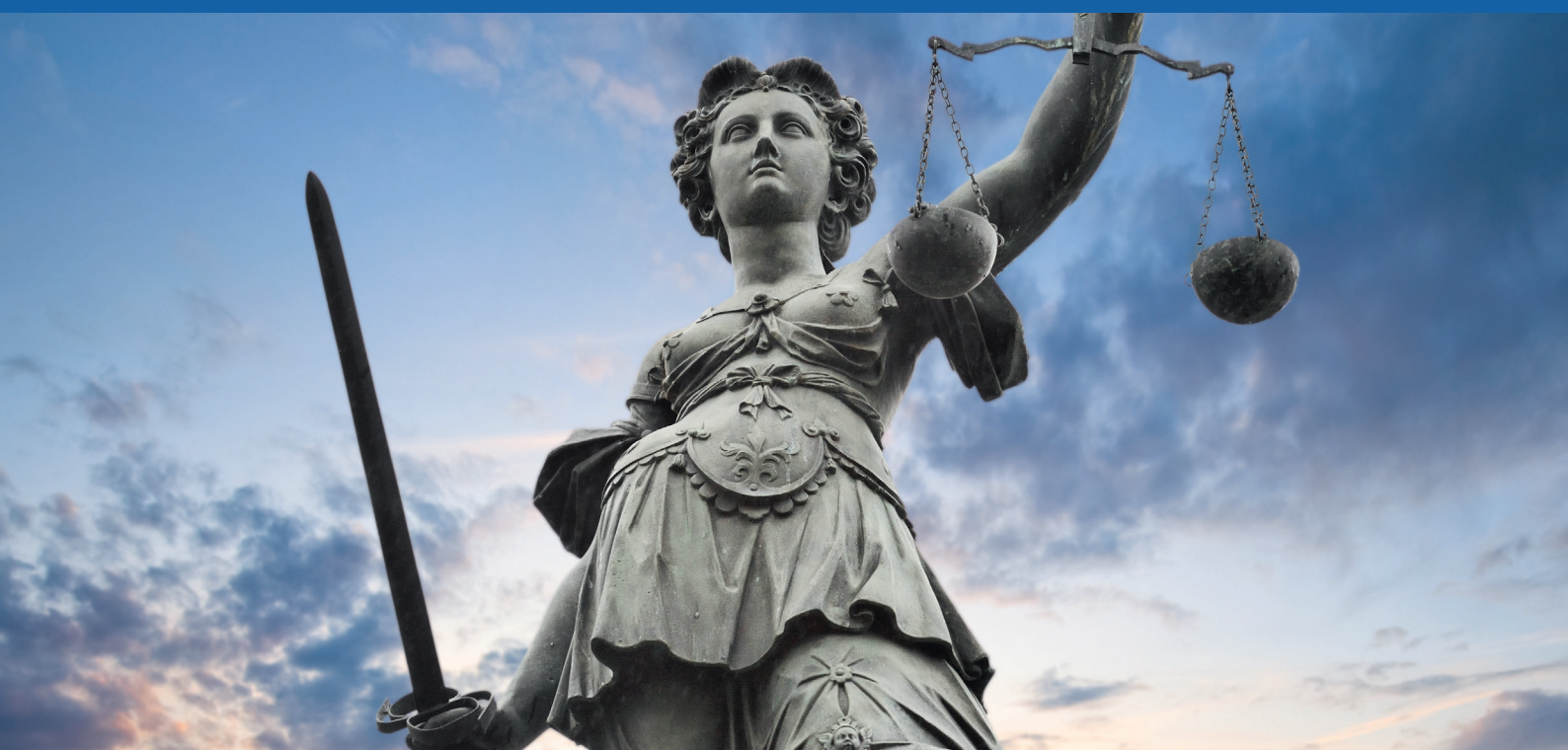


# EVALUATION OF THE COUNCIL OF EUROPE'S INDEPENDENCE AND EFFICIENCY OF JUSTICE SUB-PROGRAMME



Abridged report  
20 March 2023

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# List of abbreviations

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<b>CCJE</b>	Consultative Council of European Judges
<b>CCPE</b>	Consultative Council of European Prosecutors
<b>CEPEJ</b>	European Commission for the Efficiency of Justice
<b>CPD</b>	Co-operation Programmes Division
<b>CSO</b>	Civil society organisations
<b>(the) Convention</b>	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)
<b>EU</b>	European Union
<b>GRECO</b>	The Group of States against Corruption
<b>(the) Court</b>	European Court of Human Rights
<b>ToC</b>	Theory of Change

# Executive summary

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This document is an abridged version of the “Evaluation of the Council of Europe’s Independence and Efficiency of Justice sub-programme”.

## PURPOSE, OBJECTIVES AND SCOPE

The overall purpose of the evaluation was to assess whether the work under the Independence and Efficiency of Justice sub-programme has contributed to more robust, independent, transparent and accessible judicial institutions and procedures based on the rule of law. Its objectives included determining the extent to which the sub-programme has been relevant, effective and efficient and establishing its impact on the observance of Article 6 of the European Convention on Human Rights (the Convention) in the Council of Europe member states, including on citizens’ enjoyment of their right to a fair trial as enshrined in this article. The evaluation reviewed the overall functioning of the three bodies under the sub-programme, namely the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE). It also examined a number of co-operation projects carried out under the sub-programme by CEPEJ and the Co-operation Programmes Division (CPD). The evaluation focused on the period between 2018-2022; however, the impact of the sub-programme was analysed since their establishment.

## METHODOLOGY

The evaluation applied a mixed methods approach to data collection and analysis. In addition to qualitative desk research, three surveys were carried out with different stakeholder groups, including members of the evaluated bodies, sub-programme and other Council of Europe staff, as well as other stakeholders, such as national authorities or civil society organisations (CSOs). As many as 711 requests were sent and 329 completed surveys received. There were 261 valid survey responses (225 in English and 36 in French). Overall, 84 in-depth semi-structured interviews were conducted with a total of 105 people. Data collection was carried out online and in the field. Beside data collection at the international level, the evaluation team conducted two remote country missions (focused on Spain and Türkiye) and two field missions (in Serbia and Georgia). Four case studies were developed based on the collected material on: (i) the independence, impartiality and competence of justice professionals; (ii) judicial time management; (iii) cyberjustice (with a focus on digitalisation); and (iv) co-operation programmes.

## EVALUATION FINDINGS

The sub-programme’s objectives correspond to those of the Council of Europe, as set forth in the main documents. They are also clearly aligned with the overarching Rule of Law-based Institutions programme and the Rule of Law pillar objective. The interventions implemented by CEPEJ, CCJE and CCPE align with the main objectives of the sub-programme, and are highly relevant to the achievement of those objectives. The sub-programme contributes by setting standards for Council of Europe member states’ judicial systems, observing their progress based on high-quality data collection, implementing co-operation projects, facilitating co-ordination between member states in the form of experience-sharing, and offering targeted expert assistance.

Stakeholders agree that the objectives of the sub-programme are relevant to the needs of member states and are well-defined to respond to the identified challenges, such as the “backsliding” in the independence and impartiality of judges and prosecutors in some jurisdictions, excessive length of proceedings or digitalisation. The produced standards, best practices, guidelines and tools for practical functioning of judiciaries are very relevant, highly appreciated and subject to considerable demand. The expertise and organisation of work – creating a collaborative forum for justice professionals from different justice systems, encompassing intergovernmental activities and expert networks, as well as co-operation programmes – was perceived by stakeholders as unique and was valued highly both in terms of relevance and effectiveness.

Overall, the sub-programme has been successful in delivering its outputs, as well as achieving immediate and intermediate outcomes, as outlined in the Programme and Budget documents for the period 2018-2022. The vast majority of stakeholders expressed positive assessments as to effectiveness. The Covid-19 pandemic affected the functioning of sub-programme bodies, yet it did not significantly decrease their effectiveness in delivering outputs. The input from interviews suggests that the work of CEPEJ, the CCJE and CCPE contributes to greater alignment of standards across Council of Europe member states. The sub-programme’s unique expertise and data-driven approach to analysis and reform of justice systems have been identified as positively influencing effectiveness. The evaluation also shows that the work done by the sub-programme is viewed by stakeholders as an integral part of efforts to establish and strengthen the rule of law. While interviewees generally spoke highly of the quality and effectiveness of interventions and outputs developed in the sub-programme, several factors have been identified as impeding effectiveness. These include limited capacity on the part of the sub-programme bodies to follow up on or monitor how the recommendations are implemented, limited resources for the translation of sub-programme outputs and the need for increasing visibility and dissemination, as well as challenges in communication and co-ordination.

Cases where the sub-programme’s effectiveness has been most limited were predominantly linked to external factors, especially the lack of political will at member state level. Interviews confirmed that the lack of political will to implement reforms, either among representatives of state authorities or justice professionals, in some contexts is the most prominent barrier to the sub-programme’s effectiveness and impact at member state level. In relation to some countries, there is a perception among interviewees that the Council of Europe, as well as other donors and international actors, have limited avenues for action.

The evaluation shows that the sub-programme created opportunities for member states to strengthen capacity and improve functioning of their justice systems, with examples of countries where reforms have been implemented and positive changes in legislation have been introduced. However, at the same time, interviews and desk research show a worrying trend of “democratic backsliding”, with independence of judiciaries being challenged in multiple countries across Europe. This makes a case for the sub-programme to be strengthened.

The evaluation has also provided ample evidence of exchanges/linkages between sub-programme bodies and other Council of Europe actors, without allowing for a clear assessment as to how these translate into better effects. Sub-programme outputs have been quoted or referenced across various publications of different Council of Europe bodies. A particular similarity in the substantive remits of CCJE and the Venice Commission has also been identified. The interviewees advocated more co-operation and the need to ensure that the Council of Europe “speaks with one voice” at all times.

The sub-programme’s activities were found to be cost-efficient overall, although some overbudgeting was identified in co-operation programmes. The evaluation also revealed that the CCJE and CCPE face strong budgetary and human resource limitations. While they meet their objectives and deliver outputs, this is thanks to the dedication and professionalism of staff and despite budget constraints. The budget also limits the possible range of interventions. Sub-programme outputs are generally delivered on time, although exceptions were noted, mainly due to external factors such as the Covid-19 pandemic or the lack of engagement from member states. The sub-programme management practices were generally assessed positively, although problems with availability of human resources and staff rotation were highlighted.

Information flow and co-operation within the sub-programme and between the sub-programme and other Council of Europe bodies could be improved. There is a need to introduce a governance mechanism for the sub-programme and a rule of law co-ordination mechanism at a higher organisational level. The set-up for co-operation programmes should remain as it is now, until it matures enough to be evaluated. CEPEJ should focus on programmes based on its own tools, but the CPD should be able to include them in its programmes, if they were to form a smaller part of a bigger intervention.

As regards impact, the stakeholders generally see the sub-programme affecting the implementation of Article 6 of the Convention positively. This influence is exerted via several channels. The CCJE and CCPE standards

guide the interpretation of Article 6 of the Convention, featuring in the European Court of Human Rights (the Court) case law as well as informing legislative reforms in member states. CEPEJ, by providing data and 'diagnosis' of judicial systems, helps the member states to identify problems in their justice systems and address them, and creates incentives to change. The co-operation programmes bring the sub-programme standards to the member states, and create foundations for change in the longer term. At the same time, the assessment of impact poses challenges, due to a very broad definition of the sub-programme's impact and lack of monitoring across the sub-programme.

# Lessons learned

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**T**he evaluation offers the following overarching lessons for the sub-programme and similar interventions:

- ▶ In a dynamically changing world, with shifting political trends, technological development and social and economic upheavals, standards related to the judiciary are never fully determined and can always be questioned. There is thus a continuous need for standard setting and advisory work of bodies such as the CCJE, CCPE and CEPEJ.
- ▶ The challenges facing different states are not the same. There are also political, social, institutional, cultural and other differences between countries that should be accounted for in the development and interpretation of human rights standards. The intergovernmental work, such as that of the CCJE, CCPE and CEPEJ, which involves professionals and practitioners representing different contexts, provides a good forum for appreciating all the similarities and differences and developing standards that can be applicable and acceptable across various countries. The composition of the bodies thus increases the legitimacy of their messages. Therefore, an equitable representation of different members within the decision-making and working structures of such bodies is also an important consideration.
- ▶ The evaluation shows the importance of internal communication and co-operation for smooth and effective operation of complex programmes, combining multiple thematic and institutional components. While informal exchanges and ad hoc co-operation may be helpful and preferred by staff, they are not sufficient to maximise effectiveness. Therefore, more formalised or systematic processes should be put in place to induce regular communication and co-operation between different programme constituents, and make the internal communication independent from individual knowledge, preferences and attitudes.
- ▶ Institutional memory, including on co-operation programmes implemented in specific countries, is of key importance for organisations such as the Council of Europe, whose interventions are based on accumulated expertise. When institutional memory regarding co-operation programmes lies mainly with their staff, it poses a challenge for continuity and coherence of interventions inside and across countries, given short project lifespans and staff rotation. In such a context, a more lasting knowledge management system is necessary in addition to systematic information sharing.
- ▶ For interventions whose effectiveness is strongly dependent on the political will and country contexts, as in the case of the sub-programme, it is key to maximise internal and external political support, leverage all organisational strengths and ensure unified messaging. Designing interventions in a way that is coherent with political processes of other strong international actors, e.g. the European Union (EU) pre-accession negotiations, can support achievement of objectives.
- ▶ Interventions such as the sub-programme, require a long-term perspective in thinking about impact. In countries where the lack of political will hinders bigger reforms, there is a value in maintaining some presence and finding avenues to continue the work. This builds credibility and allows for a quicker reaction when the political climate becomes more favourable.



# Conclusions and recommendations<sup>1</sup>

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Overall, the evaluation presents a positive judgment on the sub-programme, even if issues have also been identified. The assessments under specific criteria may differ, but the evaluation findings reflect a high level of appreciation for the sub-programme and the efforts of those involved in its work.

The relevance of the work carried out under the sub-programme has been confirmed and the context justifies continued support for the sub-programme and composite bodies. The findings testify to the urgency of determining the sub-programme's direction in view of the current and future challenges. In many member states, judicial independence or the length of proceedings remain a problem. Some countries are seeing democratic backsliding and rule of law crises. However, they are also testing new opportunities, such as cyberjustice. The sub-programme's objectives and interventions are well aligned to respond to those needs. The CCJE and CCPE standards address important issues regarding independence, competence and status of judges and prosecutors, respectively. Moreover, specific country opinions on ongoing changes – in particular, challenges and threats to the independence of justice emerging in some of the Council of Europe member states – are of increasing importance. The work of CEPEJ is also very topical, addressing the challenges related to different aspects of judicial efficiency and access to justice. The interventions in the field of digitalisation were particularly demanded and appreciated. At the same time, field missions revealed that in some countries, there is a need for CEPEJ support in the countries where CEPEJ is not present. A wide needs assessment should be carried out to identify those needs.

**Recommendation 4.c:** CEPEJ should consider carrying out a broader assessment of the demand for its services across member states to further develop its co-operation programmes in countries where it currently does not operate. Expanding CEPEJ's co-operation programmes should be accompanied by the allocation of adequate resources.

While all three bodies have their specialisation areas, there is a potential risk of overlap if those are not clearly delineated. This is particularly relevant for CEPEJ when it comes to the issues of the independence and competence of judges and prosecutors. The latter are the principal fields of expertise of the CCJE and CCPE, respectively. Whenever the activities of CEPEJ concern these aspects in particular, the CCJE and CCPE should be informed and involved in those.

**Recommendation 4.a:** CEPEJ's work should be delineated and focused primarily on the efficiency and quality of justice. Whenever independence and competence of judges and prosecutors is concerned by CEPEJ's work, CEPEJ should co-operate closely with the CCJE or CCPE.

One of the main factors contributing to the relevance of CCJE's and CCPE's work is their composition, bringing together representatives of the two key justice professions. This provides for a unique opportunity to gather first-hand information on the needs and challenges in the Council of Europe member states from the practitioners' perspective. At the same time, this potential is not yet fully used. The needs and challenges differ between regions and countries of the Council of Europe. The standards developed by the CCJE and CCPE are to be applied across different legal systems and cultures of the continent. This poses a difficult task for the programme's standard-setting. While those challenges are met rather successfully, there are examples where the standards have been instrumentalised in country contexts. Given the political sensitivity around the status and independence of judges and prosecutors in some countries, it is important that the CCJE and CCPE pay equal attention to the needs of different member states.

Moreover, the evaluation shows that the position of the CCJE and CCPE in the context of the broader rule of law programming needs strengthening. The objectives and activities of the two bodies concerning the independence of the judiciary are at the heart of the rule of law. However, this is not always appropriately reflected within the broader Council of Europe framework, including the internal visibility of the two bodies and their associated budgets. The latter, considering the scope of mandates of the CCJE and CCPE, is assessed as overly

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1. The full list of recommendations is available in a table below.

limiting and should be increased. While the primary role of the CCJE and CCPE – issuing opinions – needs to be appreciated, the present budget does not allow for implementing additional activities, as envisaged by the respective terms of reference, for example networking and dissemination events. Both the relevance and effectiveness of their work could be improved through the implementation of an extended scope of activities; this should be accompanied by an increased number of plenary meetings per year. There are challenges ahead where both the CCJE and CCPE work will be relevant. In this context, the CCJE should play a stronger role. It gives a voice to a profession that is currently under attack in various countries, a profession that is key for the success of the Council of Europe's rule of law objectives. In this sense, the Council of Europe should stand fully behind this unique judicial forum, symbolically, politically and financially. The evaluation makes a case for strengthening the CCJE, in particular, which does not lessen the importance of other sub-programme bodies.

**Recommendation 3.a:** The Secretary General should consider proposing to the Committee of Ministers an increase in the CCJE and CCPE budgets to enable more targeted activities, including at member state levels, and increase the number of staff.

**Recommendation 3.b:** If proposed by the CCJE and CCPE Secretariat, the Committee of Ministers should approve an increase in the number of CCJE and CCPE plenary meetings to two per year. The increase in the number of meetings should be accompanied by proportionate budget increases (see Recommendation 3.a).

The assessment of effectiveness is also overall positive, but needs to be nuanced. Where the outcomes are defined in a way that is dependent on the sub-programme actors, the effectiveness is high. With dedicated members and Council of Europe staff, the sub-programme is able to deliver on its commitments. Yet there are both internal and external factors which, on the one hand, limit the sub-programme's potential to do more and, on the other, hinder achievement of higher-level outcomes on the ground. Shortages of resources affect the capacity of the sub-programme bodies to disseminate the results on their own, for example through translation of outputs. The sub-programme's visibility could be strengthened if the co-operation between the sub-programme and other Council of Europe actors were more structured and systematic.

In terms of co-operation with other Council of Europe bodies, there are close links between the area of work of the CCJE and CCPE and that of the Venice Commission. The independence of justice is a constitutional matter, which creates both an opportunity for synergy and a risk of overlap between the Venice Commission and the CCJE and CCPE. While the two bodies co-operated on different occasions with the Venice Commission on joint country opinions, this has not always been consistent. As identified during the evaluation, divergencies in the content of opinions of those bodies have happened, albeit not regularly. However, even accidental miscommunication can undermine the effectiveness of interventions, as well as the reputation and political leverage of the Council of Europe in the eyes of its partners. It is therefore of key importance that standards and guidance from different Council of Europe bodies are at all times coherent. The evaluation highlights the need for improved internal co-operation between different bodies of the pillar, and primarily with the Venice Commission. Such co-ordination should include, where appropriate, exchanging information between the bodies about their respective planned interventions at the working stage, as well as enhanced co-operation on joint opinions between the Venice Commission, CCJE and CCPE. To facilitate such exchanges, regular co-ordination and information exchange procedures should be established.

**Recommendation 1.b:** The Director General for Human Rights and Rule of Law should consider designating a focal point for the rule of law at the level of the Directorate General to facilitate communication and co-ordination and to ensure consistency of messaging, mutual synergies and support between the sub-programme and other relevant Council of Europe bodies working in that thematic area, in particular the Venice Commission and GRECO.

**Recommendation 1.d:** The secretariats of the CCJE, CCPE, CEPEJ and the CPD should establish a consultation process with the Venice Commission secretariat (and other competent bodies, if appropriate) to consult each other consistently and systematically as a matter of good practice on each thematically-relevant draft text that is being prepared, allowing time for comments whenever possible and ensuring consistency between their outputs.

Internal co-ordination between the sub-programme bodies should also be improved. While there are established channels of communications between the sub-programme bodies – including participation in respective plenary meetings, operational meetings between staff of both departments where the CCJE, CCPE and CEPEJ are respectively placed and communications between the secretariats on a needs basis – multiple stakeholders expressed concerns that this is insufficient. The evaluation team recommends the establishment of a co-ordination mechanism and regular meetings at the sub-programme level.

**Recommendation 1.a:** The Directorate of Human Rights should establish a sub-programme co-ordination mechanism (e.g. a task force) involving representatives of the secretariats of the sub-programme bodies, the Department of Human Rights, Justice and Legal Co-operation standard-setting activities and the Department of Implementation of Human Rights, Justice and Legal Co-operation Standards (including the CPD) to ensure a unified governance structure for the sub-programme and the flow of information. The Directorate of Programme and Budget and the Directorate of Programme Co-ordination could also take part in meetings of this mechanism.

Moreover, both internal and external communication and dissemination of sub-programme outputs are not fully satisfactory. The evaluation highlighted that internal knowledge about the sub-programme and its tools is limited, including among (non-CEPEJ) co-operation programmes staff as well as the Department for the Execution of Judgments. This limits the application of those tools in relevant contexts and, in effect, the sub-programme's effectiveness. To facilitate the awareness and use of tools across the Council of Europe, the evaluators suggest establishing an internal knowledge hub encompassing available tools by topic and use of tools in co-operation projects. This could be done, for example, by ensuring that the files from the Document Management System can be shared across the directorate. This would also facilitate monitoring of results, which will be discussed in more detail below.

**Recommendation 1.c:** The Human Rights Directorate should develop a shared working and knowledge management space to include information about available standards and tools per thematic area to facilitate consistent use of sub-programme outputs by other Council of Europe bodies and, as much as possible, actors outside the Council of Europe.

As regards external communication and dissemination of tools, the evaluation team finds that translation of outputs into national languages is an important factor that facilitates their use at the national level. However, this is not done systematically for all available sub-programme standards, guidelines, and tools. They are translated only selectively within co-operation programmes, by volunteering members of the bodies, or by governments. As their availability in national languages strongly determines the legal professionals' access to and familiarity with these soft law and tools, the translations should be provided by the Council of Europe or partners on a regular basis. Moreover, the evaluation shows that networking and training events – for example workshops or conferences – are a very useful vehicle for communicating and disseminating the Council of Europe's standards. These are widely used tools across the Organisation; however, not by the CCJE and CCPE due to limited resources. The direct link to national judges and prosecutors, which the two consultative bodies already have, should be further strengthened via in-person events. This could not only inform the CCJE and CCPE about the challenges “on the ground” but also increase effectiveness of the sub-programme interventions and, in the long term, contribute to its impact.

**Recommendation 2.c:** The CCJE, CCPE, CEPEJ and co-operation programmes should consistently and systematically translate sub-programme opinions and tools into national languages to improve dissemination. The Directorate of Programme and Budget in co-operation with the secretariats of the sub-programme bodies should ensure that some translation budgets are foreseen, while the Directorate of Programme Co-ordination and the CPD should consistently earmark translation funds in project budgets.

**Recommendation 3.c:** The CCJE and CCPE should intensify their activities to include more in-person events for international and national networks of legal professionals (conditional on Recommendation 3.a).

CEPEJ is also effective in its activities, and the expertise and specialisation of its working group members and secretariat staff largely contribute to that. The structure, comprising intergovernmental activities, expert-based working groups and thematic networks, provides for generally effective results, too. At the same time, the evaluation shows that the networks could be involved to a greater extent to support achievement of results. In particular, the pilot courts network is not used to its full potential – even though in countries where it is, the implementation of tools at pilot courts level is often an important first step to their country-scale application. CEPEJ also successfully implements co-operation programmes focused on its tools.

**Recommendation 4.b:** CEPEJ should increase engagement and use of its pilot courts network. A more effective incentive scheme for participation could be developed. The verification process conducted every year could be an opportunity to agree specific and select commitments that individual members of the pilot court network could take on board. These could include minimum and voluntary commitments.

The co-operation programmes are a gateway to disseminating sub-programme standards, including by providing translations and bringing those to the most relevant stakeholders. The co-operation programmes are a vehicle for effecting major policy, legislative and institutional changes in member states. However, their effectiveness in achieving this relies strongly on the political will of national authorities and legal professionals. The evaluation shows that it is very hard to overcome this particular hurdle. At the same time, the continued presence of the Council of Europe through its programmes is important even in the face of such obstacles. In particular, suspension of co-operation risks creating institutional vacuums in some countries – no support on the ground could lead to further degradation of human rights. The findings rather speak to the need for intensive and consistent co-operation among like-minded actors in such countries (internal and external).

**Recommendation 5.c:** In the absence of the political will of national authorities, the CPD together with all sub-programme bodies should continue implementing strategies for a strengthened engagement with CSOs and justice professionals at national levels to ensure continuous presence and results, looking for new partnerships and innovative forms of engagement.

In terms of efficiency, the sub-programme bodies are able to deliver on the commitments made in programming documents, although this has placed considerable pressure on staff. The budget for intergovernmental work and related human resources, especially the CCJE and CCPE, are not sufficient in view of the needs. While CEPEJ also experiences some difficulties, it has more flexibility and is able to mitigate financial constraints with extrabudgetary resources behind co-operation programmes. As a result, its secretariat is visibly better-staffed. The CCJE and CCPE do not have that recourse to extrabudgetary resources from co-operation programmes. The resources do not reflect the importance of the bodies' work; nor do they create appropriate conditions for this work to be developed further.

In terms of organisational structure, the evaluation supports the existing one for co-operation programmes. After the restructuring that took place in 2021, it is too early to evaluate whether the newly set-up structure is efficient. The CPD is still fairly new and in the process of defining its vision and related organisational structure. The evaluation findings suggest that this structure may benefit if it reconciles both geographical and thematic divisions. As a unit responsible for mainstreaming standards of many standard-setting bodies, it should also pay particular attention to smooth and systemic co-operation. Once the reforms and structures are properly put in place, the division may benefit from a dedicated evaluation. The evaluators agree that when a project concentrates on the implementation of CEPEJ tools, then it should be led by CEPEJ due to the technical nature of tools and necessary expertise. However, this should not preclude projects run by the CPD from using CEPEJ tools (and expertise), if these constituted a small aspect of a wider intervention dedicated to independence and efficiency. What is important in such cases is early notification of CEPEJ and CEPEJ's openness to co-operation, as well as continuous joint work throughout.

**Recommendation 5.a:** The Co-operation Programmes Division should implement a fitting organisational structure that would reflect both the thematic and geographic dimensions of its work and enable systematic and consistent mainstreaming of sub-programme standards in co-operation programmes. The CPD is thus encouraged to pursue its plans on appointing thematic focal points responsible for certain thematic areas across current geographic units.

**Recommendation 5.b:** The Department for Implementation of Human Rights, Justice and Legal Co-operation Standards should introduce a process to ensure that the overlap between co-operation programmes run by CEPEJ and the Co-operation Programmes Division is limited. CEPEJ should be solely responsible for the practical implementation of its tools and guidelines when efficiency and quality of justice and these tools and guidelines are the main focus of the project. If CEPEJ's tools are to be used as part of other projects (which should in principle be done only if there is no CEPEJ programme in the country), the CPD should involve CEPEJ in the design and implementation of programmes in that respect from the start, to ensure synergies and build on the CEPEJ Secretariat's expertise for the implementation of that specific part.

Preliminary findings show that the perceptions of the sub-programme impact are largely positive, with 87% of respondents assessing its contribution to the implementation of Article 6 of the Convention as very or somewhat positive (56% and 31%, respectively). The standards are referred to in the case law of the Court; data collected by CEPEJ provide a point of reference, help with diagnosing problems and inspire reform ambitions to address the identified challenges. However, the work of the sub-programme is embedded in a wider rule of law ecosystem and as such depends to a great extent on external factors as explained above. The research indicates that the impact of the sub-programme is rather organic, and exerted through multiple indirect channels. Collaboration with external partners, especially the EU in the enlargement countries, provides an

important political and financial leverage, contributing to positive effects and – in the longer term – achievement of impact by facilitating reforms in those member states. This synergy is valuable and highlights the importance of identifying potential synergies and allies within and outside the Council of Europe, as well as collaborating in a targeted manner with external actors. At the same time, the coherence and continuity of the Council of Europe’s message should be ensured.

Lastly, the evaluation sheds light at the Theory of Change (ToC) and results-based management in the sub-programme. While the activities, outputs and outcomes of the sub-programme align well with the overall expected impact on Article 6 of the Convention, the impact remains very broad and vague. This broad formulation renders impact difficult to measure. Moreover, the current ToC does not sufficiently account for the context, as well as the assumption and risks related to the achievement of states’ ambitions. Namely, external factors such as political will and legal culture may determine the implementation of Article 6 of the Convention despite the efforts and interventions of the sub-programme bodies. It is suggested that the ToC is redefined to account for these factors and determine expected intermediate outcomes and impact in a more concrete and measurable way (see Recommendation #1.d). Moreover, the updated ToC could better reflect the mandates of sub-programme bodies by foreseeing separate outcomes for the independence and impartiality strand of work, on the one hand, and the efficiency of justice, on the other. Distinguishing between these two aspects of Article 6 of the Convention at the ToC level can help to better account for the different external factors that affect the work on those issues (e.g. more political pressure around the independence and impartiality) and to more comprehensively track trends and progress on different aspects of the sub-programme. In terms of results-based management, it is crucial that regular and systematic monitoring of results and outcomes is introduced across the sub-programme. At present, information about achieved outcomes is fragmented and does not allow for an accurate tracking and measurement of the sub-programme’s contribution to the change it sets out to achieve.

**Recommendation 2.a:** The sub-programme reference points, especially the secretariats of sub-programme bodies and representatives of the CPD, with the support of the Directorate of Programme and Budget and the Directorate of Programme Co-ordination, should consider reformulating the sub-programme’s Theory of Change to define the sub-programme impact in more concrete and measurable terms and reframe the intermediate outcomes so as to better reflect the mandates of the sub-programme’s bodies, i.e. a focus on independence and impartiality, on the one hand, and efficiency, on the other.

**Recommendation 2.b:** More tailored monitoring should be implemented across the sub-programme, at the level of outputs, outcomes and impact. Outcome and impact indicators should be developed for the sub-programme and reported on by all involved parties.

In the view of the evaluation findings and conclusions, the evaluation team proposes the following recommendations which concern different Council of Europe administrative levels and are assigned different levels of priority (high, medium, low):

Recommendations		Priority <sup>2</sup>
<b>1. Overarching recommendations at the directorate level</b>		
a.	The Human Rights Directorate should establish a sub-programme co-ordination mechanism (e.g. a task force) involving representatives of the secretariats of the sub-programme bodies, the Department of Human Rights, Justice and Legal Co-operation standard-setting activities and the Department of Implementation of Human Rights, Justice and Legal Co-operation Standards (including the CPD) to ensure a unified governance structure for the sub-programme and the flow of information. The Directorate of Programme and Budget and the Directorate of Programme Co-ordination could also take part in meetings of this mechanism.	H
b.	The Director General for Human Rights and rule of law should consider designating a focal point for the rule of law at the level of the Directorate General to facilitate communication and co-ordination and to ensure consistency of messaging, mutual synergies and support between the sub-programme and other relevant Council of Europe bodies working in that thematic area, in particular the Venice Commission and GRECO.	M

<sup>2</sup> High (H), medium (M).



Recommendations	Priority <sup>2</sup>
c. The Human Rights Directorate should develop a shared working and knowledge management space to include information about available standards and tools per thematic area to facilitate consistent use of sub-programme outputs by other Council of Europe bodies and, as much as possible, actors outside the Council of Europe.	H
d. The secretariats of the CCJE, CCPE, CEPEJ and the CPD should establish a consultation process with the Venice Commission secretariat (and other competent bodies, if appropriate) to consult each other consistently and systematically as a matter of good practice on each thematically relevant draft text that is being prepared, allowing time for comments whenever possible and ensuring consistency between their outputs.	H
<b>2. Recommendations at sub-programme level</b>	
a. The sub-programme reference points, especially the secretariats of sub-programme bodies and representatives of the CPD, with the support of the Directorate of Programme and Budget and the Directorate of Programme Co-ordination, should consider reformulating the sub-programme's Theory of Change to define the sub-programme impact in more concrete and measurable terms and reframe the intermediate outcomes so as to better reflect the mandates of the sub-programme's bodies, i.e. a focus on independence and impartiality, on the one hand, and efficiency, on the other.	M
b. More tailored monitoring should be implemented across the sub-programme, at the level of outputs, outcomes and impact. Outcome and impact indicators should be developed for the sub-programme and reported on by all involved parties.	H
c. The CCJE, CCPE, CEPEJ and co-operation programmes should consistently and systematically translate sub-programme opinions and tools into national languages to improve dissemination. The Directorate of Programme and Budget in co-operation with the secretariats of the sub-programme bodies should ensure that some translation budgets are foreseen, while the Directorate of Programme Co-ordination and the CPD should consistently earmark translation funds in project budgets.	M
<b>3. Recommendations concerning CCJE and CCPE</b>	
a. The Secretary General should consider proposing to the Committee of Ministers an increase in the CCJE and CCPE budgets to enable more targeted activities, including at member state levels, and increase the number of staff.	H
b. If proposed by the CCJE and CCPE Secretariat, the Committee of Ministers should approve an increase in the number of CCJE and CCPE plenary meetings to two per year. The increase in the number of meetings should be accompanied by proportionate budget increases.	M
c. The CCJE and CCPE should intensify their activities to include more in-person events for international and national networks of legal professionals (conditional on point a.).	M
<b>4. Recommendations concerning the CEPEJ Secretariat</b>	
a. CEPEJ's work should be delineated and focused primarily on the efficiency and quality of justice. Whenever independence and competence of judges and prosecutors is concerned by CEPEJ's work, CEPEJ should co-operate closely with the CCJE or CCPE.	H
b. CEPEJ should increase engagement and use of its pilot courts network. A more effective incentive scheme for participation could be developed. The verification process conducted every year could be an opportunity to agree specific and select commitments that individual members of the pilot court network could take on board. These could include minimum and voluntary commitments.	M
c. CEPEJ should consider carrying out a broader assessment of the demand for its services across member states to further develop its co-operation programmes in countries where it currently does not operate. Expanding CEPEJ's co-operation programmes should be accompanied by the allocation of adequate resources.	M

Recommendations		Priority <sup>2</sup>
<b>5. Recommendations concerning Co-operation Programmes Division</b>		
a.	The Co-operation Programmes Division should implement a fitting organisational structure that would reflect both the thematic and geographic dimensions of its work and enable systematic and consistent mainstreaming of sub-programme standards in co-operation programmes. The CPD is thus encouraged to pursue its plans to appoint thematic focal points responsible for certain thematic areas across current geographic units.	H
b.	The Department for Implementation of Human Rights, Justice and Legal Co-operation Standards should introduce a process to ensure that the overlap between co-operation programmes run by CEPEJ and the Co-operation Programmes Division is limited. CEPEJ should be solely responsible for the practical implementation of its tools and guidelines when efficiency and quality of justice and these tools and guidelines are the main focus of the project. If CEPEJ's tools are to be used as part of other projects (which should in principle be done only if there is no CEPEJ programme in the country), the CPD should involve CEPEJ in the design and implementation of programmes in that respect from the start, to ensure synergies and to build on the CEPEJ Secretariat's expertise for the implementation of that specific part.	M
c.	In the absence of the political will of national authorities, the CPD together with all sub-programme bodies should continue implementing strategies for a strengthened engagement with CSOs and justice professionals at national levels to ensure continuous presence and results, looking for new partnerships and innovative forms of engagement.	M

This report presents the results of the evaluation of the Council of Europe's Independence and Efficiency of Justice sub-programme. The purpose of the evaluation was to assess whether the work under the sub-programme has contributed to more robust, independent, transparent and accessible judicial institutions and procedures based on the rule of law. Overall, the findings reveal that the sub-programme work is highly relevant and generally effective. There is, however, space for improvement, and potential for increased effectiveness and impact. The evaluation provides strategic and operational recommendations to further improve internal co-ordination and communication; to review the Theory of Change and systematise monitoring of the sub-programme; and to clearly delineate areas of expertise between sub-programme bodies. In addition, specific recommendations are made concerning the allocation of additional resources to CCJE and CCPE and the organisation of co-operation programmes according to thematic, as well as geographic focus areas.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.