

15 September 2006

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

**Report on  
European judicial systems - Edition 2006  
(2004 data):**

**an overview**

## **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 member states for promoting the effective implementation of existing Council of Europe instruments relating to the organisation of justice (normative "after sale service"), ensuring that public policies of justice 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 European States, made up of qualified experts from the 46 member states, to assess the efficiency of judicial systems and propose practical tools and measures to improve the quality of the service to the citizens. (See [www.coe.int/CEPEJ](http://www.coe.int/CEPEJ))

## Introduction

In the Action Plan adopted in Warsaw (May 2005) within the framework of their 3<sup>rd</sup> Summit, the Heads of State and government of the 46 Council of Europe's member states have expressed their support for and their wish to strengthen the process for evaluating judicial systems set up by the CEPEJ.

Drawing lessons from the pilot exercise implemented in 2004 on the basis of the 2002 data, the CEPEJ presents today a report with the data of the year 2004. The report was adopted by the CEPEJ in July 2006<sup>1</sup>. It is unique in the number of subjects and countries that are covered. Such reports will be published regularly, thus enabling assessment of evolutions of the public services of justice for 800 million Europeans.

The methodology used, with the great contribution and support of the member states of the Council of Europe, makes it possible to present the most precise picture possible of the judicial systems of 45 European states. This report is a tool for the public policies of justice, with a view to propose concrete solutions to improve the quality and the effectiveness 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 the reforms, the necessity for which is regularly reminded by the case-law of the Strasbourg Court and the events in our member states. From this exceptional data base, the CEPEJ itself envisages undertaking, between each exercise of data collection and processing, a series of in-depth analyses on specific issues. This edition 2006 is thus the starting point of a continuous process, where phases of knowledge and phases of analyses will alternate.

The purpose of this document is not a synthesis of a bulky report, but is only to highlight some of its elements to give desire for 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 an approach deepened with all the necessary methodological elements (see [www.coe.int/CEPEJ](http://www.coe.int/CEPEJ)).

## Disclaimer

The CEPEJ, throughout its report, 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 countries, 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 biases and variations from one country 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 countries. Only an attentive reading of the report and a rigorous crossing of data can make it possible to draw analyses and conclusions. Figures cannot be passively taken one after the others, 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 huge sum of data and methodological elements for an in-depth study by choosing relevant clusters of countries: according to the characteristics of the judicial systems (for instance civil law and common law countries; 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 countries is also a discriminating element. Thus, the smallest states of the Council of Europe (Andorra, Monaco, Liechtenstein or San Marino) cannot be compared according to a scale "for 100.000 inhabitants". Other complementary methods are proposed, by using ratios such as the GDP and the average gross annual salary per inhabitant.

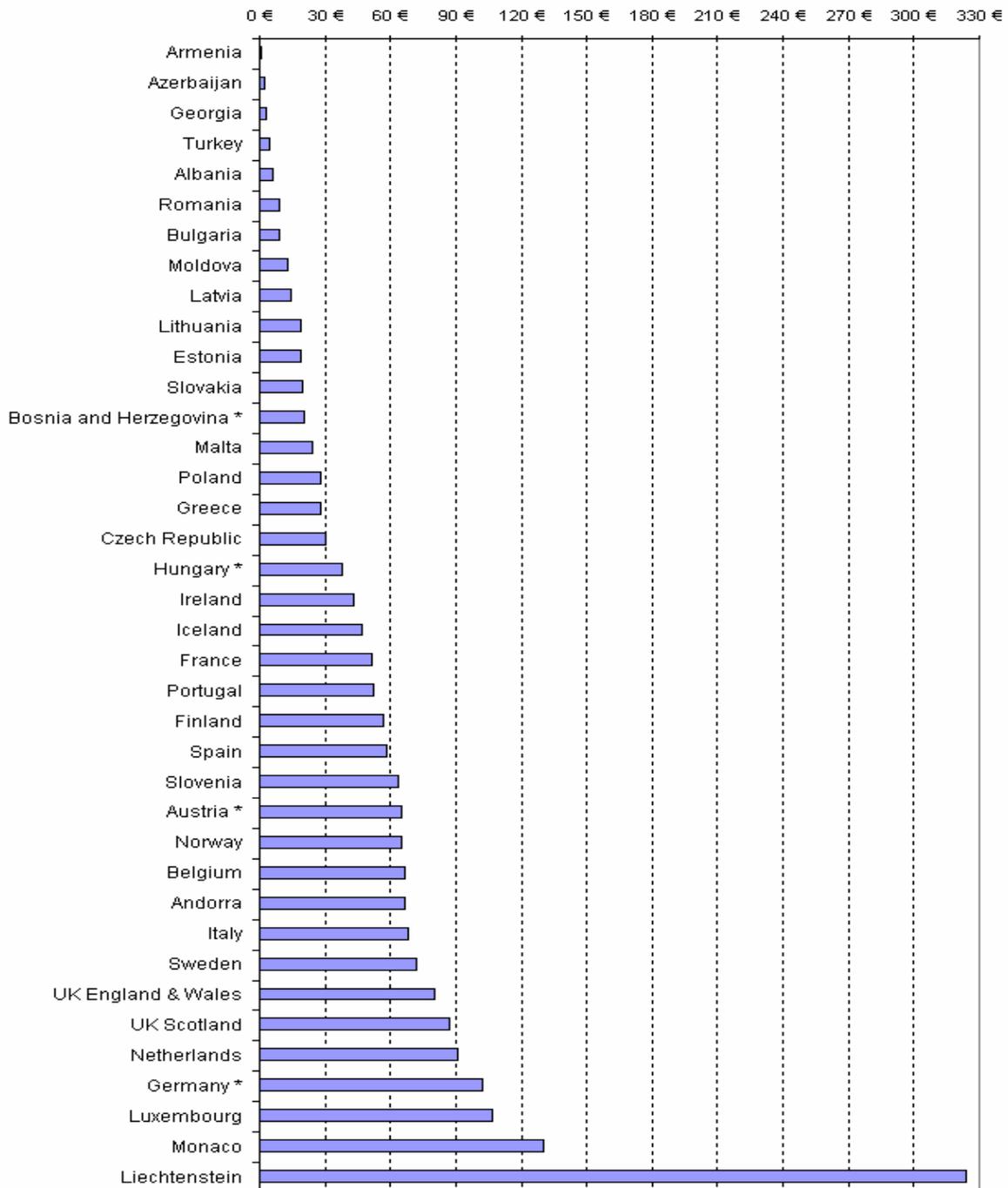
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<sup>1</sup> The report is based on a draft prepared by Ana Maria FALCONI, scientific expert (France) and the CEPEJ Working Group composed of Jean-Paul JEAN (France - Chair 2006), Pim ALBERS (The Netherlands - Chair 2005), Fausto DE SANTIS (Italy), Elsa GARCIA-MALTRAS DE BLAS (Spain), Hazel GENN (United Kingdom), Beata Z. GRUSZCZYNSKA (Poland), Mikhail VINOGRADOV (Russian Federation), Katarzyna GRZYBOWSKA (European Commission - Observer).

## 1. Budgets

Graph 1 highlights, for 38 countries, the budgets affected into 2004 to the legal systems, adding the budgets devoted to the courts, the public prosecution and legal aid. It does not include the countries which were not able to indicate, overall or separately, on the one hand the budget of the courts and the prosecution services and on the other hand the budget for legal aid when this last item is excluded from the preceding budgets. This addition enables not only to compare the means allocated to the functions of prosecuting and judging, in spite of the differences in the organization of the systems, but also to add the amounts allocated to the access to justice. These data enable thus to have a global overview on the budgets for almost all the member states of the Council of Europe. (See page xx of the full report).

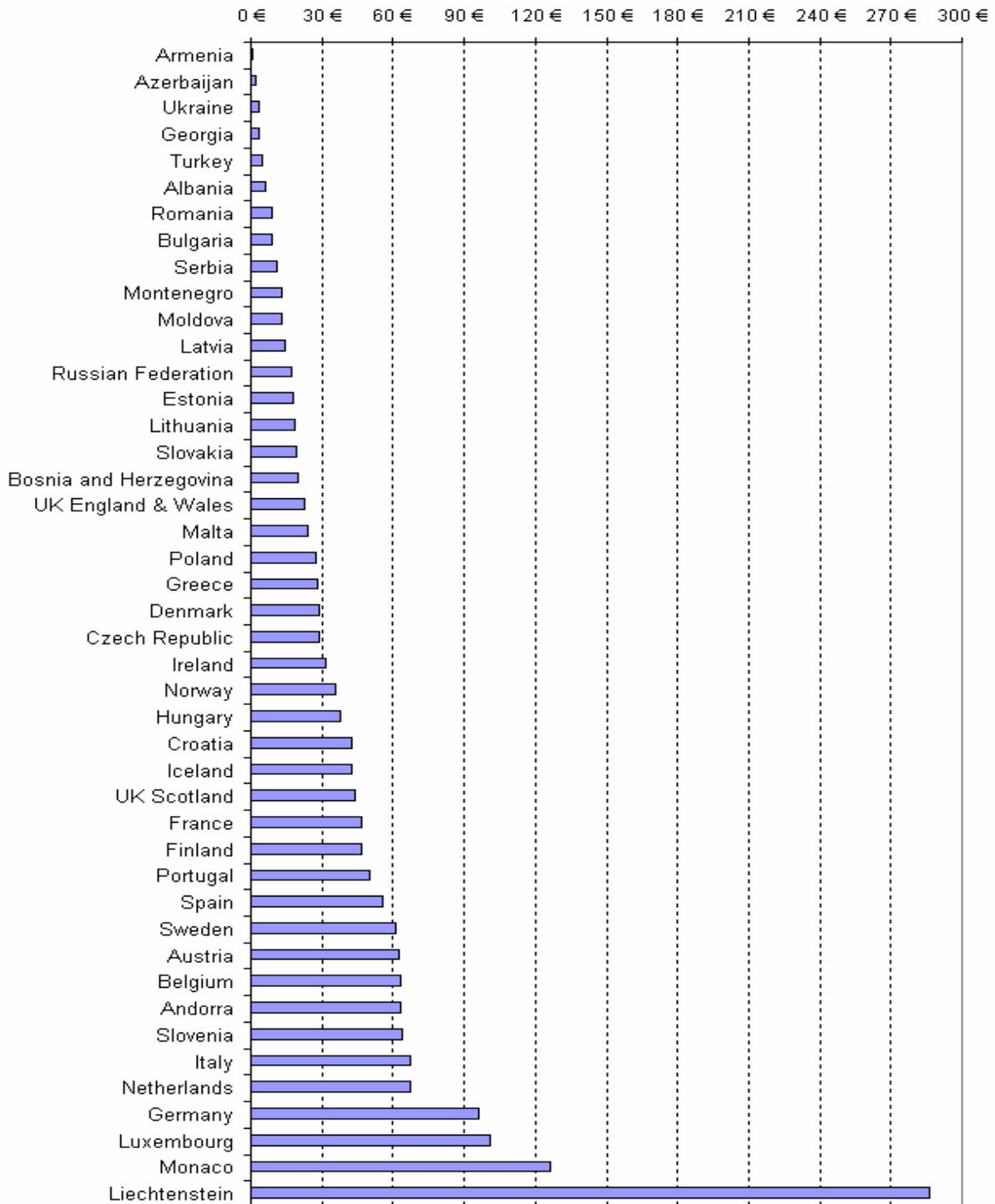
**Graph 1. Budget allocated to the judicial system per inhabitant in 2004**



\* estimated or calculated budget

Graph 2 specifies for 44 countries or entities the budget allocated to all courts and prosecution (without legal aid). Are excluded from this presentation the countries which could not quantify the amount devoted to the public prosecution. This addition allows the comparison of the means allocated to the functions of prosecuting and judging, in spite of the differences in the organisation of the system, between those countries where the prosecution system is fully separate from courts and those where both institutions are joined. The main figures which arise correspond obviously to the level of wealth within the Council of Europe, but substantial differences exist between countries with similar levels of development. (See page xx of the full report).

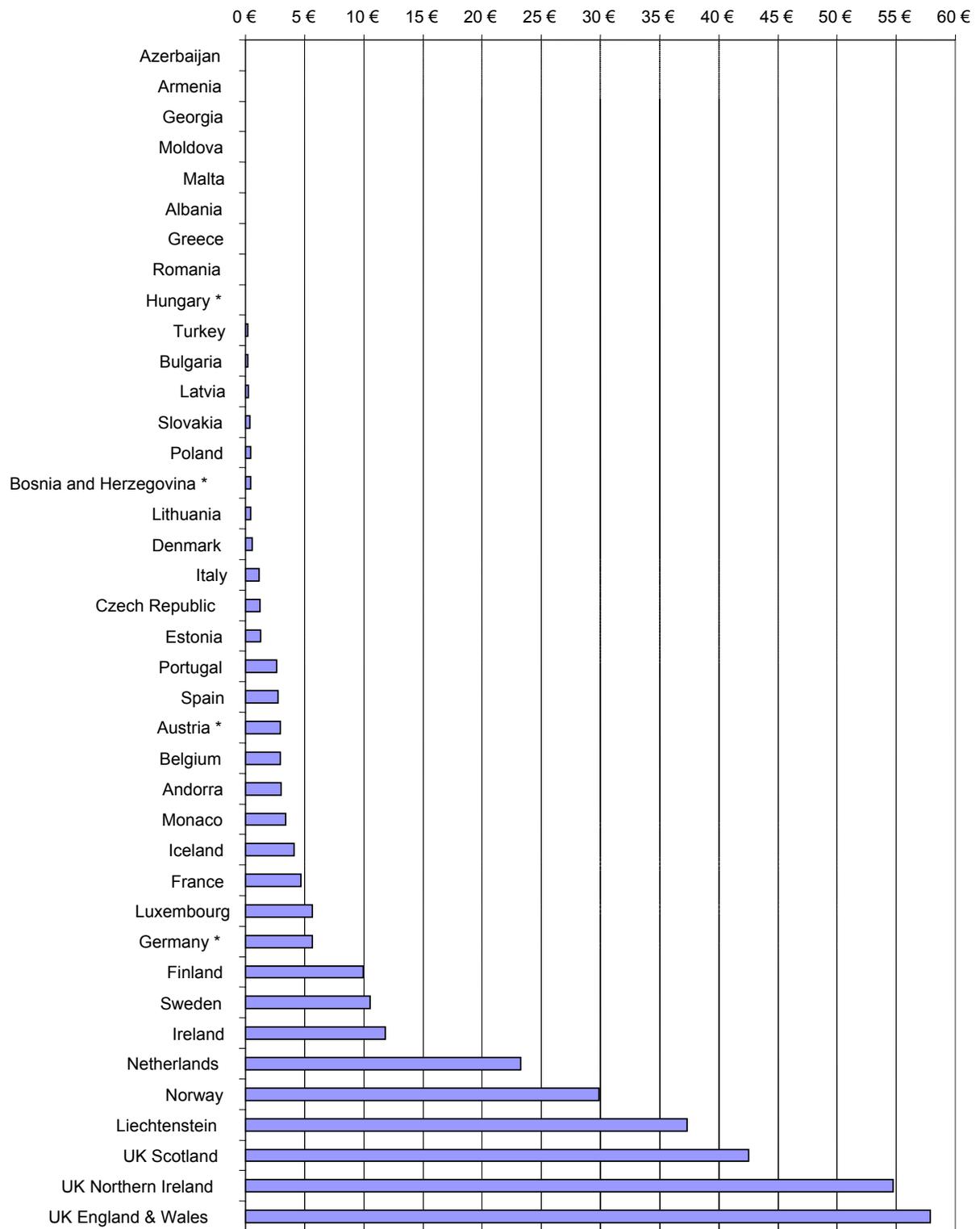
**Graph 2. Total annual budget allocated to all courts and prosecution (without legal aid) per inhabitant in 2004**



## 2. Legal aid

Graph 3 includes the countries or entities which were able to provide the data on the total budget allocated to the legal aid. (See page xx of the full report).

**Graph 3. Annual public budget spend on legal aid per inhabitant in 2004**



\* estimated or calculated budget

Table 1 presents the budget allocated to legal aid in a concrete way by providing the number of cases having benefited from legal aid for 10.000 inhabitants in 2004 and specifying the average amount spent per criminal cases and per other cases. Appear in this table only the countries which have been able to provide at least one of detailed information. The average amounts granted were calculated only for the countries having provided at the same time the number of cases concerned and the corresponding amount.

In certain countries the majority of the budget is allocated to the criminal cases (Ireland, Italy, Turkey, UK<sup>2</sup>-England and Wales and UK-Scotland). In Finland, France, Germany, Luxembourg, Monaco, the Netherlands and Northern Ireland (UK), a relatively significant part of the budget of legal aid is intended for the other than criminal cases. (See page xx of the full report).

**Table 1. Number of legal aid cases per 10 000 inhabitants and average amount per case spent in 2004**

Country	Total number of legal aid cases per 10 000 inhabitants	Average amount granted per case	Number of legal aid criminal cases per 10 000 inhabitants	average amount granted per case in criminal matters	Number of legal aid other than criminal cases per 10 000 inhabitants	average amount granted per case in other than criminal matters
Andorra	57	528 €	-	-	-	-
Austria	30	978 €	-	-	-	-
Belgium	95	309 €	-	-	-	-
Croatia	1	-	-	-	-	-
Cyprus	17	-	12	-	5	-
Denmark	32	185 €	-	-	32	185 €
Finland	152	656 €	52	-	99	-
France	134	350 €	57	350 €	77	350 €
Georgia	0,3	612 €	0,3	612 €	-	-
Germany *	-	-	-	-	70	657 €
Hungary	52	16 €	15	-	38	-
Iceland	13	3 061 €	-	-	-	-
Ireland	99	1 192 €	79	1 073 €	20	1 659 €
Italy	17	675 €	12	859 €	4	137 €
Luxembourg	79	715 €	20	-	59	-
Monaco	219	157 €	32	-	187	-
Netherlands	211	1 102 €	79	1 118 €	131	1 092 €
Norway	-	-	-	-	12	13 461 €
Portugal	124	212 €	-	-	-	-
Romania	133	6 €	-	-	-	-
Slovenia *	-	-	-	-	93	48 €
Turkey	15	127 €	14	110 €	1	531 €
Ukraine	46	-	1	-	45	-
UK England & Wales	459	1 260 €	298	1 108 €	161	1 542 €
UK Northern Ireland	562	975 €	153	1 410 €	408	797 €
UK Scotland	802	531 €	486	612 €	315	404 €

\* see specific comments in the full report (table 9)

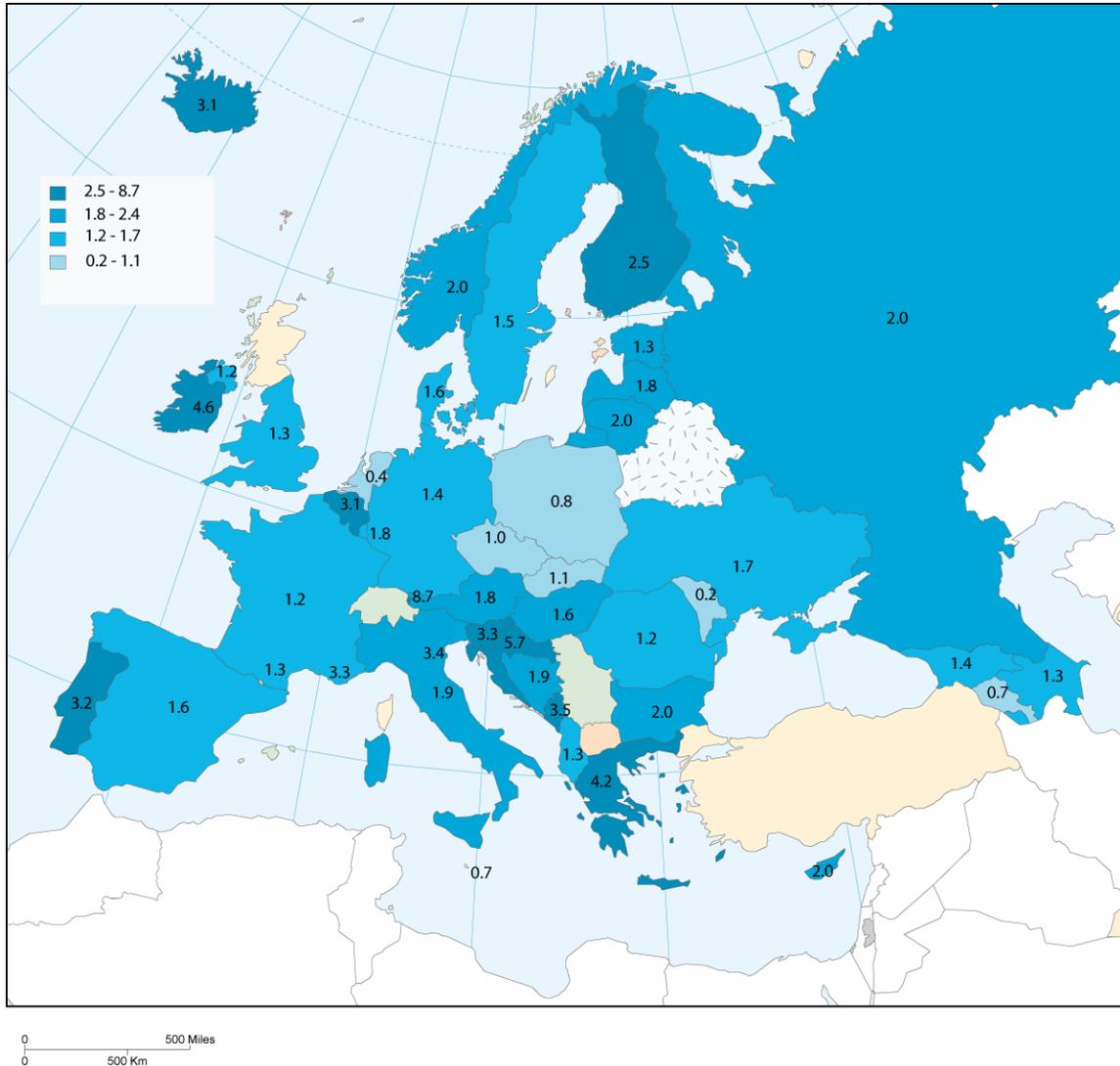
### 3. The courts

The report specifies clearly the data presenting the total number of the courts of first instance (legal definition of court) from the data presenting the number of geographical locations of courts (functional definition of court premises, which can host several courts). Map 1 makes it possible to see the geographical location of the courts per 100.000 inhabitants.

Some countries have designed a judicial map around the principle of a high number of first instance courts of general jurisdiction, competent for dispute resolution and the treatment of cases in the criminal, civil law and or administrative law area combined with very few specialised courts (for instance the Netherlands), whilst in other countries there can be a judicial organisation with many specialised courts. A high number of specialised first instance courts can be found in: Belgium, Croatia, France, Germany, Italy, Portugal, Spain and Turkey. They are mainly concerned with the following fields: administrative law (including social security cases and fiscal cases), family law, labour law, commercial cases and specific criminal cases (small criminal offences or juvenile offenders). (See page xx of the full report).

<sup>2</sup> United Kingdom

**Map 1. Court locations per 100.000 inhabitants in 2004**



The question of the "judicial map", relating to court location, arises differently according to the density of population of each country and the quality of the communication network. However, in order to approach the issue of access to justice for the citizens, three concrete situations were retained: the recovering of a small claim, a dismissal case and a robbery.

The definition of a small claim differs according to the countries and makes it possible to see from which amount a simplified procedure exists for such cases. The treatment of small claims can be addressed by specialised courts (for example municipal courts), specialised judges (such as the judges of the peace) or a unit within a general court of first instance. The countries which have a relatively significant number of courts competent for the treatment of small claims are: Austria, Belgium, France, Germany, Italy, Poland, Portugal, Romania, Russian Federation, Spain, Turkey and UK-England and Wales. (See page xx of the full report).

**Table 2. Courts competent for small claims, employment dismissal and robberies in 2004**

Country	Number of first instance courts competent for a debt collection for small claims	per 100 000 inhabitants	Number of first instance courts competent for a dismissal	per 100 000 inhabitants	Number of first instance courts competent for a robbery	per 100 000 inhabitants
Albania	29	0,9	29	0,94	29	0,94
Andorra	1	1,3	1	1,30	1	1,30
Armenia	18	0,6	17	0,53	17	0,53
Austria	140	1,7	16	0,19	16	0,19

Country	Number of first instance courts competent for a debt collection for small claims	per 100 000 inhabitants	Number of first instance courts competent for a dismissal	per 100 000 inhabitants	Number of first instance courts competent for a robbery	per 100 000 inhabitants
Azerbaijan	90	1,1	85	1,02	3	0,04
Belgium	187	1,8	21	0,20	27	0,26
Bosnia and Herzegovina	48	1,3	48	1,25	48	1,25
Bulgaria	112	1,4	112	1,44	145	1,87
Croatia	117	2,6	n.r.	-	n.r.	-
Cyprus	4	0,6	5	0,73	5	0,73
Czech Republic	86	0,8	86	0,84	86	0,84
Denmark	82	1,5	82	1,52	82	1,52
Estonia	16	1,2	16	1,18	16	1,18
Finland	63	1,2	63	1,20	63	1,20
France	476	0,8	277	0,45	186	0,30
Georgia	n.a.	-	n.r.	-	n.r.	-
Germany	675	0,8	121	0,15	116	0,14
Greece	n.r.	-	1	0,01	3	0,03
Hungary	111	1,1	20	0,20	131	1,30
Iceland	8	2,7	8	2,73	8	2,73
Ireland	44	1,1	n.a.	-	187	4,63
Italy	848	1,5	165	0,28	165	0,28
Latvia	34	1,5	34	1,47	41	1,77
Liechtenstein	1	2,9	1	2,89	1	2,89
Lithuania	54	1,6	59	1,72	59	1,72
Luxembourg	3	0,7	3	0,66	2	0,44
Malta	9	2,2	n.r.	-	n.r.	-
Moldova	46	1,4	46	1,36	46	1,36
Monaco	2	6,7	1	3,33	1	3,33
Montenegro	15	2,4	15	2,42	15	2,42
Netherlands	61	0,4	19	0,12	19	0,12
Norway	79	1,7	24	0,52	79	1,72
Poland	310	0,8	269	0,70	353	0,92
Portugal	233	2,2	59	0,56	233	2,21
Romania	n.a. <sup>3</sup>	-	41	0,19	229	1,06
Russian Federation	6558	4,6	2479	1,73	2479	1,73
San Marino	n.a.	-	n.r.	-	n.r.	-
Serbia	n.a.	-	n.a.	-	n.a.	-
Slovakia	45	0,8	45	0,83	45	0,83
Slovenia	44	2,2	4	0,20	11	0,55
Spain	1513	3,5	303	0,71	1480	3,45
Sweden	68	0,8	68	0,75	68	0,75
Turkey	479 <sup>4</sup>	0,7	n.r.	-	n.r.	-
Ukraine	n.r.	-	n.r.	-	n.r.	-
UK England & Wales	220	0,4	34	0,06	500	0,94
UK Northern Ireland	n.r.	-	n.r.	-	n.r.	-
UK Scotland	n.r.	-	n.r.	-	n.r.	-

#### 4. Judicial staff

In the CEPEJ scheme three types of judges are specified. In general a judge is defined as a person entrusted with the task of delivering or participating in a judicial decision. This definition must be placed in the context of the European Convention of Human Rights and the case-law of the European Court of Human Rights (ECHR). In particular: “the judge decides, according to the law and following an organised proceeding, or any issue within his/her jurisdiction”. Beside the professional judges having a specific statute, can be found more and more judges intervening occasionally (remunerated by the number of cases or court sessions) and citizens volunteer to seat in panel of judges (the citizens intervening punctually in a jury are not counted here). *(For more details, see page xx of the full report).*

<sup>3</sup> In Romania there are simplified procedures, but which do not depend on the amount of the litigation.

<sup>4</sup> Data of the year 2005.

**Table 3. Types and number of judges in 2004**

Country	Professional judges on a full-time basis (fte <sup>5</sup> )		Professional judges on occasional basis		Non-professional judges (lay-judges)		Number of non professional (lay) judges per professional judge sitting in courts
	number	per 100 000 inhabitants	number	per 100 000 inhabitants	number	per 100 000 inhabitants	
Albania	383	12,5	n.a.p.	-	n.a.p.	-	-
Andorra	22	28,6	2	2,6	n.a.p.	-	-
Armenia	179	5,6	n.a.p.	-	n.a.p.	-	-
Austria	1696,5	20,7	n.a.p.	-	n.r.	-	-
Azerbaijan	338	4,0	n.r.	-	n.r.	-	-
Belgium	2500	23,9	n.a.p.	-	3749	35,9	1,50
Bosnia and Herzegovina	690	18,0	12	0,3	362	9,4	0,52
Bulgaria	n.r.	-	1751	22,6	n.r.	-	-
Croatia	1907	42,9	n.a.p.	-	6272	141,1	3,29
Cyprus	96	13,9	n.r.	-	n.r.	-	-
Czech Republic	2878	28,2	n.a.p.	-	7872	77,0	2,74
Denmark	368	6,8	n.a.p.	-	n.a.	-	-
Estonia	245	18,1	n.r.	-	1955	144,7	7,98
Finland	875	16,7	n.r.	-	3700	70,7	4,23
France	6278	10,1	213	0,3	3299	5,3	0,53
Georgia	406	9,0	n.r.	-	n.r.	-	-
Germany	20395	24,7	n.r.	-	100000	121,2	4,90
Greece	2200	19,9	n.a.p.	-	n.a.p.	-	-
Hungary	2757	27,3	n.a.p.	-	2921	28,9	1,06
Iceland	47	16,0	n.a.p.	-	n.r.	-	-
Ireland	130	3,2	n.a.p.	-	n.a.p.	-	-
Italy	6105	10,4	n.r.	-	8077	13,8	1,32
Latvia	384	16,6	n.r.	-	4058	175,0	10,57
Liechtenstein	17	49,1	1	2,9	16	46,2	0,94
Lithuania	693	20,2	n.a.p.	-	n.a.p.	-	-
Luxembourg	162	35,6	n.r.	-	127	27,9	0,78
Malta	35	8,7	n.a.p.	-	n.a.p.	-	-
Moldova	415	12,3	n.r.	-	n.r.	-	-
Monaco	18	60,0	14	46,6	118	393,1	6,56
Montenegro	242	39,0	n.a.p.	-	544	87,7	2,25
Netherlands	2004	12,3	900	5,5	n.a.	-	-
Norway	501	10,9	n.r.	-	n.a.	-	-
Poland	9766	25,6	n.a.p.	-	43613	114,2	4,47
Portugal	1754	16,7	n.a.p.	-	676	6,4	0,39
Romania	4030	18,6	n.a.p.	-	170	0,8	0,04
Russian Federation	29685	20,7	n.a.p.	-	n.a.p.	-	-
San Marino	16	53,9	4	13,5	n.a.p.	-	-
Serbia	2418	32,2	n.r.	-	n.a.	-	-
Slovakia	1208	22,4	n.a.p.	-	2747	50,9	2,27
Slovenia	780	39,0	n.a.p.	-	4065	203,5	5,21
Spain	4201	9,8	1181	2,8	7681	17,9	1,83
Sweden	1618	17,9	n.a.	-	7556	83,6	4,67
Turkey	5304	7,5	n.a.p.	-	n.r.	-	-
Ukraine	6999	14,8	n.r.	-	n.r.	-	-
UK England & Wales	1305	2,5	2370	4,5	28029	52,8	21,48
UK Northern Ireland	62	3,6	n.r.	-	n.a.p.	-	-
UK Scotland	227	4,5	57	1,1	749	14,7	3,30

Table 4 integrates a maximum of data relating to the number and the types of courts per country, as well as the number of judges, members of the public prosecution and staff working with them.

**Table 4. Judicial personnel and services in 2004**

Country	Structures and locations per 100 000 inhabitants	Judges and non-judge staff per 100 000 inhabitants	Prosecutors and non-prosecutor staff per 100 000 inhabitants	ge staf f per of jud ges per
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<sup>5</sup> full time equivalent

	1st instance courts of general jurisdiction	Specialised 1st instance courts	Courts (geographic locations)	Professional judges (fte)	Professional judges sitting in courts on an occasional basis	Non-professional judges not remunerated but who can receive a defrayal	Non-judge staff entrusted with judicial or quasi-judicial tasks (Rechtspfleger)	Non-judge staff (fte)	Prosecutors (fte)	Persons who have similar duties as public prosecutors	Non-prosecutor staff (fte)		
Albania	0,9	0,03	1,3	12,5	-	-	-	26,3	8,7	-	16,2	1,6	1,4
Andorra	1,3	-	1,3	28,6	2,6	-	-	88,5	5,2	-	5,2	17,0	5,5
Armenia	0,5	0,03	0,7	5,6	-	-	10,2	30,1	18,8	-	8,5	3,5	0,3
Austria	1,9	0,09	1,8	20,7	-	-	7,0	52,6	2,6	1,8	2,1	25,2	7,9
Azerbaijan	1,0	0,19	1,3	4,0	-	-	-	18,3	4,3	-	8,4	2,2	0,9
Belgium	0,3	2,51	3,1	23,9	-	35,9	-	53,8	8,5	-	22,1	2,4	2,8
Bosnia Herzegovina	1,7	-	1,9	18,0	0,3	9,4	-	52,1	7,2	-	11,1	4,7	2,5
Bulgaria	1,9	-	2,0	-	22,6	-	-	-	-	-	-	-	-
Croatia	2,8	2,77	5,7	42,9	-	141,1	5,0	145,7	12,6	-	19,9	7,3	3,4
Cyprus	0,6	1,45	2,0	13,9	-	-	-	61,6	15,5	-	27,6	2,2	0,9
Czech Republic	0,8	-	1,0	28,2	-	77,0	18,0	89,0	10,4	-	15,5	5,8	2,7
Denmark	1,5	0,02	1,6	6,8	-	-	-	26,3	10,4	-	-	-	0,7
Estonia	1,2	0,30	1,3	18,1	-	144,7	5,8	75,2	13,8	-	5,5	13,7	1,3
Finland	1,2	0,21	2,5	16,7	-	70,7	-	49,4	6,3	-	4,0	12,3	2,7
France	1,8	1,94	1,2	10,1	0,3	5,3	-	26,8	3,0	-	6,6	4,1	3,4
Georgia	1,3	-	1,4	9,0	-	-	-	25,5	11,7	-	6,4	4,0	0,8
Germany	1,0	0,32	1,4	24,7	-	121,2	14,4	71,4	6,2	-	14,9	4,8	4,0
Greece	4,1	0,04	4,2	19,9	-	-	-	61,7	4,7	-	-	-	4,2
Hungary	1,3	0,20	1,6	27,3	-	28,9	4,3	67,0	14,4	-	22,7	2,9	1,9
Iceland	2,7	0,68	3,1	16,0	-	-	-	19,3	2,4	8,9	19,4	1,0	6,7
Ireland	0,1	0,07	4,6	3,2	-	-	0,7	26,8	2,5	0,4	2,5	10,6	1,3
Italy	1,8	0,26	1,9	10,4	-	13,8	-	42,7	3,7	2,6	18,6	2,3	2,8
Latvia	1,5	0,04	1,8	16,6	-	175,0	-	59,1	26,0	-	16,0	3,7	0,6
Liechtenstein	2,9	2,89	8,7	49,1	2,9	46,2	4,3	113,9	18,8	-	11,0	10,4	2,6
Lithuania	1,6	0,15	2,0	20,2	-	-	-	68,6	24,8	-	17,1	4,0	0,8
Luxembourg	1,1	1,10	1,8	35,6	-	27,9	-	52,7	8,6	-	7,9	6,7	4,2
Malta	0,2	0,25	0,7	8,7	-	-	1,7	85,9	1,5	21,1	1,7	49,4	5,8
Moldova	1,4	0,06	0,2	12,3	-	-	-	-	22,6	-	23,3	-	0,5
Monaco	23,3	19,99	3,3	60,0	46,6	393,1	-	136,6	13,3	-	16,7	8,2	4,5
Montenegro	2,7	0,48	3,5	39,0	-	87,7	-	133,8	13,4	-	18,7	7,2	2,9
Netherlands	0,1	0,01	0,4	12,3	5,5	-	-	32,0	3,7	-	20,8	1,5	3,4
Norway	1,7	0,15	2,0	10,9	-	-	-	20,9	15,3	13,6	1,1	18,8	0,7
Poland	0,9	0,08	0,8	25,6	-	114,2	3,1	88,7	14,1	-	11,0	8,0	1,8
Portugal	2,2	1,10	3,2	16,7	-	6,4	-	71,3	11,6	-	16,1	4,4	1,4
Romania	0,9	0,02	1,2	18,6	-	0,8	-	41,4	12,8	-	-	-	1,4
Russian Federation	6,4	0,06	2,0	20,7	-	-	-	45,5	38,3	-	11,8	3,9	0,5
San Marino	3,4	-	3,4	53,9	13,5	-	-	151,7	3,4	-	-	-	16,0
Serbia	2,3	0,24	-	32,2	-	-	-	242,3	10,7	-	-	-	3,0
Slovakia	0,8	0,06	1,1	22,4	-	50,9	10,8	75,4	12,9	-	14,0	5,4	1,7
Slovenia	2,8	0,25	3,3	39,0	-	203,5	-	113,0	8,6	1,1	8,7	13,0	4,6
Spain	4,6	1,33	1,6	9,8	2,8	17,9	8,2	87,9	4,1	-	4,1	21,6	2,4
Sweden	1,0	0,17	1,5	17,9	-	83,6	-	14,8	8,5	-	6,9	2,2	2,1
Turkey	3,5	1,60	-	7,5	-	-	-	25,7	4,2	-	-	-	1,8
Ukraine	1,5	0,11	1,7	14,8	-	-	-	49,3	-	-	-	-	-
UK England & Wales	1,3	0,03	1,3	2,5	4,5	52,8	-	43,4	5,3	-	15,1	2,9	0,5
UK Northern Ireland	1,3	0,12	1,2	3,6	-	-	-	31,4	17,5	-	17,5	1,8	0,2
UK Scotland	0,4	0,43	-	4,5	1,1	14,7	-	24,2	28,1	-	28,1	0,9	0,2

## 5. Lawyers

A lawyer is defined in Recommendation 2000 (21) of the Council of Europe as a “a person qualified and authorized 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”.

In certain countries other definitions are used, such as solicitors (a person who gives legal advice and prepares legal documents) and barristers (a person who represents his/her clients in court). The word attorney is also used and is

similar to the term “lawyer” as mentioned in this report (a person authorized to practice law, conducts lawsuits or gives legal advice).

Every country provided information regarding the number of persons practicing in their country. Among them, 8 included solicitors (legal advisers) in their total figures (Cyprus, Germany, Ireland, Malta, Norway, Poland, UK-England & Wales, UK-Scotland). Austria and Luxembourg also included trainee-lawyers. In order to obtain the correct number of lawyers entitled to plead before a court (within the meaning of Recommendation Rec (2000) 21), the CEPEJ subtracted wherever possible the number of trainees and solicitors (legal advisers) to the total figures. This operation was possible for the figures given by the 3 following countries: Austria, Luxembourg and Poland. The figures appearing in table 5 must consequently be interpreted with precaution, taking into account these methodological comments. (See page xx of the full report).

**Table 5. The number of lawyers with and without solicitors and trainees in 2004**

Country	Number of lawyers practising	Number of practicing lawyers without solicitors nor trainees (Q88)	Number of lawyers without solicitors nor trainees per 100 000 inhabitants	Number of professional judges sitting in courts	Number of lawyers per judge
Albania	1 212	1 212	39,5	383	3,2
Andorra	108	108	140,5	22	4,9
Armenia	469	469	14,7	179	2,6
Austria	6 622	2 792	34,0	1 697	1,6
Azerbaijan	537	537	6,4	338	1,6
Belgium	14 876	14 876	142,4	2 500	6,0
Bosnia & Herzegovina	1 224	1 224	31,9	690	1,8
Bulgaria	11 452	11 452	147,6	n.r.	
Croatia	2 851	2 851	64,2	1 907	1,5
Cyprus	2 200*	2 200	319,0	96	22,9
Czech Republic	8 235	8 235	80,6	2 878	2,9
Denmark	4 635	4 635	85,9	368	12,6
Estonia	520	520	38,5	245	2,1
Finland	1 700	1 700	32,5	875	1,9
France	43 977	43 977	70,7	6 278	7,0
Georgia	1 000	1 000	22,0	406	2,5
Germany	126 799*	126 799	153,7	20 395	6,2
Greece	34 000	34 000	307,5	2 200	15,5
Hungary	9 500	9 500	94,1	2 757	3,4
Iceland	695	695	236,7	47	14,8
Ireland	9 273*	9 273	229,5	130	71,3
Italy	151 470	151 470	259,1	6 105	24,8
Latvia	800	800	34,5	384	2,1
Liechtenstein	113	113	326,6	17	6,6
Lithuania	1 282	1 282	37,4	693	1,8
Luxembourg	946	690	151,6	162	4,3
Malta	657*	657	163,2	35	18,8
Moldova	1 140	1 140	33,7	415	2,7
Monaco	27	27	89,9	18	1,5
Montenegro	462	462	74,5	242	1,9
Netherlands	13 111	13 111	80,5	2 004	6,5
Norway	5 772*	5 772	125,3	501	11,5
Poland	22 516	5 485	14,4	9 766	0,6
Portugal	22 418	22 418	212,9	1 754	12,8
Romania	16 000	16 000	73,8	4 030	4,0
Russian Federation	56 100	56 100	39,1	29 685	1,9
San Marino	87	87	293,2	16	5,4
Slovakia	4 100	4 100	75,9	1 208	3,4
Slovenia	1 040	1 040	52,1	780	1,3
Serbia	n.r.	n.r.		2 418	
Spain	111 313	111 313	259,3	4 201	26,5
Sweden	4 354	4 354	48,2	1 618	2,7
Turkey	52 195	52 195	73,4	5 304	9,8
Ukraine	n.r.	n.r.		6 999	
UK England & Wales	106 486*	106 486	200,7	1 305	81,6
UK Northern Ireland	552	552	32,3	62	8,9
UK Scotland	9 443*	9 443	185,9	227	41,6

\* includes the numbers of legal advisers (i.e. solicitors). No distinction can be made between the first and the second column.

The information presented is supplemented by the information on the monopoly of the representation by lawyers according to the legal fields concerned.

**Table 6. The scope of the ‘monopoly of representation of lawyers’**

Do lawyers have the monopoly of representation :	yes	no	variable	no reply
in civil matters	8	27	7	5
in criminal matters as defendant	27	8	5	6
in criminal matters as victim	15	21	3	8
in administrative matters	9	25	5	8

## 6. The users of the court

Various methods can be used to protect those groups of population which are in a particular vulnerable position in the framework of judicial proceedings (the question did not concern the police investigation phase). *Specific information mechanisms* consist, for instance, in a public, free of charge and personalised information mechanism, operated by the police or the justice system, which enables the victims of criminal offences to get information on the follow up to the complaints they have launched. *Specific hearing modalities* consist, for example, in the possibility for a child to have his/her first declaration recorded so that he/she does not have to repeat it in further steps of the proceedings. *Specific procedural rights* are for example an in camera hearing for the victims of rape or the obligation to inform beforehand the victim of rape, in case of the release of the offender. (See page xx of the full report).

**Table 7. Number of positive answers on special arrangements to be applied during judicial proceedings to categories of vulnerable persons**

Categories of vulnerable persons	Information mechanism	Hearing modalities	Procedural rights	Other right/device
Victims of rape	21	33	27	8
Victims of terrorism	15	21	18	6
Child/Witness/Victim	26	41	36	12
Victims of domestic violence	22	25	27	11
Ethnic minorities	16	17	15	4
Disabled persons	18	30	22	8
Juvenile offenders	22	34	37	8
Other categories	3	6	7	4

### **Compensation of the users for judicial dysfunctions and complaints**

The CEPEJ has initiated and plans to further address a reflection regarding the dysfunctions within justice systems. Three examples of dysfunction were clarified: excessive duration of the procedures, wrongful arrests as well as unjustified condemnation of persons.

44 countries or entities have a system for granting compensation to persons in the case of a wrongful arrest and 43 countries as regards a wrongful condemnation. In most of the cases the amount of financial compensation for a wrongful condemnation (or also arrest) is based on the number of days/months that a person has been in custody. To a smaller extent, compensation procedures are provided for excessive lengths of proceedings. Less than half of the countries (22 countries or entities: Andorra, Austria, Azerbaijan, Bulgaria, Croatia, Denmark, France, Greece, Hungary, Iceland, Italy, Luxembourg, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, UK-England and Wales, UK-Northern Ireland and UK-Scotland) indicate that they have such a system. Concrete examples can be found in Italy (the so-called "Pinto Law") or Slovenia, where a fund is raised for compensating persons who face excessive length of proceedings and Poland where parties can claim a financial compensation to a higher court (to the maximum amount of 2.262 euro).

One part of the compensation procedure for judicial dysfunctions can give rise to the filing of a complaint procedure. In the majority of the countries which replied, it is possible for citizens to file a complaint against a court or a judge if they are not satisfied. Only in Armenia, Greece and Hungary is there no possibility to lodge a complaint. The complaints for the dysfunctions of the judicial system can be addressed to different organs, varying from: courts, higher courts, High Councils for the Judiciary, the Ministry of Justice or external organisations (ombudsman). (See page xx of the full report).

## 7. Information technology equipment of the courts

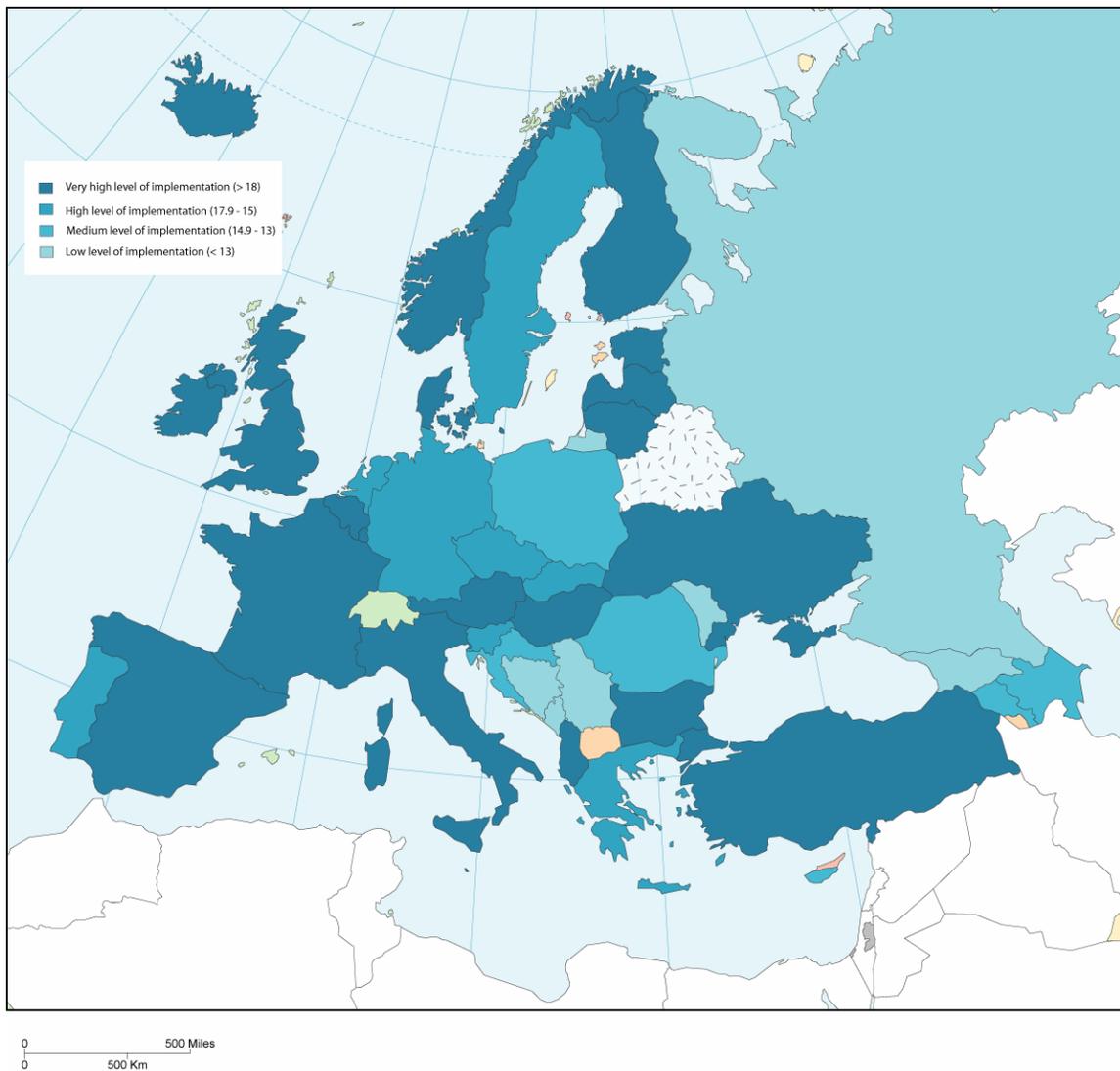
The use of information and communication technologies (ICT) is a privileged tool to improve the efficiency of justice and the communication between the courts and the legal professionals or the society. The following table makes it possible to measure in which fields of the judicial tasks, of management, of administration or communication of the court computer equipment is used and in which proportion. (See page xx of the full report).

**Table 8. Computer facilities in the court**

Functions	Facilities	100% of courts	+ 50% of courts	- 50% of courts	- 10% of courts	missing answers
Direct assistance to the judge / court clerk	Word processing	40	5	1	-	1
	Electronic data base of jurisprudence	33	5	1	3	5
	Electronic files	20	6	1	14	6
	E-mail	31	7	4	3	2
Administration and management	Internet connection	33	5	5	2	2
	Case registration system	25	9	4	6	3
	Court management information system	17	12	4	8	6
Communication between the court and the parties	Financial information system	23	7	3	8	6
	Electronic forms	13	1	4	21	8
	Special Website	18	5	7	13	4
	Other electronic communication facilities	12	4	1	14	16

The map representation makes it possible to see the level of computer equipment per country according to four stages.

**Map 2. ITC in the courts in 2004 (level of implementation of computer facilities for direct assistance of a judge or a court clerk)**



**8. The treatment of criminal and civil cases**

40 countries provided reliable information on the basis of similar definition taken into account of the European Sourcebook of Crime and Criminal Justice statistics.

In table 9 the total number of criminal cases received by the public prosecutor at the first instance level is presented as well as the treatment of these cases. In a majority of countries, after police investigation, criminal files are handed to the public prosecutor. Then the public prosecutor has three main modalities of treatment at his or her disposal: (1) the discontinuation of cases (in general, unknown offender, legal grounds such as a lack of evidence), (2) a penalty imposed or negotiated or (3) charging a case before the court. All three modalities are presented in the following table. It may be concluded from this table that there are countries where a numerous amount of cases received are discontinued (on a general basis or due to the fact that the criminal offender could not be identified). Only a relatively small portion of cases are treated before a court. (See page xx of the full report).

**Table 9. Criminal cases dealt by the public prosecutor in 2004**

Country	Total number of 1st instance criminal cases received by the public prosecutor	per 100 000 inhabitants	Discontinued by the public prosecutor			Concluded by a penalty imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
			in general	because the offender could not be identified	due to the lack of an established offence or a specific legal situation		
Albania	14 204	463	2 175	-	-	-	3 779
Andorra	2 343	3 048	10	-	-	-	14
Armenia	3 481	108	1 485	1 345	403	-	-
Austria	631 619	7 697	126 717	-	107 064	32 765	67 002
Azerbaijan	-	-	145	75	39	443	11 452
Belgium	821 392	7 863	624 880	294 386	133 751	8 390	19 331
Croatia	96 915	2 181	-	41 679	15 075	-	-
Czech Republic	111 694	1 093	294	0	184	0	79 012
Denmark	892 288	16 531	-	-	-	-	194 926
Estonia	34 078	2 522	29 474	20 987	2 336	2 096	-
Finland	88 000	1 680	26 000	-	-	3 700	67 000
France	5 004 678	8 049	366 382	3 147 897	401 184	414 693	674 522
Georgia	43 071	950	7 016	792	6 224	-	7 291
Germany	4 988 450	6 047	4 997 579	-	1 313 576	265 319	1 211 875
Greece	148 556	1 344	2 257	50 700	-	-	-
Hungary	137 886	1 366	16 934	-	-	5 254	78 850
Iceland	8 782	2 991	2 794	-	455	-	5 944
Italy	3 188 511	5 454	2 223 721	1 339 369	-	-	568 515
Latvia	15 511	669	1 639	54	213	1 282	13 322
Liechtenstein	2 787	8 055	1 407	208	1 199	0	1 158
Lithuania	17 358	507	61 696	-	20 401	-	18 827
Luxembourg	48 365	10 630	9 749	-	-	618	11 477
Monaco	2 714	9 041	1 680	240	-	0	617
Montenegro	10 535	1 698	-	6 458	554	-	8 503
Netherlands	273 974	1 682	36 743	-	36 743	78 613	160 000
Norway	426 053	9 249	241 046	183 762	-	185 007	87 466
Poland	1 816 335	4 758	1 040 125	681 860	294 198	0	425 048
Portugal	498 935	4 739	406 151	-	-	2 116	85 563
Romania	661 355	3 051	321 219	-	-	96 976	49 185
Russian Federation	978 371	682	1 435 830	1 369 326	65 904	-	65 123
Serbia	88 453	1 180	-	-	-	-	44881
Slovakia	139 384	2 581	65 727	63 234	-	-	32 682
Slovenia	91 956	4 603	15 472	-	-	3 007	14 721
Spain	3 956 078	9 214	-	2 305 225	424 819	91 562	514 741
Sweden	185 710	2 055	71 944	-	-	24 488	92 900
Turkey	2 300 954	3 234	919 158	-	-	-	872 875
UK England & Wales	1 570 000	2 960	172 848	72 195	32 832	1 060 619	1 330 767
UK Northern Ireland	70 000	4 093	-	-	-	-	-

Regarding the figures provided by the Netherlands, it concerns only criminal cases, thus excluding the petty offences in general and almost all the traffic offence (traffic offences are treated via the administrative law procedure). In Belgium the numbers provided are related to the number of criminal cases of first instance, excluding the cases treated by the Federal court. In France and Iceland traffic offences are included in the total figures. In Norway they exclude the decisions from withdrawal of case (acquittals). Romania includes them in the total figure of the classifications without continuation, and counts the people having been the subject of an administrative sanction among the cases concluded by a negotiation. The Slovenian figures include minors.

However, this is not the only possible system, as the variety of national criminal procedures implies that the role and the power of the public prosecutors can greatly differ from one country to the other. In this sense, for example, several empty answers are explained because the options suggested do not form part of attributions of the prosecutor examined previously, such as for example the fact of closing a case without court order itself. This remark is also true for countries which did not provide the number of cases discontinued by the public prosecutor in a situation where the offender could not be identified, because their system does not provide that these cases are treated by the prosecutor (Armenia, the Netherlands); sometimes these cases are managed by the police force until their elucidation (Croatia), which is not exactly the same as a discontinued case by the public prosecutor. It is also the case for the Czech Republic, where the police force has the power to discontinue and close a case. The specificity of Ireland must be underlined in this respect, whose accusatory system makes it difficult to transfer a case to the prosecutor when the offender is unknown and the chances to locate the offender are low. It can also be noted that sometimes a light shift between the categories suggested and the legal provisions of the countries. In the Netherlands, for example, the word "sanction" is not the exact equivalent of a case concluded by a penalty imposed or negotiated by the public prosecutor.

## **9. The length of proceedings**

The duration of the procedures constitutes one of the major performance indicators of the courts. Currently, only a few countries are able to provide (reliable) statistics on the matter.

A total average on the civil cases cannot have direction taking into account their disparity. Because of the disparities in the definition of civil cases, the decision was taken to present here only the significant and identifiable cases for the citizens, i.e. the litigious divorces and dismissals, rather than the figures on the length of the whole of civil cases. The lengths of the procedures are presented according to the level of instances concerned (1<sup>st</sup> and 2<sup>nd</sup> instance).

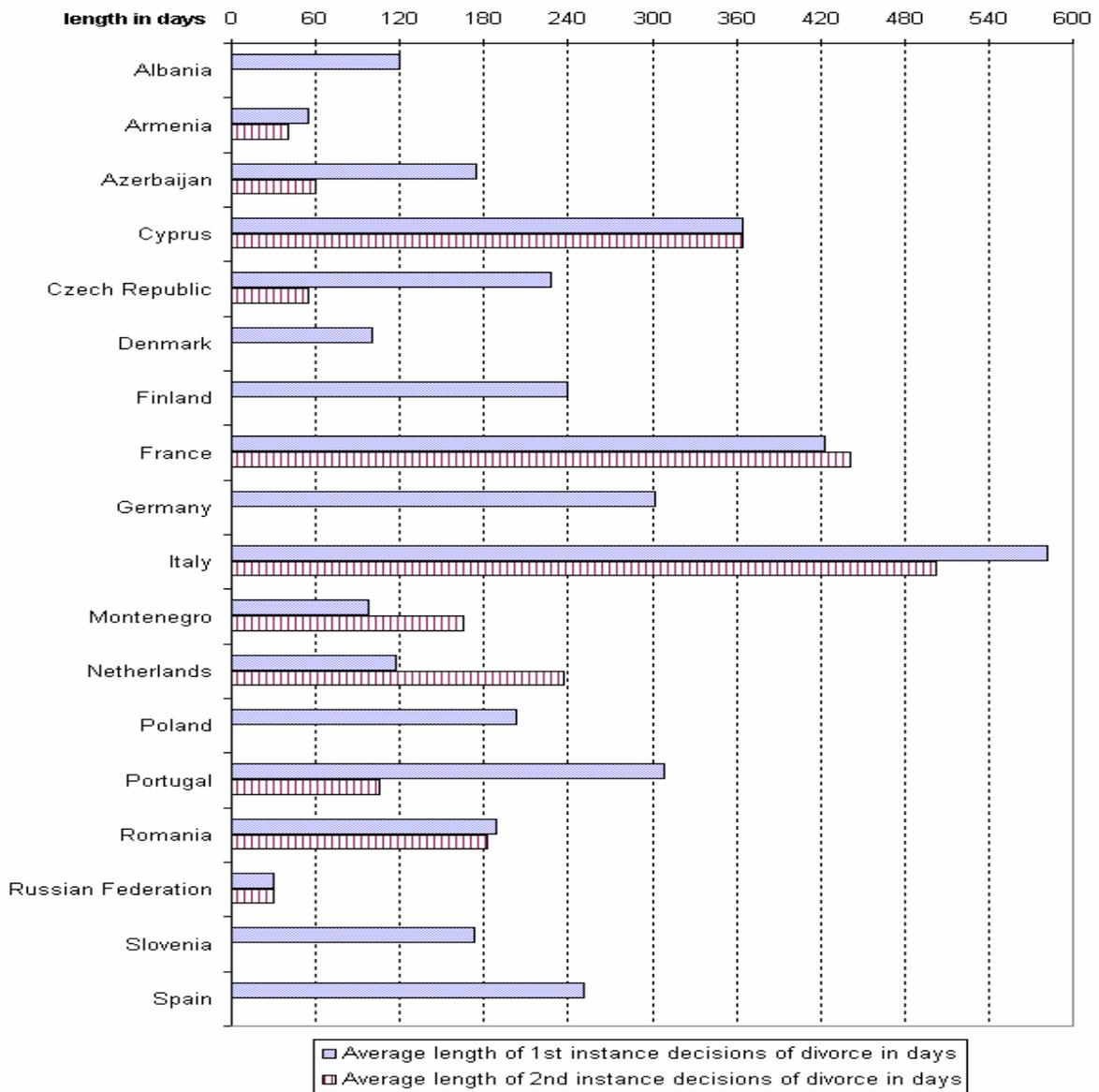
### ***Divorce cases***

Only 18 countries could provide precise data. In certain countries, in the procedures of divorce in front of the court, a period of reconsideration of several months can be envisaged. Examples: in Azerbaijan, there is a reconsideration period of three months (but in a situation where one of the parties does not agree with the divorce, the judge can extend this period to six months). In Croatia the divorce is not possible if the wife is pregnant and in a situation where the child is less than one year old. Mediation as regards divorce is obligatory when the spouses have infants or adoptive children or children on whom they exert parental custody. In Finland, a marriage can also be dissolved by a legal ordinance. A divorce will be pronounced after reconsideration period of six months or after the spouses have lived separately for the past two years without interruption. The district court must grant a divorce when the six months of reconsideration period is expired and that one of the spouses requires that the divorce must be settled. The couple can start a procedure of divorce immediately (without a reconsideration period of six months) when they have lived separately already for two years. (See page xx of the full report).

For 11 countries, the length of procedures of the contentious divorce cases can be presented in first instance and at the level of appeal.

### **Graph 4. Average length of 1<sup>st</sup> and 2<sup>nd</sup> instance procedures of litigious divorce cases in 2004**

The reader must be very cautious in comparing the lengths of proceedings, taking into account the differences between national procedures.

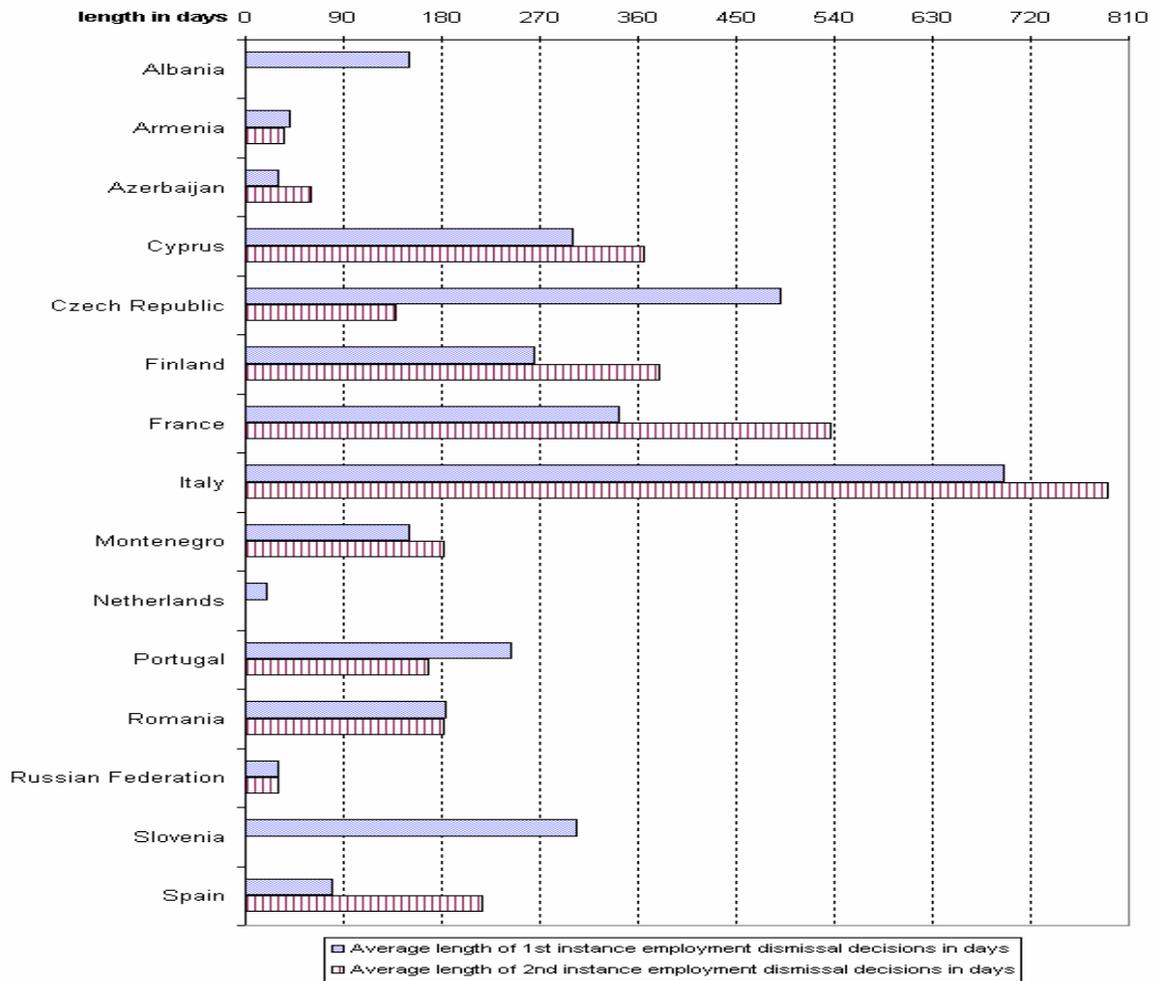


**Dismissal cases**

As regards procedures of dismissals, only 15 countries could provide data including 12 for the two levels of instances. (See page xx of the full report).

**Graph 5. Average length of 1<sup>st</sup> and 2<sup>nd</sup> instance procedures of employment dismissal cases in 2004**

The reader must be very cautious in comparing the lengths of proceedings, taking into account the differences between national procedures.



One of the priorities of the CEPEJ is that each country obtains an operational statistical system of measurement of the duration of its procedures, and of analysis of the stocks of cases waiting for a judgement, to answer the objective of the respect of the “reasonable time”. At this moment, only a few countries are able to measure and to provide (reliable) statistics concerning the length of proceedings. This deficiency must be highlighted. Within the framework programme: “A new objective for judicial systems: the processing of each case within an optimal and foreseeable timeframe”, the CEPEJ encourages the Member States to work specifically towards a concrete measure of their judicial timeframes, using in particular the specific tools designed by the CEPEJ, such as the “Checklist of indicators”.

## 10. Enforcement of court decisions

### *The enforcement agents*

The effective execution of court decisions is an integral part of compliance with Article 6 of the European Convention of Human Rights. Having regard to the volume of cases currently before the Court and the recent instruments adopted by the Council of Europe in the field of execution, the CEPEJ has decided to pay particular attention to this issue in this report.

It is difficult to assess the smooth execution of court decisions in civil or commercial matters on the basis of relevant statistics, as execution is not automatic: it is for the parties who have won the case to decide, where appropriate, whether to request or not the execution of the court decision. Therefore this report does not focus on the rate of execution of court decisions but mainly on the organization of the execution and the role of enforcement agents.

In Recommendation 2003 (17) on enforcement, the tasks and duties of the enforcement agents are described, as well as the enforcement procedure and the rights and duties of the claimant and the debtor. The enforcement agent is defined in this Recommendation as “a person authorized by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not”. This definition was used for the purpose of this report. This definition includes the fact that enforcement agents can be public officials or private officers (for example bailiffs).

In some countries judges can play a role in the enforcement procedure. However In most situations, their role is limited to the supervision of the enforcement procedure and does not concern the enforcement itself. Other countries have a mixed system of private and public enforcement officers. For example in the Czech Republic, some bailiffs work within the court whereas private executors exist too. In Portugal, the enforcement system includes court officials and execution solicitors.

Moreover, other specific types of enforcement agents exist in Belgium (enforcement agents in tax affairs), Bosnia and Herzegovina (a court referee), France (*huissiers du Trésor*, responsible for the collection of taxes), Greece (public notaries), Ireland (sheriffs/solicitors and revenue sheriffs responsible for tax collection), Portugal (execution solicitors), Slovakia (distrainers) and UK-Scotland (sheriffs and messengers-at-arms).

### **Enforcement timeframes**

One important aspect of a proper functioning of judicial systems is related to an efficient and fair enforcement procedure in due time. This is also one of the reasons that in the questionnaire a specific question was included regarding timeframes of the enforcement of decisions.

23 countries or entities have a system to measure the timeframes of enforcement procedure in civil affairs; 22 countries or entities report the use of a specific method to measure timeframes in administrative law cases.

The timeframes for notification of a judicial decision concerning the recovering of a credit can be used to compare countries. The CEPEJ was able to measure concretely for the users, the length of an ordinary civil case of notification of a court decision.

#### **Estimated length for the notification of a judicial decision for recovering a claim for the parties living in the city where the court seats:**

- **between 1 and 5 days:** Armenia, Austria, Bosnia and Herzegovina, Estonia, Denmark (1 to 6 days), Estonia, France, Germany, Iceland., Lithuania, Luxembourg, Montenegro, Romania, Ukraine and UK-England and Wales;
- **between 6 and 10 days:** Azerbaijan, Belgium, Cyprus, Finland, Latvia, Malta and Spain;
- **between 11 and 30 days:** Bulgaria, Moldova, Monaco, Norway, Poland, Sweden, UK-Northern Ireland and UK-Scotland;
- **more than 30 days:** Czech Republic, Greece and Hungary.

This information, considered together with the status of the enforcement agents (private profession of public official), cannot lead to the conclusion that the choice of a specific status has as such an essential influence on the efficiency of the enforcement procedure, which is probably linked to the general organization of the enforcement system, including other elements. It could be useful in the future to try to identify these elements as having a positive influence on the efficiency of the enforcement procedure. (See page xx of the full report).

The full report is available on the CEPEJ Web site: [www.coe.int/CEPEJ](http://www.coe.int/CEPEJ).