger", inspired by the German system. The second category is composed of staff that has the task to assist judges directly. The third category concerns staff responsible for different administrative matters, as well as court management. The last category relates to technical staff attached to courts.

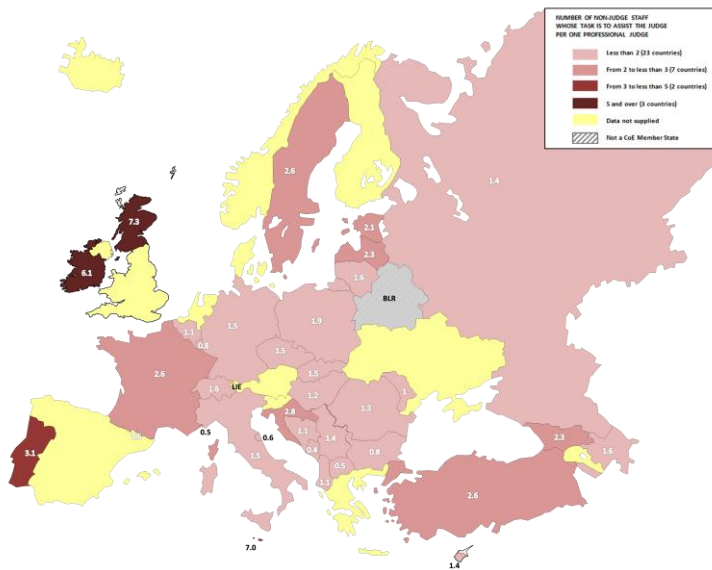
Figure 8.2 Distribution of non-judge staff per category, in % (Q52)



Data on non-judge staff in courts are stable between 2006 and 2010. In most of the European states or entities, a majority of non-judge staff working in courts is entrusted with the direct assistance of judges. Major disparities between the states can be highlighted regarding the non-judge staff in courts. Thus, in 14 member states, non-judge staff, similar to *Rechtspfleger*, are entrusted with quasi-judicial powers, which might influence the court operation.

**Note:** France and Greece could not separate categories. It is the number of professional judges or prosecutors vs. number of non-judge and non-prosecutor staff.

**Figure 8.4 Number of non-judge staff whose task is to assist the judge per one professional judge**



## 8. Court activity and fair trial

With the information available, the CEPEJ is now able to draw preliminary conclusions from the analysis of the two main indicators. The **clearance rate** is obtained when the number of resolved cases within the year is divided by the number of incoming cases within the same period and the result is multiplied by 100:

$$\text{Clearance Rate (\%)} = \frac{\text{resolved cases}}{\text{incoming cases}} \times 100$$

A clearance rate close to 100 % indicates the ability of the court or of a judicial system to resolve more or less as many cases as the number of incoming cases within the given time period. A clearance rate above 100 % indicates the ability of

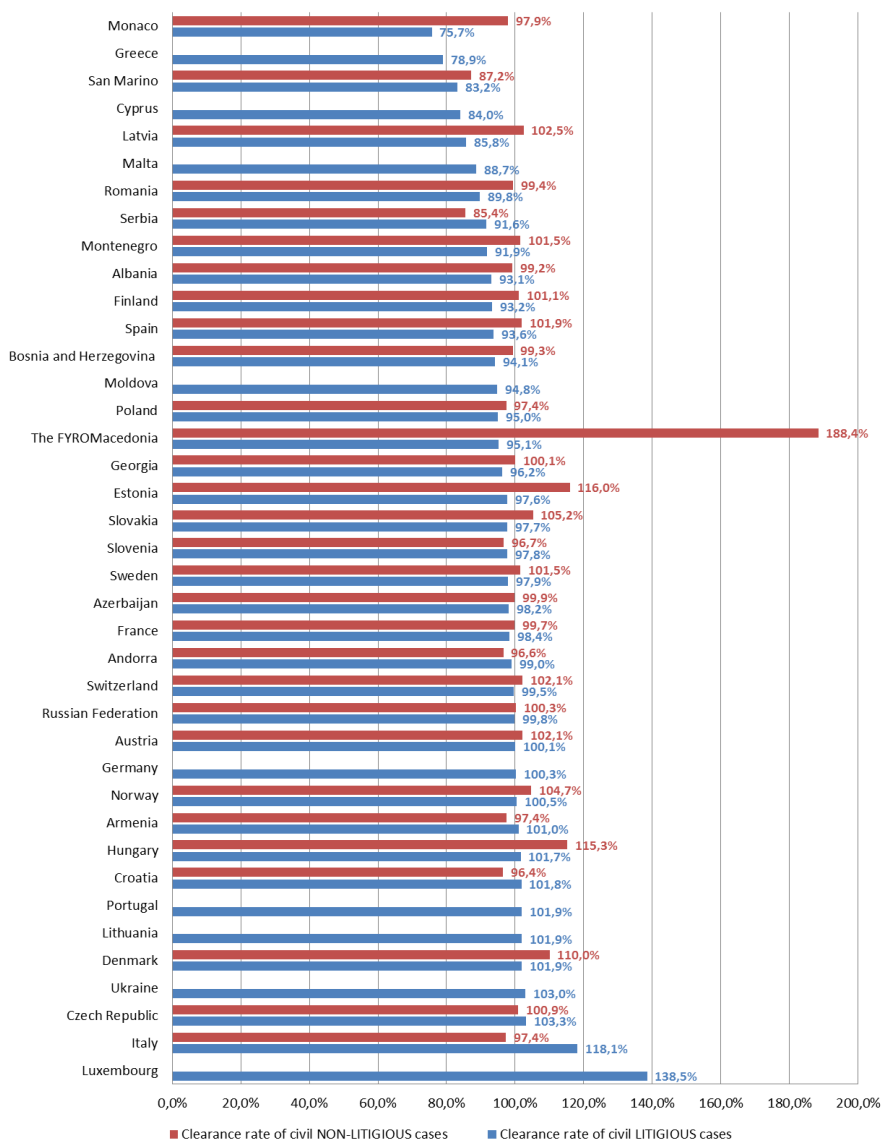
the system to resolve more cases than received, thus reducing any potential backlog. Essentially, a clearance rate shows how the court or judicial system is coping with the in-flow of cases.

The ***disposition time*** indicator provides further insight into how a judicial system manages its flow of cases. The estimated disposition time compares the number of resolved cases during the observed period with the number of unresolved cases at the end of the observed period. The ratios measure in number of days the estimated time needed for terminating a pending case.

$$DispositionTime = \frac{365}{CaseTurnoverRatio}$$

The analysis of the data currently available indicates that first instance courts in Europe are generally better able to cope with the flows of criminal cases than civil cases.

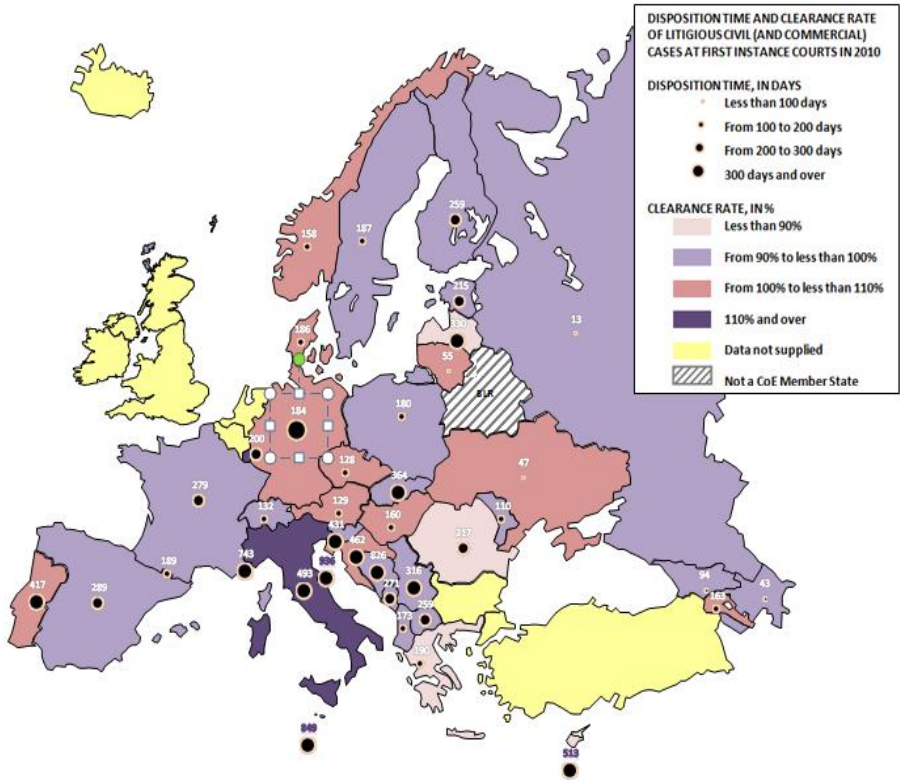
**Figure 9.10 Clearance rate of civil litigious and non-litigious cases in 2010, in % (Q91)**





“the former Yugoslav Republic of Macedonia”: the very high number of resolved civil non-litigious cases in connection with incoming cases is the result of activities undertaken to decrease backlogs of payment orders. Namely, in all courts in 2010 there were 236.702 incoming cases (payment orders), while there were 452.069 resolved cases (payment orders). Most of these cases were resolved in the biggest court – Basic Court Skopje 2 - which is a civil court. In 2010, additional court clerk staff was involved in solving payment orders as assistants of judges. As a result of these activities, in 2010 in Basic Court 2, there were 133.565 incoming cases (payment orders) and 340.461 resolved cases.

**Figure 9.13 Disposition Time and Clearance Rate of litigious civil (and commercial) cases in first instance courts in 2010 (Q91)**



**Andorra:** from 90% to less than 100%; **Malta, Monaco and San Marino:** less than 90%.

When reading the results presented in this map, the most productive civil (and commercial) first instance court system, which do not generate backlogs (clearance rate equal to or higher than 100 %) and can quickly resolve a filed case (less than 100 days), can be found in **Ukraine** and **Lithuania**. The indicators also show that **Russian Federation, Azerbaijan, Czech Republic, Austria, Switzerland, Norway** and **Hungary** had relatively productive first instance civil (commercial)

courts in 2010. On the contrary, the first instance courts had more difficulties in resolving the incoming cases in **Romania, Montenegro and Spain**.

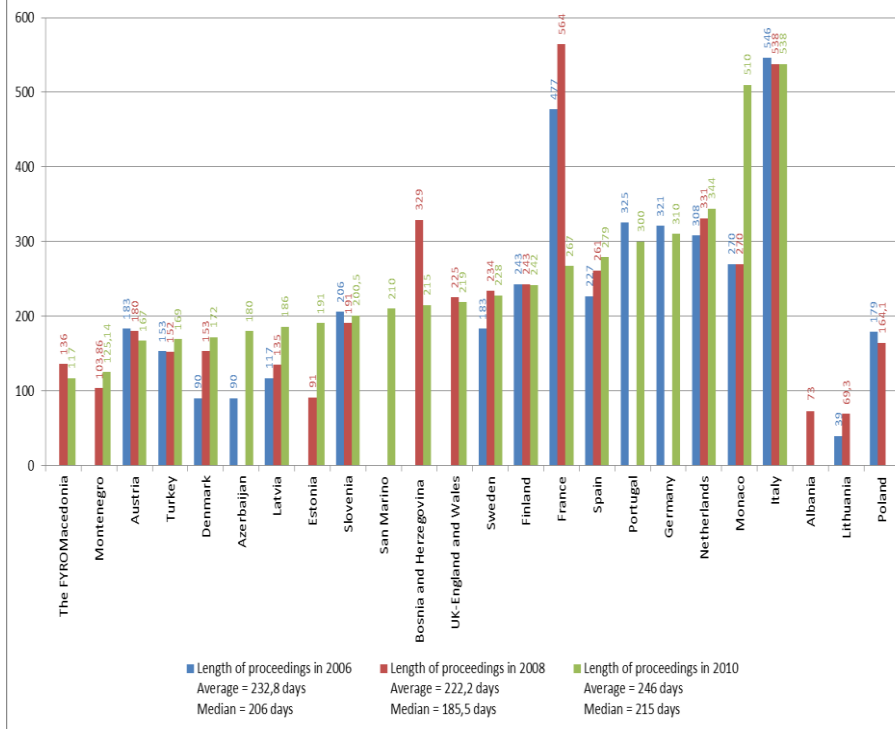
Of the 12 states which have the highest disposition time (more than 300 days), only 3 (**Italy, Portugal, Croatia**) have clearance rates equal to or higher than 100%, which resulted in an improvement, even limited, of their situation in 2010. 9 other states (**Serbia, Latvia, Slovakia, Slovenia, Cyprus, Monaco, Bosnia and Herzegovina, Malta and San Marino**) have not reached a 100% clearance rate for civil litigious cases which means that backlogs of unresolved cases in these court systems is growing and their disposition time is deteriorating.

The CEPEJ is now able to draw preliminary conclusions from the analysis of the two main indicators that have been established: the clearance rate and the disposition time. The analysis of the data currently available indicates that first instance courts in Europe are generally better able to cope with the flows of criminal cases than civil cases. Generally speaking, citizens seem to be more litigious in Central and Eastern European states and Southern European states than in Northern Europe and the Caucasus states. Case throughput varies between the states depending on whether or not they have to address non-contentious civil cases (this is normally associated with the holding or not by the courts of land and commercial registers). The volumes of such cases might also vary. But in general, non-contentious matters, if they can increase the workload of courts, are rarely the cause of lack of effectiveness of jurisdictions.

The situations in the treatment of cases differ significantly between member states or entities. Having to handle a high volume of cases is not in itself an obstacle to the smooth functioning of the courts, some states manage to handle relatively quickly significant volumes of cases (**Austria, Azerbaijan, Russian Federation, Georgia**). Some states are able to absorb the flow of incoming cases and / or reduce the backlog, while others see backlogs of pending cases increasing. Between these two categories, it is worth underlining those states where the efficiency in addressing cases tends to decrease, although, at this stage, they are still able to cope with the flows of incoming cases; they should follow closely the evolution of the indicators that are currently flashing orange (a cause for continued observation).

If first instance court performance in 2010 is observed only from quantitative aspects, only **Austria** and **Czech Republic** achieved clearance rate above 100% in litigious and non-litigious civil (and commercial) and in criminal cases and also managed to maintain disposition time below 180 days in said case types. The good performance of the courts of several states (including **Georgia, Russian Federation**) is especially worth highlighting. Indeed, the current reforms and investment in the judiciary seem to lead to encouraging results.

Figure 9.38 Average length of proceedings for litigious divorce cases at first instance courts in 2006, 2008 and 2010, in days (Q102)



An increase in the length of procedure does not necessarily mean that the courts have lost some of their efficiency. The length of litigious divorce proceedings in first instance varies in between the states and entities concerned according to the family law (civil law) procedure and the volume of cases filed in courts. The calculated disposition time shows the duration for which an incoming case remains in the court before being resolved at the level of this court. This indicator shows rapid procedures (less than 150 days) in the **"the former Yugoslav Republic of Macedonia"** and longer procedures (more than 500 days) in **Monaco** and **Italy**.

However, divergent trends are present in some of the states. While **Latvia** and **Spain** are having number of incoming divorce cases reduced since 2006, their average length of proceedings for litigious divorce cases at first instance courts is protracting. It appears that in other states like **Sweden**, **France**, **Italy** and **Bosnia and Herzegovina**, decrease of the number of incoming divorce cases is followed by shorter average length of proceedings.

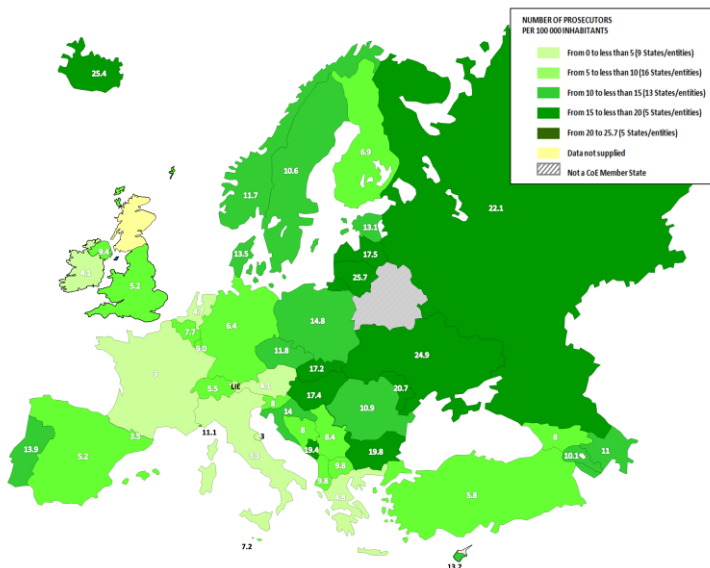
In any case, a compared analysis of the length of divorce litigation procedures cannot be made without taking into account the specificities particular to divorce

proceedings in different states, briefly presented below, which can highly influence the result of the proceeding. Thus, for **France** and **the Netherlands**, the facilitation of divorce by mutual consent had left in 2008 for litigations only difficult cases, which partly explains the length of proceedings. But the reduction in new cases in **France** has enabled to reduce judicial timeframes in 2010, as in **Italy** or **Sweden**.

### 9. Prosecutors

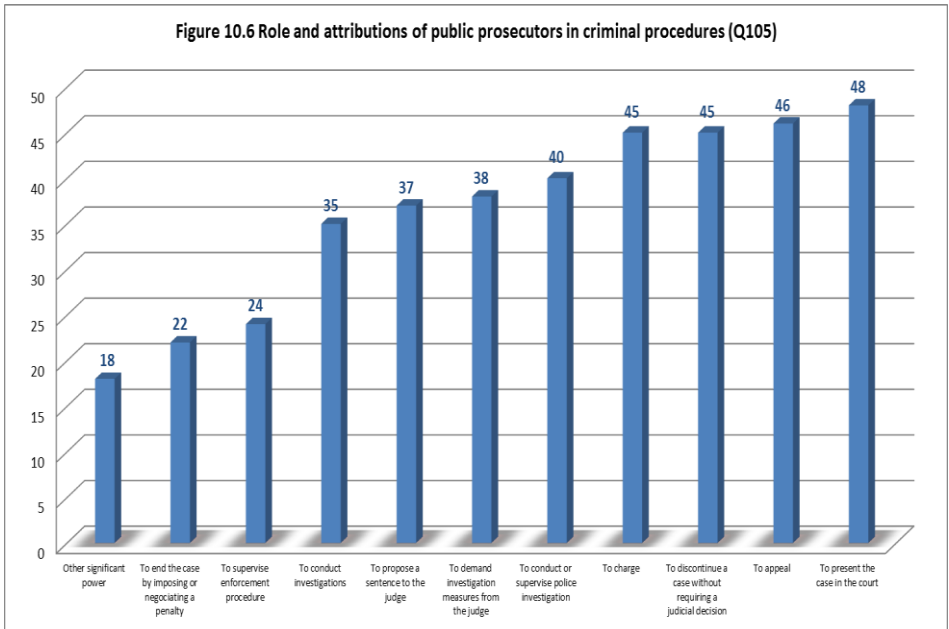
Every state or entity has, sometimes under a different name, a public authority entrusted with qualifying and carrying out prosecutions. In all the European states or entities, they play an important role in the prosecution of criminal cases. In most of the member states or entities, they also have a responsibility in the civil and even administrative law area. Another important aspect that needs to be taken into account concerned the different levels of autonomy of a prosecutor. In some states or entities, they benefit of a protection of their independence, equal to judges, whilst in other states or entities, the criminal policies are directed, formally or not, by the Ministry of Justice and the level of independence is more or less limited.

**Figure 10.2. Number of public prosecutors per 100.000 inhabitants in 2010**



The highest number of public prosecutors (20 or more prosecutors per 100.000 inhabitants) can be found in Central and Eastern European states (**Bulgaria**, **Lithuania**, **Republic of Moldova**, **Montenegro**, **Russian Federation**, **Ukraine**), as well as in Iceland. 7 states (**Andorra**, **Austria**, **France**, **Ireland**, **Italy**, **Malta**, **San Marino**) have the lowest ratio (less than 5 prosecutors per 100.000 inhabitants), but for these states, data must be reported to the number of collaborators or persons

having a status close to the prosecutors and exercising some similar or delegated tasks.



The role of the prosecutor is preeminent in the initial and intermediate stages of the criminal procedure, while relatively limited in the final ones.

All the responding states or entities stated that prosecutors are authorised to present the case in the court. In 46 states or entities, the prosecutor may appeal the judgment. The only exceptions include **San Marino** and **UK-Northern Ireland**. In 45 states or entities, the prosecutor may bring charges against the defendant. This cannot be done only in **Greece, UK-Northern Ireland** and **UK-Scotland**.

In 39 states or entities, prosecutors can conduct or supervise police investigations. Member states or entities which do not entrust this task to prosecutors are: **Cyprus, Finland, Ireland, Malta, Slovenia** and **UK-England and Wales**.

In 45 states or entities, prosecutors could end cases by dropping them without the need of a judicial decision. This is not possible in **Andorra, Cyprus** and **Spain**. 22 states allow prosecutors to end the case by imposing or negotiating a penalty or a measure without a judicial decision.

In 18 member states, the prosecutors may have other significant powers. For example, the prosecutor has the ability to negotiate a guilt agreement (**Azerbaijan**,

**Bosnia and Herzegovina and Poland)** which can lead to a simplified procedure (**Georgia**).

## **10. Status and career of judges and prosecutors**

Recommendations from the Council of Europe take on as fundamental principles the protection and strengthening of the judges' independence (in particular Recommendation R(2010)12 on judges: independence, efficiency and responsibilities) and try to guarantee the statutory protection of prosecutors (Recommendation R(2000)19 on the role of public prosecution in the criminal justice system).

With respect to the recruitment, nomination and promotion of judges and prosecutors, there is, in most of the states, a strong involvement of judges and prosecutors' representatives in competent bodies. However, it is regrettable that there are still some states where judges and prosecutors are not represented in such bodies.

The budget allocated to training, which is indispensable for improving the functioning of justice, is increasing significantly in several central and eastern European states. In most of the states or entities, an initial training for judges or prosecutors is mandatory and its duration can vary from several months to several years. General in-service training is most often ensured.

### ***Salaries of judges and prosecutors***

The salaries of judges and prosecutors must be in accordance with their status and their responsibilities. The European trend is to increase judges' and prosecutors' salaries at a significant level compared to the gross salary in the state, though large discrepancies can be noted between the states. The ratio between the salary of a judge or prosecutor at the Supreme Court or at the Highest Appellate Court and the national average gross annual salary is an interesting indicator to measure differences between countries by removing the biases that are the modes of recruitment, age, previous career, the exchange rate or GDP.

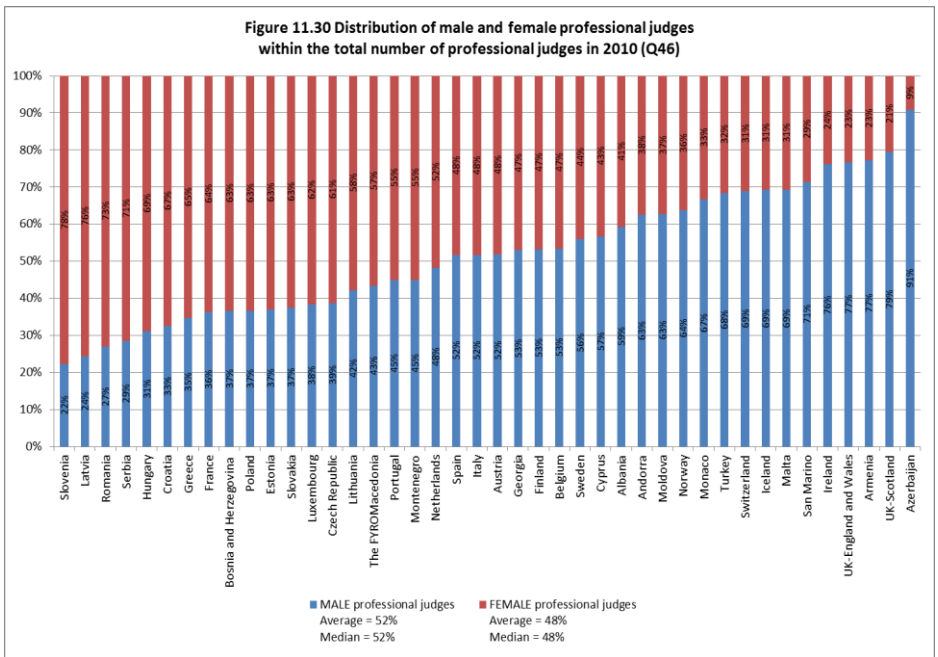
**Table 11.19. Gross and net annual salaries of judges and prosecutors at the level of the supreme court or the highest appellate court, in 2010**

States/entities	Gross annual salary of a judge of the Supreme Court or the Highest Appellate Court	Gross salary of a judge in regard to national average gross annual salary	Net annual salary of a judge of the Supreme Court or the Highest Appellate Court	Gross annual salary of a Public Prosecutor of the Supreme Court or the Highest Appellate Instance	Gross salary of a prosecutor in regard to national average gross annual salary	Net annual salary of a Public Prosecutor of the Supreme Court or the Highest Appellate Instance
Albania	14 700 €	3,9	12 463 €	14 571 €	3,9	12 191 €
Andorra	39 823 €	1,7	37 633 €			
Armenia				11 112 €	4,3	8 858 €
Austria	115 647 €	4,0	69 561 €	115 647 €	4,0	69 561 €
Azerbaijan	20 852 €	5,5	17 200 €	13 431 €	3,5	10 880 €
Belgium	127 956 €	3,3	60 114 €	127 956 €	3,3	60 114 €
Bosnia and Herzegovina	38 108 €	5,1	25 646 €	38 108 €	5,1	25 646 €
Bulgaria	22 177 €	7,0	17 885 €	22 177 €	7,0	17 885 €
Croatia	65 592 €	5,2	29 016 €	65 592 €	5,2	29 016 €
Cyprus	126 237 €	5,4	92 475 €	32 942 €	1,4	20 540 €
Czech Republic	54 384 €	4,8		42 816 €	3,8	
Denmark	172 738 €	3,5		85 460 €	1,7	
Estonia	43 992 €	4,6	35 112 €	34 512 €	3,6	26 591 €
Finland	120 912 €	3,3	73 800 €	77 376 €	2,1	51 400 €
France	113 478 €	3,4	92 961 €	113 478 €	3,4	92 961 €
Georgia	22 270 €	7,4	17 817 €	15 480 €	5,1	12 384 €
Germany	73 679 €	1,7		73 679 €	1,7	
Greece	87 240 €	3,6	54 600 €	87 240 €	3,6	54 600 €
Hungary	37 986 €	4,1	19 864 €	35 067 €	3,8	18 336 €
Iceland	70 008 €	2,0		70 469 €	2,1	
Ireland	257 872 €	7,1				
Italy	176 000 €	7,3	95 965 €	163 788 €	6,8	89 779 €
Latvia	26 650 €	3,5	17 965 €	17 388 €	2,3	11 760 €
Lithuania	24 444 €	3,5	18 576 €	22 333 €	3,2	16 975 €
Luxembourg	152 607 €	3,6		152 607 €	3,6	
Malta	38 487 €	2,7				
Moldova	4 756 €	2,2	3 512 €	3 512 €	1,6	2 634 €
Monaco	124 740 €	3,7	118 249 €	124 740 €	3,7	118 249 €
Montenegro	32 202 €	3,8	19 341 €	27 902 €	3,3	18 694 €
Netherlands	128 900 €	2,5	67 000 €			
Norway	181 971 €	3,3	95 992 €	90 570 €	1,6	66 650 €
Poland	57 650 €	5,9	41 061 €	44 454 €	4,6	33 675 €
Portugal	85 820 €	4,2		85 820 €	4,2	
Romania	43 865 €	8,2	30 768 €	36 230 €	6,8	25 412 €
Russian Federation	47 265 €	7,6	38 720 €	15 628 €	2,5	13 596 €
Serbia	22 514 €	4,2	16 000 €	22 514 €	4,2	16 000 €
Slovakia	40 659 €	4,4		40 659 €	4,4	
Slovenia	57 909 €	3,2	30 823 €	54 765 €	3,1	29 367 €
Spain	111 932 €	3,6		111 932 €	3,6	
Sweden	91 600 €	2,4		69 318 €	1,8	
Switzerland	264 000 €	4,6	237 000 €			
The FYROMacedonia	21 221 €	3,6	14 080 €	17 179 €	2,9	11 579 €
Turkey	43 166 €	3,8	31 776 €	41 263 €	3,6	30 357 €
Ukraine	20 388 €	8,6	16 080 €	5 520 €	2,3	4 927 €
UK-England and Wales	243 190 €	7,7		116 325 €	3,7	
UK-Scotland	230 147 €	8,0				
Average	86 616 €	4,5	48 408 €	58 539 €	3,6	33 354 €
Median	57 909 €	3,9	31 300 €	42 040 €	3,6	22 976 €
Maximum	264 000 €	8,6	237 000 €	163 788 €	7,0	118 249 €
Minimum	4 756 €	1,7	3 512 €	3 512 €	1,4	2 634 €

**UK-Scotland, Ireland, UK-England and Wales**, as well as **Ukraine, Romania, Russian Federation, Georgia, Italy, Bulgaria** grant judges at the Supreme Court or at the Highest Appellate Court with the highest salaries related to the national average gross annual salary, between 7 and 8 times higher. However such a difference is true as regards prosecutors at the highest level only for Bulgaria and Italy. Prosecutors at the highest level in **Ukraine, Russian Federation, UK-England and Wales** earn between 2,3 and 3,7 times the average gross salary, a proportion which is close to the European average (3.6).

**Gender issues within the judiciary**

The Council of Europe is implementing a policy of equality between men and women within its member States. In this context, for the first time, the CEPEJ has completed its analysis to get specific information on the male/female amongst professional judges and public prosecutors as well as their respective access to functions of responsibility.

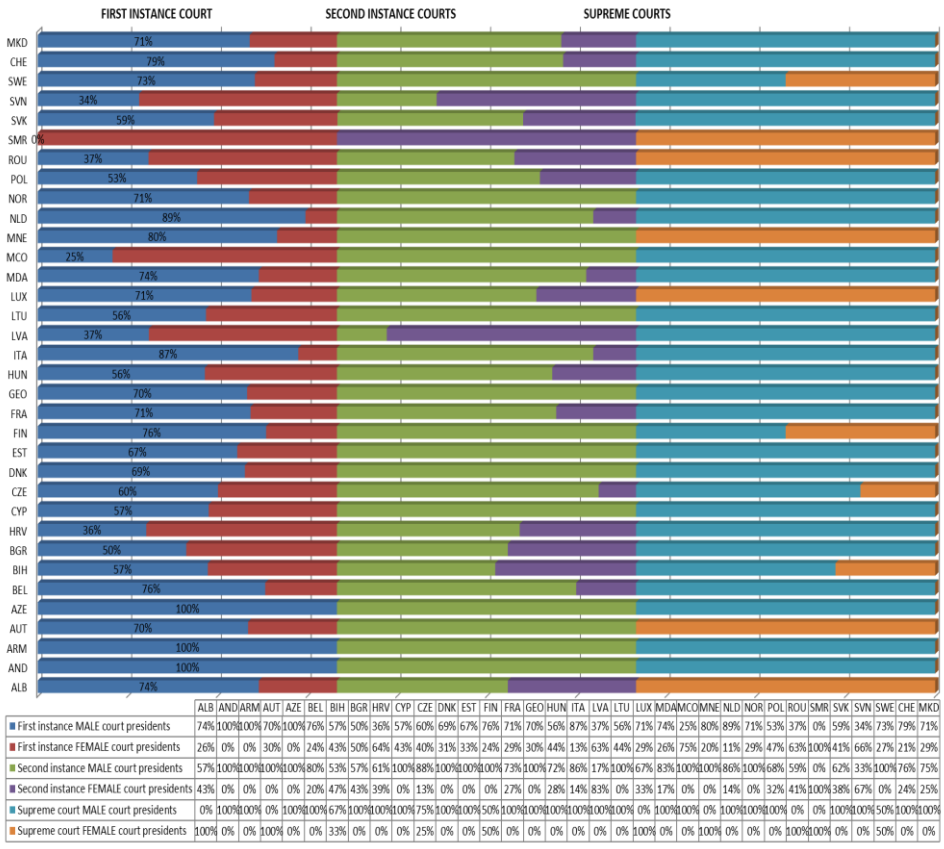


From a general point of view, it is possible to note within the judiciary a near gender equality, with an average for all states or entities of 52% of men and 48% of women. A group of about fifteen European states respect a relative equality of men and women amongst its judges, these are shown in a range from 40 to 60%. If 15 states have more than 50% of women amongst their judges, some States such as **Serbia, Slovenia, Latvia and Romania** have more than 70%. In contrast, 23 States



or entities have more than 50% of male judges and 6 of them have more than 70% (91% of men in **Azerbaijan**).

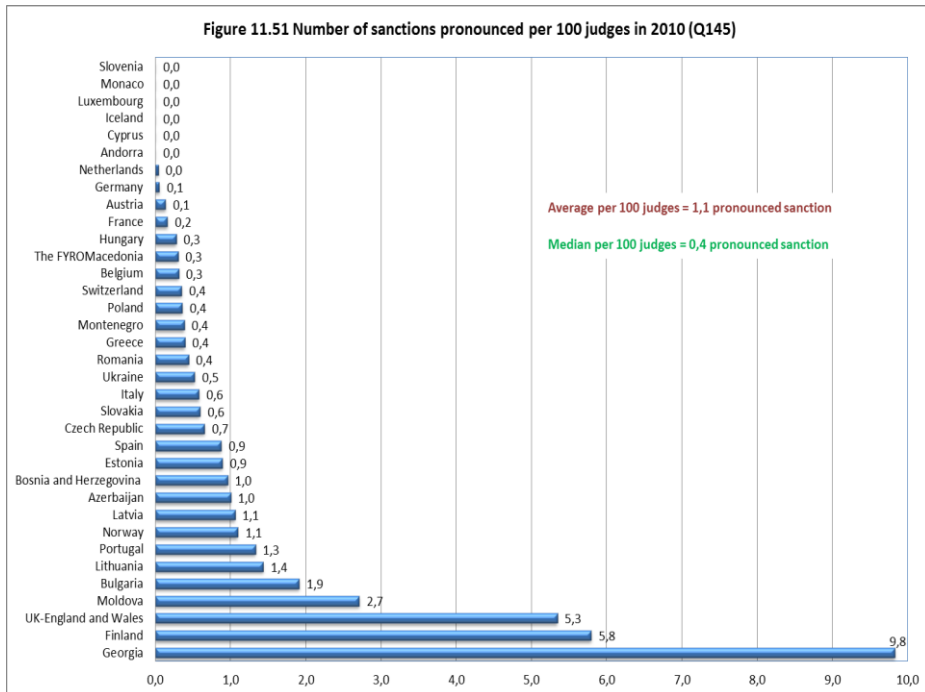
Figure 11.34 Distribution of male and female court presidents (professional judges) per category of courts (first instance courts, second instance courts and supreme courts) in 2010 (Q47)



As regards access to functions of responsibility, data on the distribution between men and women exercising as court presidents reveal that the delicate balance between men and women currently being put in place in many European countries as regards judges in general, is not yet reached concerning the heads of jurisdiction. Generally in effect, fewer women than men chair jurisdictions, and this is especially true as one moves up in the judicial hierarchy. Among the 26 states that provided data, only 8 had a woman at the head of the Supreme Court (or equivalent) in 2010. The "glass ceiling" impeding access to the hierarchical progression of women seems to exist also in the field of justice.

## Disciplinary proceedings against judges and prosecutors

Judges and prosecutors have series of responsibilities which may lead to disciplinary proceedings in case of non-fulfilment. The legality principle requires that disciplinary sanctions can only be imposed on judges in cases expressly defined by the judges' status, where one must find the list of the various sanctions that can be imposed.

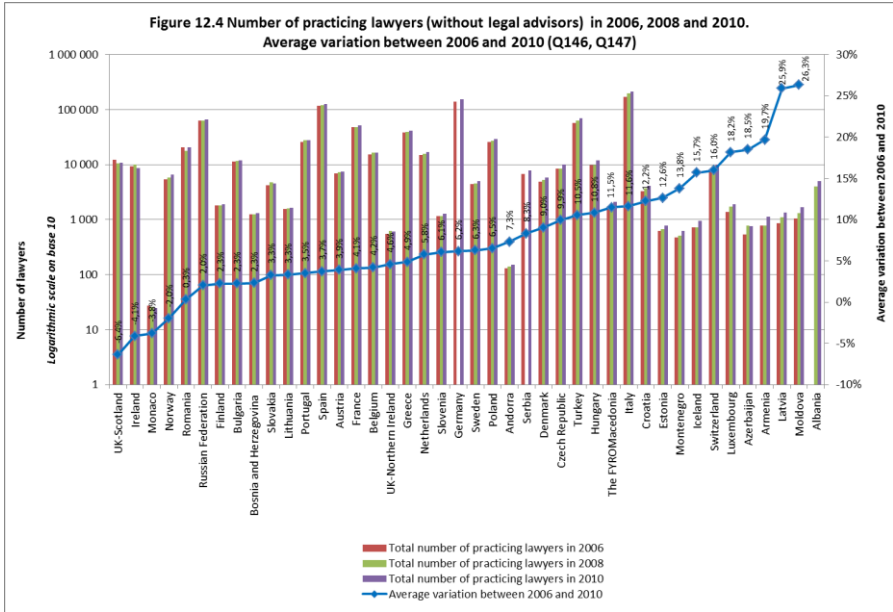


An average of 1,1 sanction per 100 judges is characteristic of the 35 responding states or entities. It must be noted that in the states which have a much higher level of sanctions formal warnings have been taken into account.

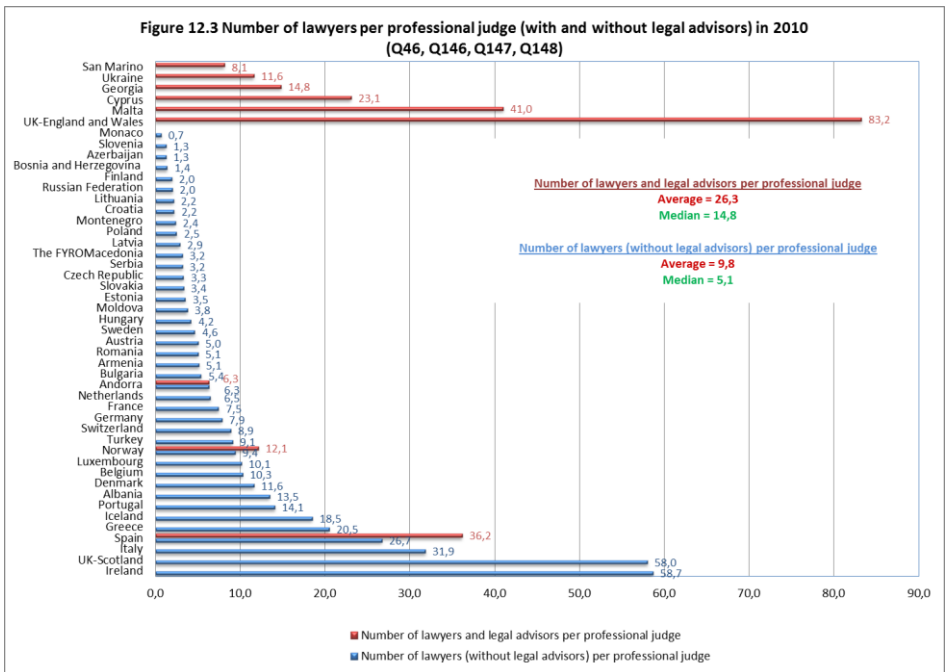
The difference more or less stressed between the number of “open disciplinary proceedings” and the number of “finally imposed sanctions” is explained by the fact that a filter mechanism does or does not exist before filing the case before the disciplinary body.

## 11. Lawyers

The word "lawyer" is used according to Recommendation Rec(2000)21 of the Council of Europe namely: "... a person qualified and authorised according to the national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters".



The number of lawyers has increased in Europe between 2006 and 2010 in almost all the member states or entities, but it varies between the various parts of the continent, according also to functions which are more or less wide, namely beyond the legal representation before courts. The states of Southern Europe have the highest ratio of lawyers per inhabitant; the level of judiciarisation of the society in such states is usually higher than in the states of Northern Europe. It cannot be established at this stage that there is a direct link between, on the one hand, the number of lawyers and, on the other hand, the volume and lengths of proceedings, further analyses will have to be made to see whether the number of lawyers and their role vis-à-vis the development of judicial proceedings, compared to the role of the judges, have or not a relevant impact on the court workload and the length of proceedings.



It is normal that the number of lawyers per professional judge is high in the United Kingdom, because of the low number of professional judges. In the other states, this ratio varies considerably. Some states have less than 2 lawyers per professional judge (**Monaco, Slovenia, Azerbaijan, Bosnia and Herzegovina**). The highest numbers (more than 20 lawyers per one professional judge) can be found in **Greece, Italy, UK-Scotland and Ireland**. However, in these states, lawyers have wide powers that go beyond activities directly related to courts.

## 12. Execution of court decisions

It is difficult to assess the smooth execution of court decisions in civil or commercial matters on the basis of relevant statistics, as execution belongs to the parties. Therefore, this report focuses on the organisation of the execution and the role of enforcement agents.

**Table 13.17. Timeframe for notification of a court decision on debt recovery to a person living in the city where the court is sitting**

Between 1 and 5 days - 15 States/entities -	Between 6 and 10 days - 14 States/entities -	Between 11 and 30 days - 8 States/entities -	More than 30 days - 0 States/entities -
Armenia	Albania	Czech Republic	
Austria	Andorra	Iceland	
Azerbaijan	Bulgaria	Ireland	
Bosnia and Herzegovina	Croatia	Netherlands	
Denmark	Cyprus	Serbia	
Georgia	Finland	Slovakia	
Germany	Greece	Spain	
Luxembourg	Hungary	UK-Scotland	
Malta	Latvia		
Monaco	Lithuania		
Norway	Moldova		
Sweden	Montenegro		
Switzerland	Romania		
Turkey	San Marino		
UK-England and Wales			

The timeframe for notification, which depends also on its procedural form, may be reduced in practice either thanks to the acts of an enforcement agent or thanks to the simplified form of a mail with acknowledgment of receipt. So, the timeframe depends either on the diligence of the enforcement agent or on the more or less proper operation of the postal service. Each state or entity, in a similar situation, evaluates an average timeframe as an indicator of efficiency.

Almost two third of the states or entities (29) stated to be able to notify the person in a timeframe between 1 and 10 days. No more state needs more than 30 days to provide the decision to the person concerned.

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**Table of contents**  
**of the report on judicial European systems**  
**Edition 2012 (data 2010)**

**Chapter 1. The evaluation process of the CEPEJ**

- 1.1 The European Commission for the Efficiency of Justice
- 1.2 The Scheme for evaluating judicial systems
- 1.3 Data collection, validation and analysis
- 1.4 General methodological issues
- 1.5 General economic and demographic figures
- 1.6 Analysing the findings of the report

**Chapter 2. Public Expenditures: courts, prosecution system and legal aid**

- 2.1 Public expenditure on the operation of judicial system: overview
- 2.2 Public budget allocated to the courts
- 2.3 Public budget allocated to the public prosecution services
- 2.4 Public budget allocated to the legal aid system
- 2.5 Public budget allocated to all courts and public prosecution (without legal aid)
- 2.6 Public budget allocated to all courts and legal aid (excluding prosecution services)
- 2.7 Public budget allocated to all courts, public prosecution services and legal aid
- 2.8 The effects of the 2009 / 2010 financial and economic crisis.
- 2.9 Trends and conclusions

**Chapter 3. Access to justice**

- 3.1 Various types of legal aid.
- 3.2 The budget for legal aid
- 3.3 Conditions for granting legal aid
- 3.4 Court fees, taxes and reimbursement
- 3.5 The revenues of the judicial system
- 3.6 Trends and conclusions

**Chapter 4. Users of the courts: rights and public confidence**

- 4.1 Provisions regarding the supply of information to the court users
- 4.2 Protection of vulnerable persons
- 4.3 Role of the public prosecutor in protecting the rights or assisting the victims of crimes
- 4.4 Compensation procedures
- 4.5 Compensation of the users for dysfunction and complaints
- 4.6 Assessment of the satisfaction of users
- 4.7 Trends and conclusions

**Chapter 5. Courts**

- 5.1 Court organisation
- 5.2 Budgetary powers within courts
- 5.3 Information and communication technology (ICT) in the courts (e-justice and e-courts)

- 5.4 Quality and performance of the courts – Evaluation
- 5.5 Trends and conclusions

## **Chapter 6. Alternative Dispute Resolution (ADR)**

- 6.1 Different forms of ADR
- 6.2 Mediation
- 6.3 Arbitration, conciliation and other forms of ADR
- 6.4 Trends and conclusions

## **Chapter 7. Judges**

- 7.1 Introduction
- 7.2 Professional judges
- 7.3 Professional judges sitting occasionally
- 7.4 Non professional judges
- 7.5 Trial by jury and participation of citizens
- 7.6 Trends and conclusions

## **Chapter 8. Non-judge staff.**

- 8.1 Non-judge staff: number and distribution
- 8.2 Rechtspfleger
- 8.3 Trends and conclusions

## **Chapter 9. Fair trial and court activity**

- 9.1 Legal representation in court
- 9.2 Possibility to challenge a judge
- 9.3 Cases related to Article 6 of the European Convention on Human Rights
- 9.4 Civil (and commercial) litigious and non-litigious cases at first instance courts
- 9.5 Land register cases
- 9.6 Business register cases
- 9.7 Enforcement cases (non-criminal litigious cases)
- 9.8 Administrative law cases
- 9.9 Clearance rate for the total number civil, commercial and administrative cases
- 9.10 Criminal law cases (severe criminal offences) and misdemeanour cases (minor offences) at 1st instance courts
- 9.11 Comparing case categories: procedure and length
- 9.12 Measures to increase the efficiency of judicial proceedings
- 9.13 Trends and conclusions

## **Chapter 10. Prosecutors**

- 10.1 Number of public prosecutors, persons with similar duties and staff
- 10.2 Role and powers of public prosecutors
- 10.3 Case proceedings managed by public prosecutors
- 10.4 Trends and conclusions

## **Chapter 11. Status and career of judges and prosecutors**

- 11.1 Recruitment and nomination
- 11.2 Status of prosecutors
- 11.3 Training
- 11.4 Salaries of judges and prosecutors
- 11.5 Bonuses and other profits for judges and prosecutors
- 11.6 Career of judges and prosecutors
- 11.7 Responsibility of judges and prosecutors
- 11.8 Trends and conclusions

## **Chapter 12. Lawyers**

- 12.1 Number of lawyers
- 12.2 Organisation of the profession and training
- 12.3 Practice of the profession
- 12.4 Trends and conclusions

## **Chapter 13. Execution of court decisions**

- 13.1 Execution of court decisions in civil, commercial and administrative law
- 13.2 Execution of court decisions in criminal matters
- 13.3 Trends and conclusions

## **Chapter 14. The notaries**

- 14.1 Status, number and functions
- 14.2 Supervision of the profession of notary
- 14.3 Trends and conclusions

## **Chapter 15. Judicial experts**

- 15.1 Different kinds of judicial experts
- 15.2 Selection of judicial experts
- 15.3 Number of judicial experts (technical experts only)
- 15.4 Quality of judicial experts and protection of the title and the function of judicial expert
- 15.5 Trends and conclusions

## **Chapter 16. Court interpreters.**

- 16.1 Number of court interpreters
- 16.2 Title, function and quality of court interpreters
- 16.3 Selection of court interpreters by the courts
- 16.4 Trends and conclusions

## **Chapter 17. Judicial Reforms**

## **Chapter 18. Towards more efficiency and quality in the European judicial systems**

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