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**Data analysis of the pilot courts replies to the questionnaire
prepared by the Steering Group of the SATURN Centre**

Working document

Data analysis of the pilot courts replies to the questionnaire prepared by the Steering Group of the SATURN Centre of the Commission for the Efficiency of Justice of the Council of Europe – Draft, 20 November 2008

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Introduction

This analysis is based on the replies to the questionnaire designed by the SATURN Centre of the Commission for the Efficiency of Justice of the Council of Europe. The first section is an Executive Summary, the second section is the Data Analysis. The Appendix, as requested by the SATURN working group, entails four documents: a) the detailed tables that were not decided to include in the main Data Analysis, b) the complete answers to the so called “hypothetical cases”, c) the questionnaire, d) the Programme known as “Strasbourg” implemented by the court of first instance of Turin, Italy.

Executive Summary

Data analysis synthesis

The courts that replied to the questionnaire were 79 from 27 countries. Most of the replies came from Serbia (27), “the former Yugoslav Republic of Macedonia” (15), and Georgia (5). As agreed by the SATURN Group, in order to have a balanced database, it was decided to include in this analysis only the official pilot courts, and not more than two courts for the countries mentioned above. Therefore, the pilot courts included in this analysis are 36 (table 1), representing 27 different countries. The courts that replied but that are not included in this analysis are listed in the first table in the appendix.

The courts included in this study are very different in size (table 2), considering the number of people working in the surveyed courts. Most of them are first instance court of general jurisdiction in criminal and civil matters, sometimes they also deal with administrative cases, even though it should be noted that the border between civil and administrative cases is very thin. Three courts have a specialised exclusive jurisdiction in administrative law, three indicated to deal with specialised commercial matters, three are courts of appeal, one is a supreme court. This composition of the sample does not allow to create some homogeneous court categories on the basis of their jurisdiction, which may be useful for further analysis.

One of the objectives of the questionnaire was to test the so called “common case categories” to check if they can be used to collect data on the length of judicial proceedings. Answers show that among the 19 civil case categories proposed “commercial litigious”, “labour”, and “litigious divorce” are the more frequent case categories where the courts surveyed can supply some kind of information (table 3). Among the 4 case categories related with public and administrative jurisdiction, those that are “more common” are “social welfare” and “Fiscal Tax” (table 4). In the criminal field among the 12 case categories, “Assault”, “Traffic offences”, and “Drug offences” are the ones that are common for at least 8 courts (table 5).

According to the few data provided on question 3, in the 10 courts that answered, there is an average of 4,9% of civil cases that last more than 3 years (table 6), while the average is 5% in criminal cases in the 11 courts that replied (table 7).

The 9 courts that answered question 7 indicated an average length of civil cases which goes from 133 days to 415. There is an average length of public an administrative case that goes from 171 days to 304 for the only two courts that replied. The average in criminal cases goes from 55 days to 357 for the 7 courts that replied. It goes without saying that, due to the few replies, these data cannot be considered very significant.

The courts that reported to collect data about “the start and ending of a proceeding” in “non criminal cases” are 24, 14 courts also collect information on “waiting times”, 13 on “intermediary steps”, and 3 courts do not collect any data on the length of proceedings (table 8). Answers are just slightly different for “criminal cases” (table 9).

It comes as no surprise to note that there is a general agreement on the starting point of a proceeding “when a pleading is registered by the courts”, while the ending point may be more misleading, since the courts reported definitions that may take place in different times, such as: a “general court decision”, a “judgment”, a “decision that becomes final”. There are few courts that described what they mean for “intermediary steps” to be taken into consideration to measure the length of proceedings. A detailed table is shown in appendix.

¹ Marco Fabri has written this report, Domenico Piscitelli has elaborated the data using SPSS (Statistical Package for the Social Sciences).

Question 5 asked to explain the formula used to calculate the “average length of proceedings”. Not many courts have really explained how this calculation is done (table 10). Generally speaking, the courts that replied reported that the length of proceedings is measured for each case; then the average is calculated as a division between the sum of the length and the number of cases. On this respect, it is worth to mention the possibility to propose the indicators, at least some of them, proposed in the Time Management checklist by the CEPEJ, or the index used in the CEPEJ Evaluation of judicial systems such as: the *Clearance rate*, the *Case turnover ratio* the *Disposal time*.

Clearance rate² % = (resolved cases / incoming cases) x 100.

Case turnover ratio³ = Number of resolved cases / number of unresolved cases at the end

Disposition Time⁴ = 365 / CaseTurnoverRatio

Generally speaking, the courts reported to extract from their registers useful statistics, and 31 of them reported to use a computerised system to register information on court performance (chart 6).

However, the courts surveyed also reported an increasing complexity in collecting data, which is “easy” and “very easy” for incoming cases, a little less easy for pending cases and court decisions, and quite problematic as far the length of proceedings concern (charts 2-5).

The cases with long duration are monitored by 16 out of the 36 surveyed courts (chart 14), even though the courts (15 replies) reported a wide gamut of definitions of “long duration”, which go from 3 months up to 3 years, with several other definitions in between (table 11).

The factors of “long duration” or “delay” reported by the courts are mainly, in decreasing order, the high caseload, the complexity of the case, the involvement of experts and witnesses, delaying tactics from the parties, the complexity of the law, the lack of judges and court staff, waiting time, internal court organisation, and extraordinary events in the courts (charts 15-27).

Almost all the pilot courts reported measures, sometimes very specific, undertaken to reduce the length of proceedings such as: judges’ specialisation, increasing number of non-judge staff in preparing and assisting the judges, implementation of timeframes, differentiated case flow management and delay reduction plan, introduction of mediation process in particular cases (table 13). It is not always clear if these measures have been evaluated in their real impact in reducing the length of proceedings.

“Very detailed” court performance information are available for judges in 25 courts, for court staff and for the Ministry of justice in 20 courts, for High judicial council in 18 courts, for higher courts in 17 courts, for Parliament in 14 courts, and for society and citizen in 8 courts (charts 7-13).

Generally speaking, the courts surveyed reported that there is not any “official margin of error” in collecting data, but some courts have expressed some concern regarding the accuracy and reliability of data (table in appendix).

Many courts have undertaken different steps to reduce the length of proceedings (question 17), but it is not always clear if these steps have fulfilled the expectations. There is still a general lack in the evaluation of delay reduction programs and policies.

Question 18 asked the courts to describe how they deal with three hypothetical cases (i.e. a voluntary violence, a road accident, and a residence permit), and to estimate how long they may take to be disposed. The answers give some interesting piece of information on the different procedures, the complete replies are presented in appendix. The tables (14, 15, 16) on the timeframes show an extraordinary variance among the different courts. This is also due to the very different ways to consider the “start and the end” of the judicial proceedings.

² “A clearance rate above 100 percent indicates the ability of the system to resolve more cases than received”. CEPEJ (2008), *Evaluation of judicial systems*.

³ “A case turnover ratio and a disposal time indicator provide further insight into how a judicial system manages its flow of cases. Generally, a case turnover ratio and disposal time compare the number of resolved cases during the observed period and the number of unresolved cases at the end of observed period. The ratios measure how quickly the judicial system (or a court) turns over received cases – that is, how long it takes for a type of cases to be resolved”. *Ibidem*.

⁴ The disposition time “determines the number of days that cases are outstanding, or remain unresolved in court”. *Ibidem*.

The question about the evaluation of the questionnaire collected quite positive answers. However 9 courts commented that the questionnaire was “too long”. Some courts also stressed this comment in the open remarks (detailed tables in appendix).

Methodological issues

Technically the questionnaire proposed is quite complex. It also required a time consuming data structure design, data entry, and data analysis (enclosed to this report there are all the files used for the data analysis). The information provided by the courts was not always consistent with the questions posed. Several mistakes occurred in filling the questionnaire and in the data entry, due mainly to the complexity of the data collected. For this kind of exercise it is fundamental to have a data entry quality control.

The main problems emerged with question 3 (statistical information on 35 different case categories) and question 7 (statistical information concerning the average length of proceedings on 35 different case categories). These questions required a cumbersome data structure design and data entry, but they were quite disappointing at the end, since a limited number of courts replied.

The other questions do supply some interesting piece of information. Even though the use of open-ended questions and the limited number of cases do not really allow meaningful quantitative comparisons, the information provided allow some useful qualitative insights.

It is also worth to mention that the analysis uses some percentages, particularly in the charts, but with 36 cases it is more correct to refer to the absolute numbers.

Some questions need to have a more detailed explanatory note, such as the ones provided for the project on the Evaluation of judicial systems carried on by the CEPEJ, in order to avoid at least major misunderstanding in the replies. For example, it may be not sufficiently clear the definition proposed in the questionnaire of non-professional judges, assist the judges, and technical and administrative (question 1).

Conclusions and possible future steps

The use of a tool such as a questionnaire needs a clear definition of the purposes (e.g. hypothesis testing, collecting data, making comparison, identifying trends) and a careful evaluation of the costs and expected benefits.

From the perspective of a researcher, who does not know exactly what the purposes were, and that did not participate to the questionnaire design, it is difficult to come to some conclusions and thinking about possible future steps. However, some comments will be drafted as a possible stimulus to the debate.

It is a matter of fact that the role and the collaboration of the pilot courts in relation with the SATURN Centre should be clarified since only 36 courts from 27 countries replied to the questionnaire, while there are 54 official pilot courts representing 40 countries. In addition, as of today, the lack of homogeneity of the pilot courts creates difficulties in making comparison. This is particularly true when there is an attempt to compare quantitative data. The “value” of a questionnaire that collects mainly quantitative data grounds on the possibility to have a quite large amount of cases with standard data and few exceptions. If in the future the actual pilot courts sample is still supposed to be used, it seems more suitable to work on specific issues, with a more qualitative approach.

In any case, it is necessary to collect some more information about the pilot courts and to establish a stronger “business partnership” in order to understand how they can collaborate as a constant and reliable sample or “on demand” for some specific inquires.

Within this framework, some ideas may be object of further discussion. For example, considering how the *Time management checklist* has been designed by the Commission for the Efficiency of Justice, it may be used as a questionnaire to see more in detail which indicators have been really developed by the pilot courts for the analysis of the length of proceedings.

Generally speaking, data should be collected through an on-line questionnaire in order to avoid the cumbersome and costly data entry. Moreover, questionnaire on-line may be submitted more often, asking for less information.

The pilot courts may be engaged as test bed of initiatives to better manage the duration of proceedings or, for example, to implement and evaluate some of the practices described in the “Compendium”, in the Guidelines, in the Recommendations developed by the CEPEJ.

Pilot courts may be engaged in a common definition of “long duration” for different kinds of cases. The data analysis has showed that this definition is very different from court to court. Pilot courts may also be engaged in the first attempt to define cross-country/cross-court timeframes standards.

Pilot may also be involved in exchange programmes and “twinning projects” to develop policies and practices to decrease the length of proceedings in close collaboration with the SATURN Centre.

As it is also been done in the CEPEJ project on the Evaluation of judicial systems a relatively simple first list of common case categories should be identified and defined. Pilot courts could test them with a qualitative approach first and then with a quantitative one.

The Data Analysis

The courts that replied

The courts that replied to the questionnaire were 79 from 27 countries. Most of the replies came from Serbia (27), “the former Yugoslav Republic of Macedonia” (15), and Georgia (5). As agreed in the SATURN meeting held the 15th of May 2008, in order to have a balanced database, it was decided to include in this analysis only the official pilot courts, and not more than 2 courts for the countries mentioned above. Therefore, the pilot courts included in this analysis are 36 (see table 1), representing 27 different countries.

It may be noted that, as of the time of this writing, the official pilot courts are 54, representing 40 countries. Finland, Poland, and Slovenia, are the only countries with three “official” pilot courts. 31 courts of the 54 official pilot courts filled in the questionnaire, the other five included in the data base were not in the official list of pilot courts (1 from “the former Yugoslav Republic of Macedonia”, 2 from Serbia, 1 from Georgia, 1 from Switzerland).

Table 1. - Countries, court names, and jurisdictions

Country	Court name	Civil	Criminal	Admin.
Andorra	Court of first instance of Batllia of Andorra	⌘	⌘	⌘
Austria	District Court of Linz	⌘	⌘	
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	⌘	⌘	⌘
Bulgaria	District Court Burgas	⌘	⌘	
Croatia	Municipal Court of Varaždin	⌘	⌘	
Cyprus	Supreme Court of Cyprus	⌘	⌘	⌘
Denmark	Court of first instance of Retten i Esbjerg	⌘	⌘	
Estonia	Administrative Court of Tallinn			⌘
Finland	Administrative Court of Turku			⌘
Finland	Court of Appeal of Rovaniemi	⌘	⌘	
Georgia	Court of Appeal of Tbilisi	⌘	⌘	⌘
Georgia	City Court of Rustavi	⌘	⌘	⌘
Germany	District Court of Stuttgart	⌘	⌘	
Ireland	Commercial Court of Dublin	⌘		
Italy	Court of first instance of Turin	⌘	⌘	
Latvia	City Centre District Court of Riga	⌘	⌘	
Lithuania	Regional Administrative Court of Vilnius			⌘
Macedonia	Basic Court of Skopje II	⌘	⌘	
Macedonia	Basic Court of Gostivar	⌘	⌘	
Moldova	Riscani District Court (Chisinau)	⌘	⌘	⌘
Monaco	Court of first instance of Monaco	⌘	⌘	
Netherlands	Court of first instance of Arnhem	⌘	⌘	⌘
Norway	Frostatting Court of Appeal of Trondheim	⌘	⌘	⌘
Norway	District Court of Nordhordland	⌘	⌘	⌘
Poland	Commercial Court of Warsaw Departments (VIII,IX, X)	⌘		
Serbia	First Municipal Court of Belgrade	⌘	⌘	
Serbia	Municipal Court of Niš	⌘	⌘	
Slovenia	Court of first instance of Maribor	⌘	⌘	
Slovenia	District Court of Nova Gorica	⌘	⌘	
Slovenia	District Court of Novo Mesto	⌘	⌘	
Spain	Commercial Court N° 3 of Barcelona	⌘		
Sweden	Court of first instance of Södertörns Tingsrätt	⌘	⌘	
Switzerland	Court of first instance of Geneva	⌘		
Switzerland	Administrative Court of Geneva			⌘
United Kingdom	Civil Justice Centre of Manchester	⌘		
United Kingdom	Central County Court of London	⌘		

Question 1: basic information about of the court

The pilot courts surveyed are very different in the number of people (judges, non-professional judges, assist the judges, technical administrative) who work in the courts. Table 2 showed these numbers collected through the questionnaire. The definition of the various categories can be found in the questionnaire in appendix.

Table 2. - Number of court people

Country	Court name	Num. of prof. judges	Num. of non-prof. judges (including lay judges)	Num. of non-judges (assist the judges)	Num. of technical admin.
Andorra	Court of first instance of Batllia of Andorra	11	0	12	50
Austria	District Court of Linz	24	0	15	48
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	13	15	15	15
Bulgaria	District Court Burgas	49	24	42	7
Croatia	Municipal Court of Varaždin	17	4	48	8
Cyprus	Supreme Court of Cyprus	13		30	40
Denmark	Court of first instance of Retten i Esbjerg	7	351	8	50
Estonia	Administrative Court of Tallinn	17		11	19
Finland	Administrative Court of Turku	17	13	8	9
Finland	Court of Appeal of Rovaniemi	18		22	13
Georgia	City Court of Rustavi	6		12	15
Georgia	Court of Appeal of Tbilisi	35		72	41
Germany	District Court of Stuttgart	53	330	295	47
Ireland	Commercial Court of Dublin	3	0	3	
Italy	Court of first instance of Turin	152	32	183	204
Latvia	City Centre District Court of Riga	10		22	11
Lithuania	Regional Administrative Court of Vilnius	21		45	29
Macedonia	Basic Court of Gostivar	74	295	33	169
Macedonia	Basic Court of Skopje II	18	6	47	26
Moldova	Riscani District court	19		27	8
Monaco	Court of first instance of Monaco	14	0	13	7
Netherlands	Court of first instance of Arnhem	100	31	0	11
Norway	Frostatting Court of appeal of Trondheim	18	0	11	1
Norway	District Court of Nordhordland	9		11	1
Poland	Commercial Court of Warsaw Dept. (VIII,IX, X)	36		20	68
Serbia	First Municipal Court of Belgrade	75		45	220
Serbia	Municipal Court of Niš	61		18	187
Slovenia	Court of first instance of Maribor	13		31	14
Slovenia	District Court of Nova Gorica	12	0	23	21
Slovenia	District Court of Novo Mesto	31	196	11	111
Spain	Commercial Court N° 3 of Barcelona	1	0	1	8
Sweden	Court of first instance of Södertörns Tingsrätt	33	348	107	17
Switzerland	Administrative Court of Geneva	15		45	11
Switzerland	Court of first instance of Geneva	5		10	3
United Kingdom	Central County Court of London	18	0	75	0
United Kingdom	Civil Justice Centre of Manchester	25	3	26	89

Question 2: kind of cases decided by the courts

Question 2 is an open-ended question, in which it was asked to describe the court jurisdiction. Most of the courts surveyed reported a general jurisdiction in both criminal and civil matters and, sometimes, also in administrative matters. Only 3 courts out of 36 reported to have a specialised administrative jurisdiction (Vilnius, Lithuania; Administrative court of Geneva in Switzerland; the Administrative court in Turku, Finland). 3 courts reported a specialised jurisdiction in commercial matters (Warsaw, Poland; Barcelona Commercial

Court, Spain; Dublin Commercial Court, Ireland). In the sample there are three courts of appeal (Tbilisi, Georgia, Rovaniemi, Finland, Trondheim, Norway), and just one Supreme Court (Cyprus). It is worth to mention that in several cases the court of general jurisdiction may function as court of appeal for decisions taken in the courts of limited jurisdiction. These numbers do not allow to create new consistent categories to be used for further cross tabulations. The complete answers can be found in a table in appendix.

Question 3: statistical information on common case categories

This question asked to provide data about three main case categories (civil, administrative, criminal), which were further divided into 35 different sub-categories of cases. 20 courts reported that they can provide some data about the civil case categories proposed. 21 courts reported that they can also supply some data on pending, incoming and civil case decisions. Only 8 courts responded that they can supply data on administrative common case categories. The data available in the courts surveyed about criminal case categories are also quite limited. Tables 3, 4 and 5 give some more details the common case categories applicable to the different courts. Further details about the answers are given in the tables in appendix.

Table 3. - Frequencies by case categories (civil cases)

Case category	Courts responding
Commercial litigious	12
Small claims	9
Company	9
Bank law	9
Patent	6
Contract	3
Tort	9
Inheritance	10
Labour	11
Litigious employment dismissal	9
Application of interim relief i.e. injunction procedure	14
Opposition to injunction	4
Land registry	5
Business registry	4
Enforcement of judgment	10
Litigious divorce	11
Non-litigious divorce	7
Children custody	10
Action for support and maintenance	10

Table 4. - Frequencies by case categories (public & administrative cases)

Case category	Courts responding
Social welfare	8
Fiscal tax cases	8
General disputes	6
Asylum and immigration	4

Table 5. - Frequencies by case categories (criminal cases)

Case category	Courts responding
Intentional homicide	7
Assault	8
Rape cases	6
Armed robbery	7
Theft	6
Domestic burglary	6
Traffic offences	8
Drug offences	8
Money laundering	4
Terrorist acts	2
Cyber crime	2
Organised crime	2

The last column of question 3 asked to indicate the percentage of cases pending more than 3 years for the case categories. 10 courts answered the question related to the main general category of civil cases. The mean of cases that last more than 3 years in these courts is 4,9%. Data on administrative cases are so few

that any comment is meaningless. Details are given in the tables in appendix. Answers for the more detailed case categories are trifling as showed in table 6 and 7.

Table 6. - Answers to the % of cases pending more than 3 years for case category (civil cases)

Case category	Courts responding	Case category	Courts responding
commercial litigious	4	app. of interim relief	4
small claims	3	opposition of injunction	4
company cases	3	land registry cases	1
bank law cases	1	business register	3
patent cases	3	enforcement of jud. action	2
contract cases	4	litigious divorce	4
tort cases	5	non-litigious divorce	7
inheritance cases	6	child. custody	3
labour cases	6	action of support	3
litigious employment	4		

Table 7. - Answers to the % of cases pending more than 3 years for case category (criminal cases)

Case category	Courts responding
Intentional homicide	2
Assault	1
Rape	2
Armed robbery	2
Theft	3
Domestic burglary	5
Traffic offences	5
Drug offences	3
Money laundering	1
Terrorist act	0
Cyber crime	1
Organised crime	0

Question 4: information collected on the length of proceedings

Question 4 is a multiple response, which means that the categories of the possible answers are not mutual exclusive, therefore the number of responses can be more numerous than the number of cases (36). This question asked if and when data about the length of proceedings were collected by the surveyed courts for “non criminal cases” and “criminal cases”.

The following tables 8 and 9, along with chart 1, show that only 3 courts do not collect any information on the length of “non criminal cases”. 24 courts reported that they collect information only about the start and the end of “non criminal proceedings”, while 13 courts collect information related to “intermediary steps” and 14 courts also on “waiting times”. The numbers are similar for criminal proceedings, even though the number of courts that collect information including “intermediary steps” and “waiting times” is slightly lower.

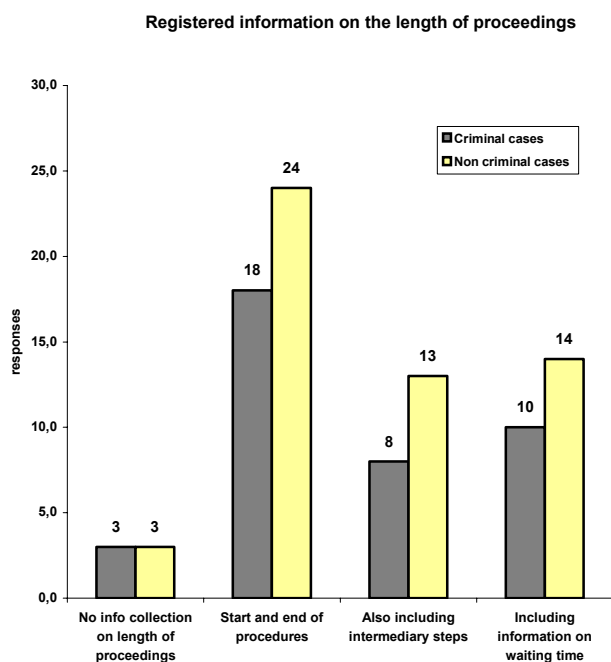
Table 8. - Information on the length of proceedings (non criminal cases)

	Responses	
	N	Percent
No info collection on length of proceedings	3	5,6%
Start and end of procedures only	24	44,4%
Also including intermediary steps	13	24,1%
Including information on waiting time	14	25,9%
Total	54	100,0%

Table 9. - Information on the length of proceedings (criminal cases)

	Responses	
	N	Percent
No info collection on length of proceedings	3	7,7%
Start and end of procedures only	18	46,2%
Also including intermediary steps	8	20,5%
Including information on waiting time	10	25,6%
Total	39	100,0%

Chart 1



Question 4 also had two open-ended sub-questions. The courts should specify the meaning of starting and ending point of a proceeding, and they should describe what they intend for “intermediary steps”. The table that summarises the answers is in appendix. It comes as no surprise to note that there is a general agreement on the starting point of a proceeding “when a pleading is registered by the courts”, while the ending point may be more misleading, since the courts reported definitions that may take place in different times, such as: a general court decision, a judgment, a decision that becomes final. There are few courts that described the intermediary steps taken into consideration to measure the length of proceedings. Details about the answers can be found in a table in appendix.

Question 5 and 6: definition to calculate the average length of proceedings and information extraction

Question 5 asked to explain the formula used to calculate the “average length of proceedings”. Not many courts have really explained how this calculation is done. Generally speaking, the courts that replied reported that the length of proceedings is measured for each case by a computerised system; then the average is a simple division between the sum of the length and the number of cases.

Question 6 aimed at collecting some more information on the kind of statistics extracted by the courts on the length of proceedings. As it may be noted in table 10, the answers given do not allow to identify a significant common pattern.

Table 10. - Definition to calculate the average length and statistics extracted

country	court name	q5 “Definition to calculate the average length of proceedings”	q6 “Statistics extracted”
Andorra	Court of first instance of Batllia of Andorra	Nous avons calculé la durée moyenne des procédures en comptant le nombre de jours entre la date de résolution et la date de réception.	Nous n’avons jamais calculé la durée des procédures.
Austria	District court of Linz	In Austria we have average calculations in civil proceedings since 2006. The calculation starts when the action comes to court. Times of suspension, interruption (eg. because of a parallel penal case) and impossibility of delivering the file to the defendant are here already excluded. There are no statistics handed out to the courts which give specified information to the different types of civil cases we register neither per court nor per judge.	We get monthly information per judge about different types of cases in respect of: Pending cases at the beginning of the year, number of incoming new cases. Number of finished cases (litigious and non litigious), number of pending cases at the end of the month (litigious and non litigious) including if they are pending more than 1, 2 or 3 years, but here the number of all cases without separating litigious cases. We don’t get information about average length of proceedings per type of case or per judge. The only information in this aspect is the average length of all civil proceedings per court.
Bosnia &	Cantonal Court of	Civil law cases – the measure of the length of	We have information on the average length of

Herzegovina	Novi Travnik	proceedings is 45 days (higher instance court). This measure is written in the Civil Procedure Code.	proceedings in days for all cases.
Bulgaria	District Court Burgas	We have mixed system. We examine cases - with average time limit up to 3 months and consider them as a percentage to all the examined cases, according to the requirement of the MJ. We have internal system of control – to evaluate the activity of the court on every case by calculating the days electronically.	We have information on paper, where we register all the steps day by day. We have summary information too - for each case with all dates from the start to the end – electronically. We can count the files distributed to a judge for all kinds of periods and all kinds of files. We can calculate percentage. Mainly we count the length in days.
Croatia	Municipal Court of Varaždin	The number of days between the starting point and the ending point of the court proceedings.	All listed types statistical information may be extracted, but not as analysed (categorised) in table from page 6 in this questionnaire, but as analysed in head XXII and head XXIII of the Court Rules of Procedure regulating the structure of individual registers for monitoring certain types of cases.
Cyprus	Supreme Court of Cyprus		
Denmark	Court of first instance of Retten i Esbjerg	The starting point is the day the court receives the case. The ending point is the day the court delivers the judgment in the case. The length of the proceedings is the sum of day, months or years between these 2 days.	The statistical information that can be extracted from the court performance, is length proceeding in days, months and years. In addition, median, spread and percentage of cases decided in different periods can be extracted
Estonia	Administrative Court of Tallinn	The Ministry of Justice calculates average length of proceedings like this: the amount of days it has taken to pronounce a final 1st instance court judgment, starting from the creation of the case. All cases in which proceedings have been terminated during the statistical year, will be taken in account in finding the average of the court. The time during which proceedings were stayed, is also included in the calculation of average time.	
Finland	Administrative Court of Turku		
Finland	Court of Appeal of Rovaniemi		Everything that possibly can be needed!
Georgia	Court of Appeal of Tbilisi	By adding the length of each case (start-end of the case) in accordance with record-statistic notes a total number of length is determined that afterwards is divided on the total number of cases and thus the average length of proceedings is calculated.	Only length of proceedings in days, months, years
Georgia	City Court of Rustavi	In general there is no officially approved method of calculation, however, in case of necessity mean is used.	From the court performance information (Statistical Observation on Cases Discussed by First Instance Court) we can find out: a) The quantity of cases finalized and not-finalized within the calculation (given) period; b) The quantity of cases where the terms of discussion (hearing) are violated (average length in calculated in months); c) percentage rate of cases finalized within calculation (given) period.
Germany	District Court of Stuttgart	Die Auswertung der über die einzelnen Verfahren und deren Ablauf geführten Zählkarten erfolgt durch das Statistische Landesamt Baden-Württemberg.	Eine Reihe verschiedener Informationen z.B. Erledigungsdauer der Verfahren (vgl. auch die beigefügten Auswertungen der Zählkartenerhebung).
Ireland	Commercial Court of Dublin	The total length of each case from commencement to conclusion divided by the number of cases	Statistics are available over a range of indicators; average length, spread, percentage in a given period
Italy	Court of first instance of Turin	Le Ministère de la justice a préparé la formule suivante : $DM = (PI+PF)/(S+E) \times 365$ DM = durée moyenne des affaires ; PI = n. des affaires pendantes au début de la période concernée ; PF = n. des affaires pendantes à la fin de la période concernée ; S = n. de nouvelles affaires ; E = n. d'affaires terminées (par décisions ou bien par abandon de la part des parties).	Les informations disponibles permettent d'extraire des données statistiques relatives uniquement à la durée moyenne des procédures. Pour ce qui est des affaires civiles, le « Programme Strasbourg », élaboré par le Président du Tribunal, permet aussi de calculer le nombre d'affaires par rapport à leur durée effective (p. ex. : celles qui excèdent 1, 2, 3 ans, etc.).
Latvia	City Centre District Court of Riga	The average lengths of proceedings are calculated in months.	There is available information on average length of proceedings in months.
Lithuania	Regional Administrative Court of Vilnius	The average length of proceedings is calculated automatically according to registered data in courts' information system.	According to Courts' information system it is possible to get statistical information of average length of proceedings (in months) of particular category of cases decided.
Macedonia	Basic Court of Skopje II	In the court registry books there is a special column where the length of the proceedings is entered .The length of the proceedings is	All required data (average length of proceedings (in days, months, years), median, spread, percentage of cases decided in a given period,

		calculated by subtracting the date of the case ending and the date of the case entering in the register	etc) can be provided from the registry books.
Macedonia	Basic Court of Gostivar		
Moldova	Riscani District court	Average length of proceedings – period of time when courts have to decide for every case, from the beginning to the end of proceeding. Our legislation doesn't provide any terms, and court takes all necessary measures to decide every case in average time possible, according with the complexity of case.	Court provides statistical information about all cases that have arrived, number of decisions and pending cases. Information on the case categories concerning the general average length of proceedings. Moreover our court provides information about period of arrested people during the trial, this kind of information is provided in months, or years.
Monaco	Court of first instance of Monaco	Pas de définition actuellement (voir remarque afférente à la question n° 3)	Idem à la question n° 5
Netherlands	Court of first instance of Arnhem	We use two definitions: - the average length in days - the timeframes in percentage of cases finalised within a certain period of time.	We collect statistical information on case level. Statistical information as described in the answer to the previous question can be extracted from the court performance information. Also information about the number of cases that is finalised per month is available. The outcome is related to national and internal court norms and standards.
Norway	Frostating Court of Appeal of Trondheim	The total length of proceeding is calculated from the day the case is received by the court until a final decision has been made. Court hearings are registered by the hour.	The length of proceedings in each case is registered. Cases in progress are grouped according to the number of months passed since the case was registered. With court hearing: 150 days Without court hearing: 45 days (q7_adt_d)= included in numbers of civil cases (q7crt_d) allow the case to be forwarded: 9 days Cases without court hearing: 6 days Cases without lay judges: 96 days Cases with lay judges: 123 days Jury trials: 129 days
Norway	District Court of Nordhordland	See point 4.	The average length of the proceedings and the specific length of each case.
Poland	Commercial Court of Warsaw Departments (VIII, IX, X)		It is possible to extract many kinds of statistical information from the court database, in fact all described in this question. As information is gathered in a computerised database, the only problem is to specify, at the beginning of the relevant period, what kind of statistical data are to be presented and what kind of information must be registered during the relevant period to receive these needed statistical data. Provided well planning is done, the court will receive any statistical data needed after the relevant period.
Serbia	First Municipal Court of Belgrade	Data on the length of proceedings are calculated by setting parameters to the Court's 'Libra' Information System, which processes the parameters and provides a result.	It can be determined how long a given case spends outside the Court for the purpose of conducting certain evidentiary actions, how much time is needed to render a decision and how long is the period between the submission of the initial act and issuance of the decision.
Serbia	Municipal Court of Niš		Only data about cases where the procedure has lasted more than two years, calculated from the date of submission of the initial act, can be extracted from the records.
Slovenia	Court of first instance of Maribor		
Slovenia	District Court of Nova Gorica	Number of unresolved cases on first of January are divided by number of cases solved in one year time and then multiplied by 12 (for 12 months)	
Slovenia	District Court of Novo Mesto		
Spain	Commercial Court N° 3 of Barcelona	None. There is not an estimation of the average length of proceedings	The only statistical information available is the number of cases decided in a given period. Our computerised registers do not provide any information about the average length of proceedings.
Sweden	Court of first	Median time: 50 % of the cases during a period	You can see how many months the pending

	instance of Södertörns Tingsrätt	of time; 70 % of the cases during a period of time	cases are and how many months 75 % of the pending cases are. You can also calculate the structure of age of the decided cases in a given period
Switzerland	Court of first instance of Geneva	<p>On calcule deux types de durées moyennes:</p> <ul style="list-style-type: none"> - la durée totale (différence entre la date d'inscription et la date de la fin de la procédure) - la durée de l'attribution (différence entre la date de l'attribution et la date de la fin de l'attribution). <p>Les durées sont indiquées en nombre de jours, mais également en nombre des mois.</p>	<p>Moyenne réduite sorties (j): Durée moyenne réduite du traitement des procédures sorties de la juridiction ou de la chaîne pénale, civile ou administrative, en jours.</p> <p>Moyenne réduite stock (j): Vieillessement des procédures: Durée moyenne réduite des procédures en cours dans la juridiction à une date donnée, en jours.</p> <p>Délai théorique d'élimination du stock des procédures en cours dans la juridiction en jours: le temps nécessaire pour éliminer le stock, en faisant l'hypothèse théorique qu'aucune nouvelle affaire n'est enregistrée.</p> <p>Taux de sortie: ratio calculé en divisant le nombre d'affaires sorties par le nombre d'affaires entrées</p> <p>Moyenne réduite: les statisticiens pallient les défauts de la notion de moyenne arithmétique en observant la distribution des valeurs: on considère qu'il convient généralement d'écarter de l'échantillon à analyser les valeurs les plus basses ainsi que celles les plus hautes. Sont ainsi écartés du calcul le premier et le dixième décile, soit les premiers 10% et les derniers 10% des valeurs à analyser. Le choix consistant à retenir 80% d'une population donnée pour établir une statistique qui se fonde sur les travaux de Vilfredo Pareto. On parle alors de durée moyenne réduite, soit d'un échantillon représentant 80% des procédures, après élimination de celles dont la durée est inférieure au 1er décile ou supérieur au 9e décile.</p>
Switzerland	Administrative Court of Geneva		
United Kingdom	Civil Justice Centre of Manchester	The Court does not calculate the average length of proceedings	The % of cases tried within prescribed lengths for Small Claims, Fast Track and Multi Track cases. The waiting time for an appointment on an intermediate step.
United Kingdom	Central County Court of London	We operate a database system using codes to allocate cases to track, list hearings and to update the outcome of the hearing. IMAGE then extract this data and compile monthly reports which show waiting times.	Using the system outlined above Courts can monitor the waiting times from allocation to final hearing, the percentage of cases dealt with and the percentage of cases dealt with within the target time set.

Question 7: percentages of common case categories decided within a certain period

Similar to question 3, question 7 collected a small number of replies (details are in the tables in appendix), which does not allow any significant comment. This is probably due to the complexity of the question, the big number of proposed case categories, and the size of the sample.

Question 8: complexity in the collection of data on court performance

This question aimed at having more information on the difficulties to collect data on incoming cases, pending cases, decisions and the length of proceedings. The following charts 2, 3, 4, and 5, show that many courts indicate as "very easy" or "easy" the collection of data related to incoming, pending, and decisions, while it is problematic and very problematic for 14 of them (53,3% of the sample) to collect data on the length of proceedings. Detailed data are given in the tables in appendix.

Chart 2. - Level of complexity in the collection of data (% for incoming cases)

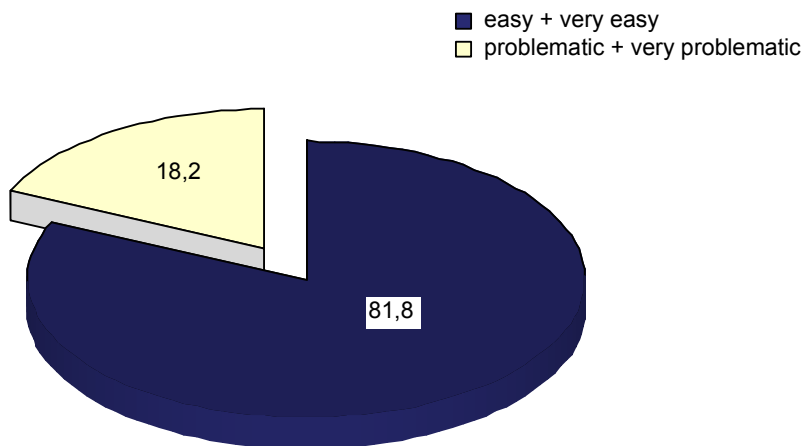


Chart 3. - Level of complexity in the collection of data (% for pending cases)

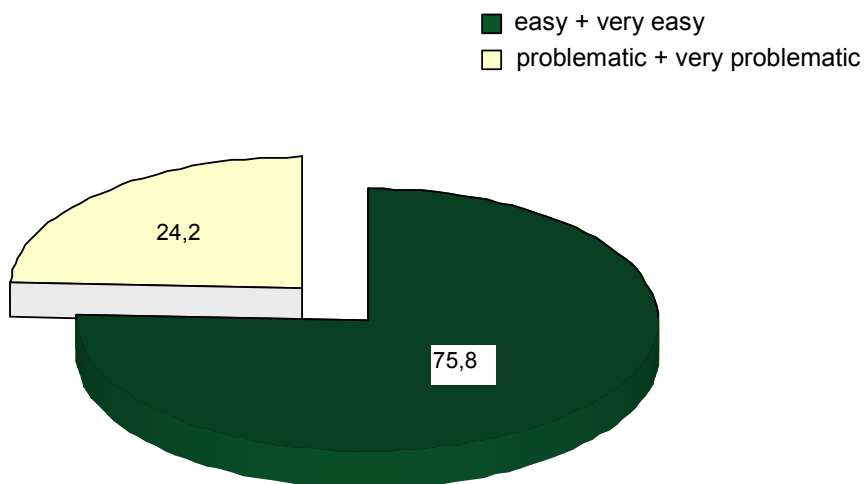


Chart 4. - Level of complexity in the collection of data (% for decisions)

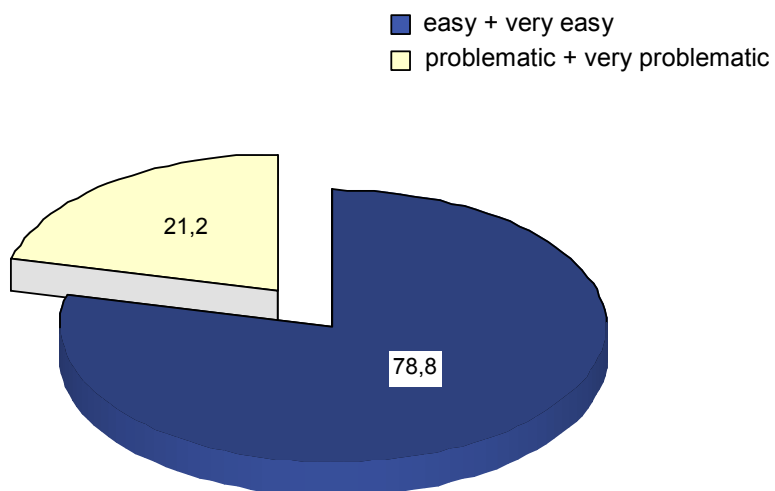
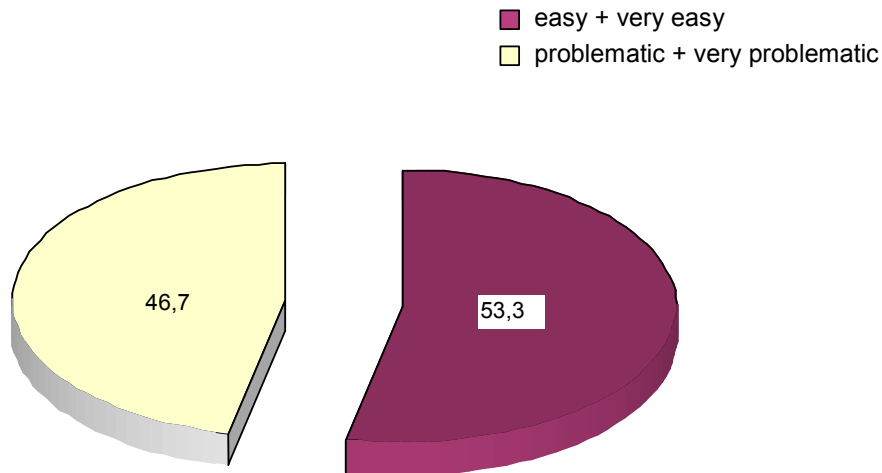


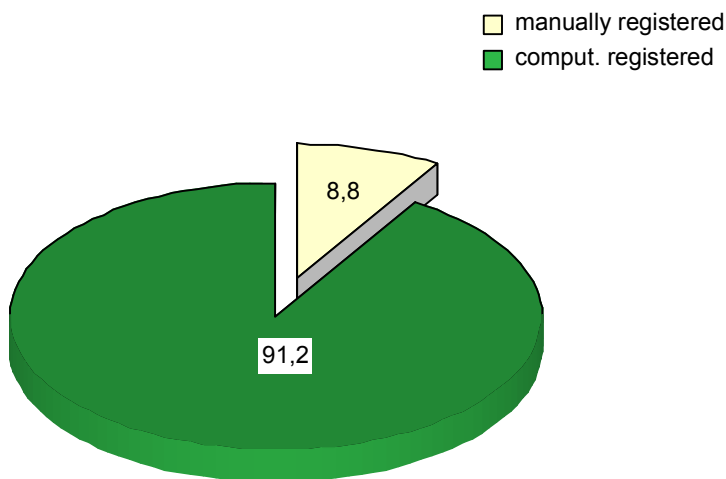
Chart 5. - Level of complexity in the collection of data (% for the length of proceedings)



Question 9: methods to register court performance

Chart 6 shows how the courts surveyed reported to “register” information related to court performance. 31 courts (91,2% of the cases) reported to use some kind of computerised data base.

Chart 6 – How is the court performance information registered?



Question 10: availability of court performance information

This multiple response question dealt with the availability of information on court performance to judges, court staff, higher courts, Ministry of justice, High judicial council, Parliament, society and citizen. For each of these categories it was also asked to report if the information available were “general” or “very detailed”. The following charts, and the tables in appendix, show the percentages for each of the mentioned above categories.

Chart 7

Detail level of information (internal and or external) published and available for: Judges

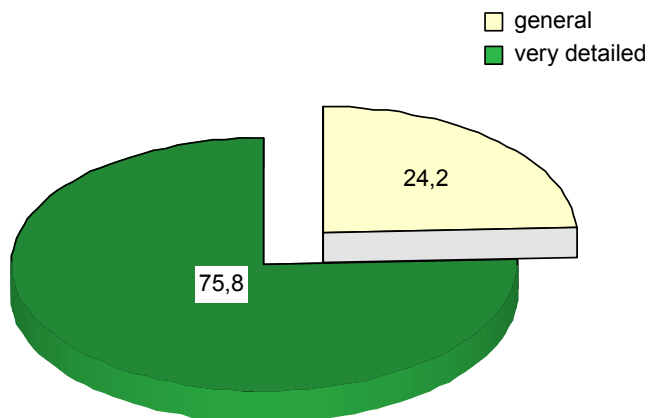


Chart 8

Detail level of information (internal and or external) published and available for: Court staff

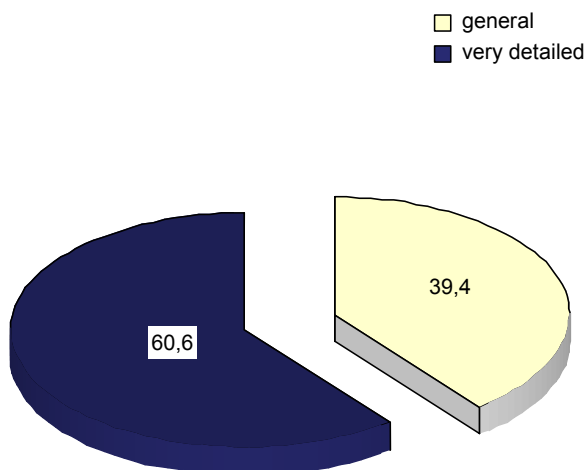


Chart 9

Detail level of information (internal and or external) published and available for: Higher courts

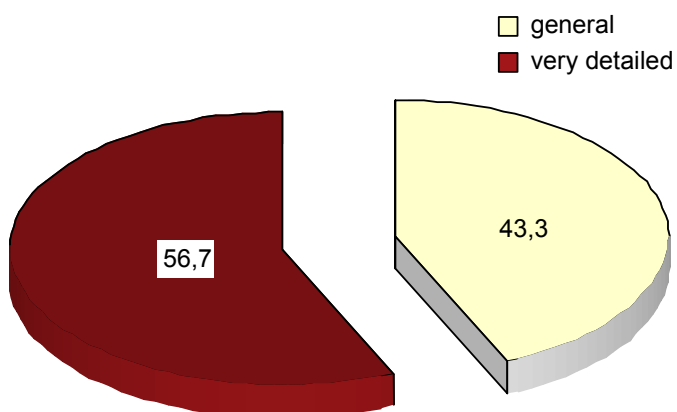


Chart 10

Detail level of information (internal and or external) published and available for:
Ministry of justice

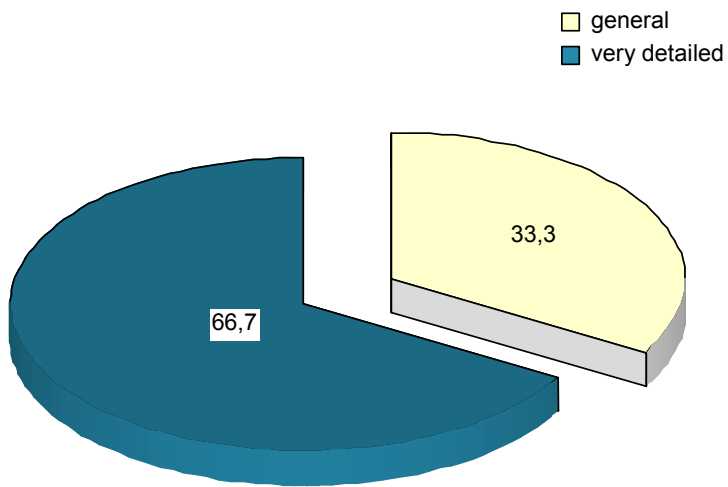


Chart 11

Detail level of information (internal and or external) published and available
for: High Judicial Council

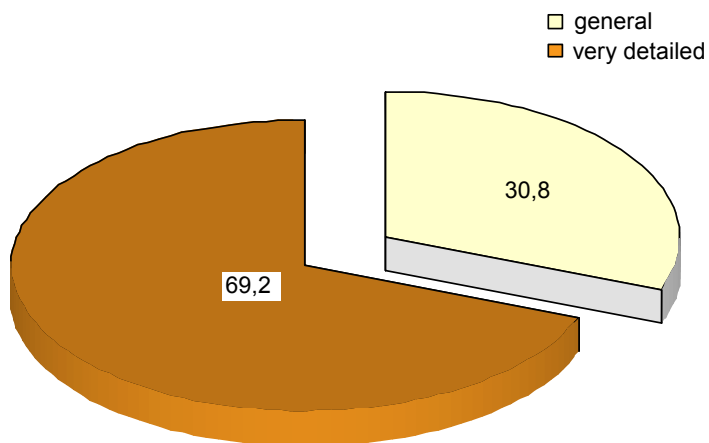


Chart 12

Detail level of information (internal and or external) published and available
for: Parliament

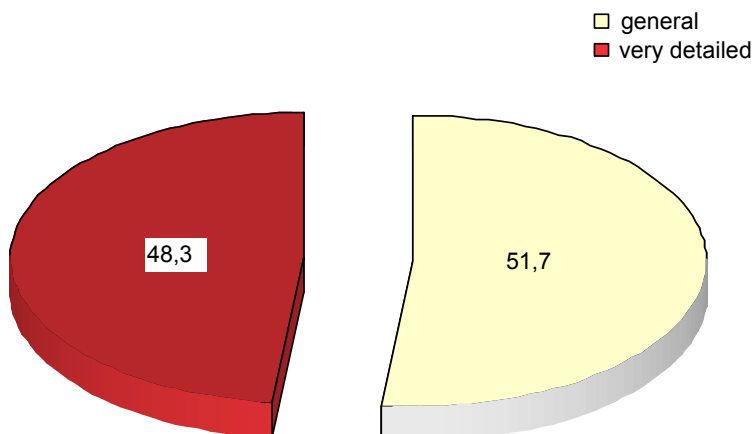
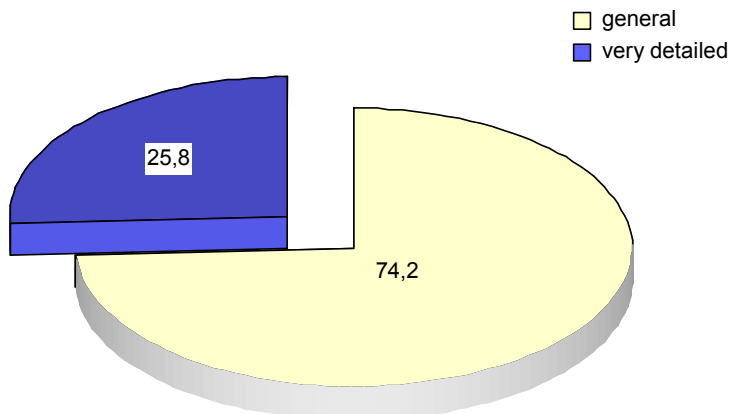


Chart 13

**Detail level of information (internal and or external) published and available for:
Society_citizens**



Question 10a and 11: remarks and margin of error on performance information

The open-ended question 10a asked to add some comments on the court performance information collected and divulged, along with the margin of error of this information. There are not significant remarks to make. The related table in appendix reports the answers given by the courts.

Question 12, 13, and 14: monitoring timeframes of long duration

The answers question 12 show how only 16 (44,4%) out of 36 courts reported to monitor timeframes with a long duration, as described in chart 14 and the related table in appendix.

Question 13 asked to define a case “with a long duration”. About half of the courts surveyed answered this question, as shown in table 11. It would be interesting to further investigate why most of the courts do not reply to this apparently simple question. However, the courts that answered show that the definition of “long duration” can be quite different from court to court. Actually, it goes from 180 days up to 3 years.

The open-ended question 14 asked to describe the case categories tending to last longer than the norms defined as reasonable. Very few courts replied, therefore none analysis was carried out.

Chart 14

Do you monitor timeframes with a long duration?

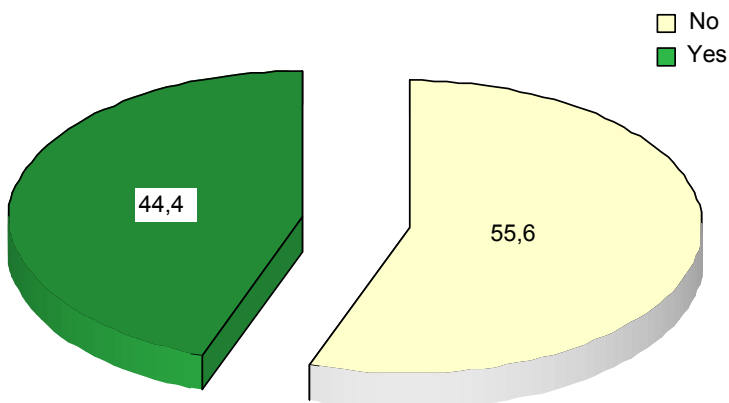


Table 11. - Definitions of long duration

Country	Court name	q13_def "definition of long duration"
Austria	District Court of Linz	a) Cases, who last longer than 3 years, b) Sentences who are not delivered within 2 months
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	Second instance civil law cases – longer than 45 days; Administrative law cases – longer than 6 months; First instance criminal law cases - longer than 1 year; Second instance criminal law cases - longer than 6 months.
Bulgaria	District Court Burgas	Definition: For civil & criminal cases as a first instance above 12 months. For all others above 6 months.
Estonia	Administrative Court of Tallinn	A case that has been registered in the court more than 1 year ago.
Finland	Court of Appeal of Rovaniemi	Generally over a year. In cases like ordering to treatment in a mental health matter much over one month, children welfare cases over four months, cases pertaining important town plans over 7-8 months etc.
Georgia	City Court of Rustavi	The case which lasts for more than 5 months from the date of admission is regarded as a case with a long duration.
Germany	District Court of Stuttgart	Definition: > 1 Jahr.
Macedonia	Basic Court of Skopje II	All cases older than 2 years are considered as an old case.
Moldova	Riscani District court	Case with a long duration - case that outruns more than 6 months
Norway	Frostating Court of appeal of Trondheim	Definition: Length of proceeding should not exceed 6 months unless there are special circumstances.
Norway	District Court of Nordhordland	Definition: Criminal cases: more than 90 days. Civil cases: more than 180 days
Poland	Commercial Court of Warsaw Departments (VIII, IX, X)	A case with a long duration is defined in a statute law as a situation in which a given case procedure is longer than it is necessary to explain all facts and applicable norms to adjudicate also this definition is relevant when deciding on enforceability of decisions.
Serbia	First Municipal Court of Belgrade	Definition: "Old cases" are cases in all areas of law older than two years. The oldest cases are in Department 'P' (more than 10 years), more than five years in 'K' Department, over six months in 'Ki' Department, older than two years in 'O' Department, older than five years in 'P1' Department, older than three years in 'R' Department.
Serbia	Municipal Court of Niš	Definition: 'Old cases' are those not decided finally in the year in which they were first opened, or in the following year, in accordance with Article 243 §1 of the Court Rules of Procedure.
Slovenia	District Court of Nova Gorica	Definition: 18 months from time when a case was presented to court, 9 months from time, when higher court return s case to the court of first instance

Question 15 and 16: factors and causes of court delay

These questions proposed 12 pre-defined factors that may cause court delay. It was asked first to indicate through a Likert scale how often each of them occurs in the courts surveyed, then the courts should grade the five main causes out of the 12 proposed. Factors of delays and the rank of the causes are quite consistent. They are the high caseload, the complexity of the case, lack of information from the part, delaying tactics from the parties, the involvement of experts and witnesses. The following charts show the percentages of each factor.

Chart 15

Delays in the court proceedings due to the "Complexity of a case"

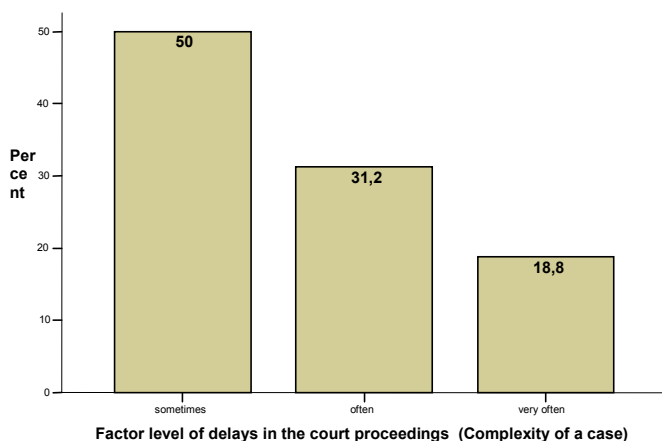


Chart 16

Delays in the court proceedings due to "Delaying tactics from the parties"

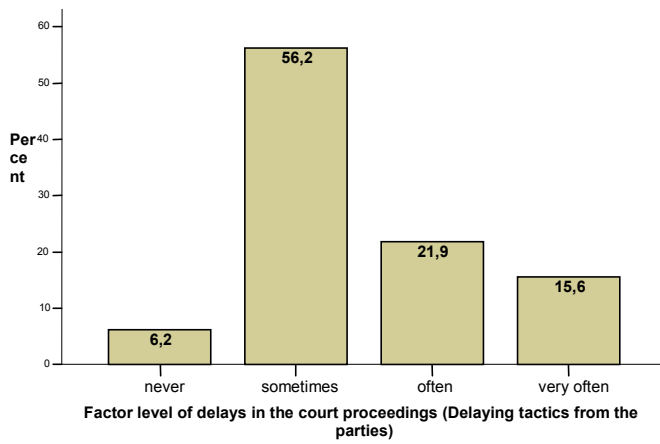


Chart 17

Delays in the court proceedings due to "Lack of information from the part"

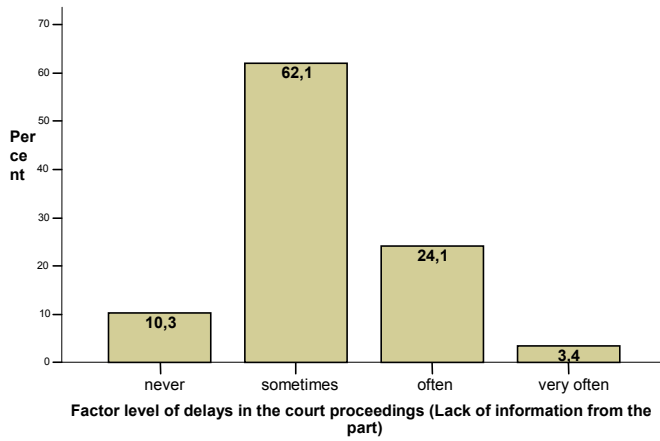


Chart 18

Delays in the court proceedings due to "Involvement of witnesses"

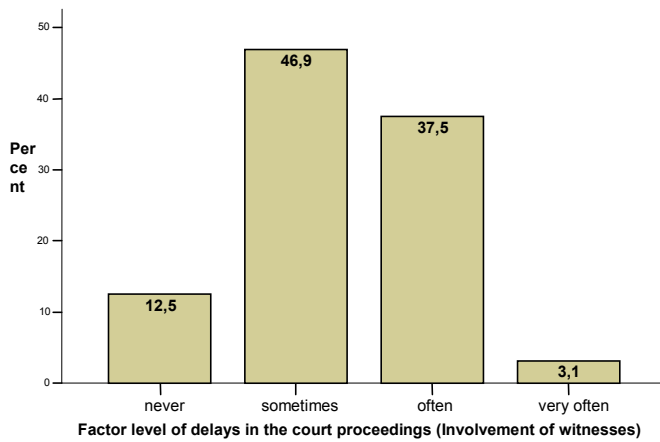


Chart 19

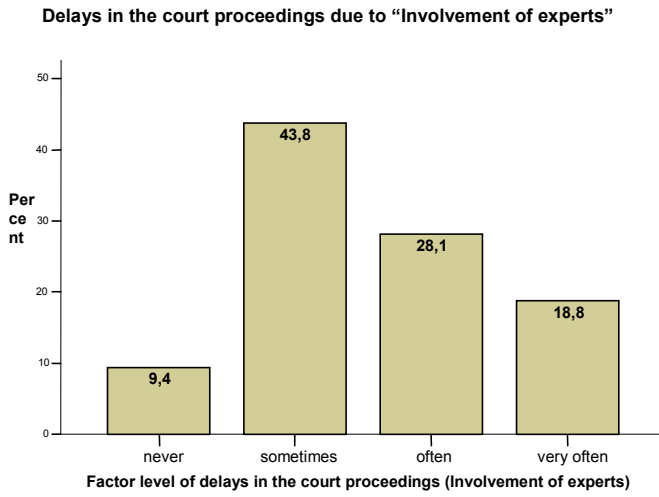


Chart 20

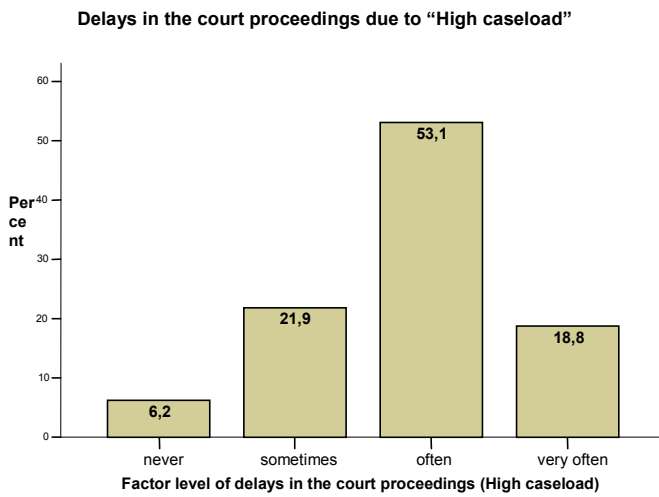


Chart 21

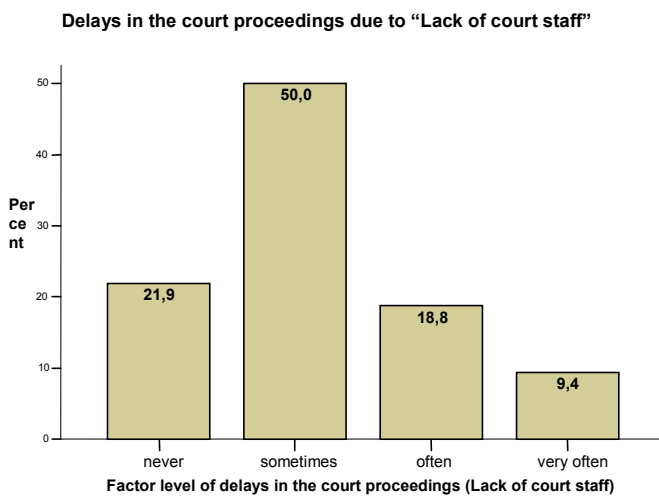


Chart 22

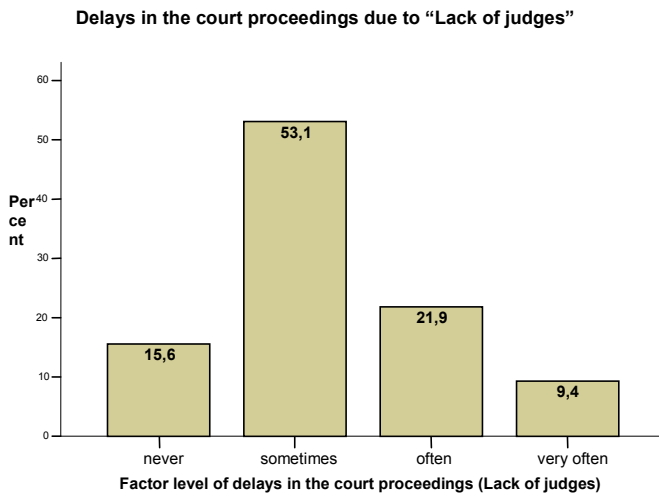


Chart 23

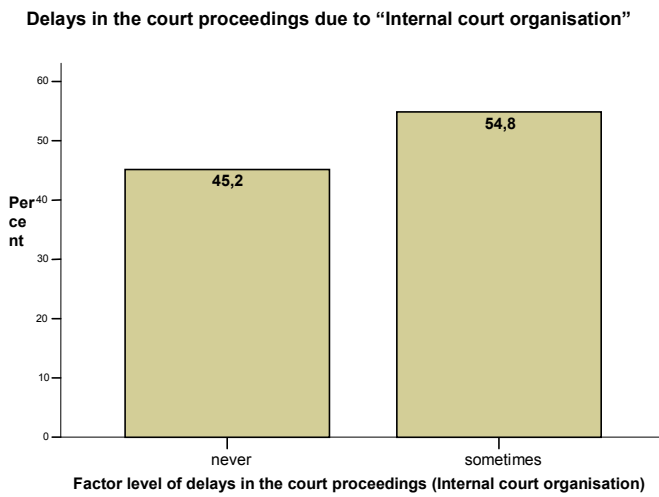


Chart 24

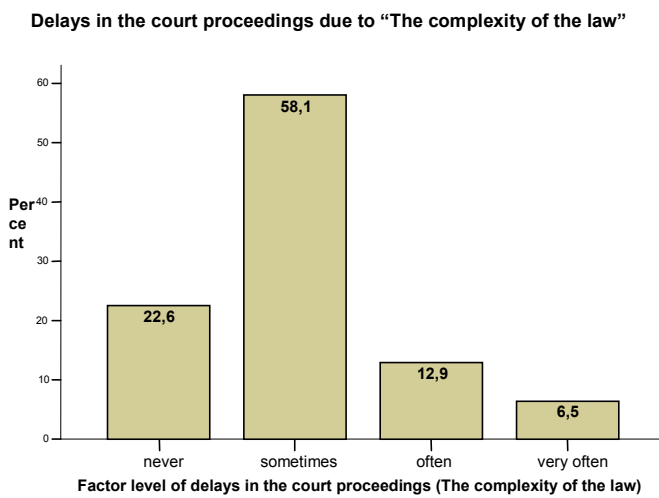


Chart 25

Delays in the court proceedings due to "Extraordinary events in the court"

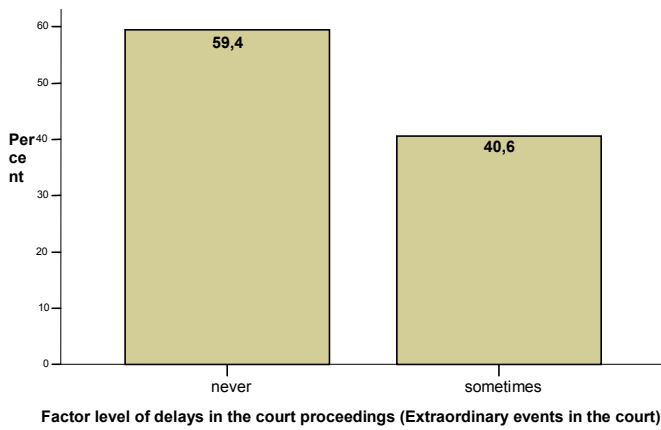


Chart 26

Delays in the court proceedings due to "Waiting time or stand still time"

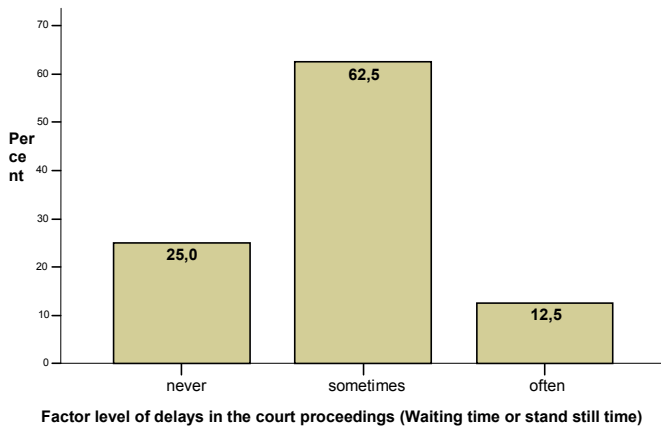
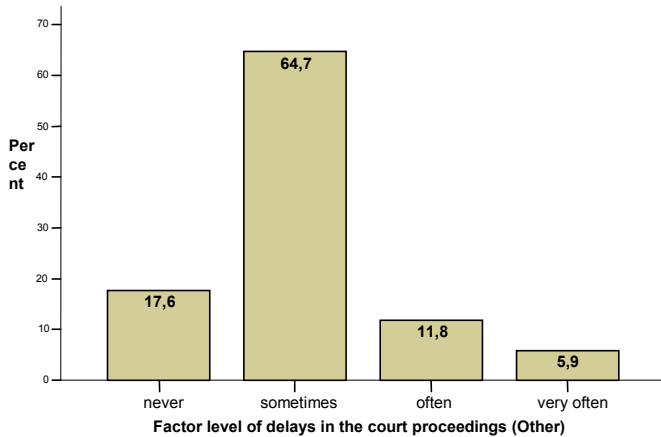


Chart 27

Delays in the court proceedings due to "Other factors"



Question 16, which asked to rank the five main causes of delay, was not always correctly interpreted by the surveyed courts, however the useful replies were quite consistent with the previous question about the factors of delay. Table 12 shows the rank.

Table 12. - Causes of delays in the court proceedings (question 16)

Rank	Main causes	Responses
1	Complexity of a case	5
2	High caseload	4
3	Delaying tactics from the parties	5
4	Lack of information from the part	4
5	Involvement of witnesses	5

Question 17: measures undertaken and results to reduce the length in court proceedings

The open-ended question 17 asked to report the steps undertaken to fight the length of proceedings and, sometimes, the related results. The following table 13 shows the complete answers of the courts that replied.

Table 13. - Measures undertaken and results to reduce the length in court proceedings

Country	Court name	q17_ "Measures undertaken"
Andorra	Court of first instance of Batllia of Andorra	Le délai des procédures n'a jamais été contrôlé ni calculé
Austria	District Court of Linz	The biggest problem in respect of length of proceedings – long writing times – was solved by creating a new system of female home writers. Court employees who stay at home for child care are invited to write dictated data files at home and send the written data file back to court, where it is printed and given to the judge. With this new system it was possible to reduce writing time from up to 30 days to a maximum up to 7 days. If you assume at least three writing times per proceeding this activity produced a reduction of the average time of proceedings of at about 2 months in my court.
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	Our court has made The Plan of solving cases for 2006 based on previous years. The Plan contains analyses of all pending cases in Cantonal court Novi Travnik on 31 December 2005, and measures for solving them. We made lists of all pending cases (second instance civil law cases), particularly for every judge. The judges had the obligation to solve these cases according to the starting point on the first instance court. This Plan resulted in more solved cases in 2006, which started in previous years. In this way, there are no second instance criminal law cases, second instance civil law cases, and administrative law cases which are pending more than two years. Exceptions are first instance criminal cases in which there is no possibility for proceeding (it is not possible to have proceedings <i>in absentia</i> of the accused person, etc.)
Bulgaria	District Court Burgas	We have an internal procedure for evaluating and monitoring lengths of proceedings by checking the cases each month making checks up about the flow of cases , making verifications about the work of judges and the results of cases , considering from the date of filing the case up to the date of the decision. We have indicators of performance and targets as regards timeframes of procedures such as brings against slowness in civil cases We have practical experience in monitoring and reducing judicial timeframes. Several specific initiatives in this field are: 1. The higher the level of the workload, the more judges we involve; 2 We specialize judges for a certain period of time in a general way in civil and criminal judges; 3.We increase the number of servants to help the judges in the administrative activity; 4. We increase the qualification of the administration by different kinds of seminars for reducing the time of administrating the file; 5. We use forms and samples to make easier processing. To shorten the process we try to shorten every stage: ex. The days for serving the subpoenas, the days need to send the file to higher court; 6. We involve more experts in the list to avoid postponing the case, because of busy experts. The effect of this initiative is the tendency for higher level of justice.
Croatia	Municipal Court of Varaždin	Regular control by the court administration on solving cases regarded as "old", i.e. older than 3 years, redistribution of cases to certain judges, stoppage of inflow of new cases to judges where an increase of "old" cases has been noticed in order for those judges to work on these old cases. Said measures are aimed at the decrease of the trend of increased number of the so-called old cases
Cyprus	Supreme Court of Cyprus	There is no unreasonable delay in the court proceedings before the Supreme Court and priority is given to criminal and asylum cases.
Denmark	Court of first instance of Retten i Esbjerg	The Danish Court Reform was put into force on January 1 st 2007. The objectives of the reform were: <ul style="list-style-type: none"> - Shorter case processing time - Less vulnerable and more efficient courts - More emphasis on leadership and management of courts - More uniform of law by improved possibilities of knowledge sharing and specialization. New systems: <ul style="list-style-type: none"> - Case management system: A system specialized to inform district courts about their activity, number of pending cases and length of the proceedings. - A development of a new IT-system in the longer run. Consultant work: Cooperation between consultants (Best practice consultants) and the court administration has been entered to generate more efficiency and a better case flow.

Estonia	Administrative Court of Tallinn	The court has set a target that a case should be adjudicated at least within a year. Only exceptional circumstances justify a delay of more than 1 year. These cases are closely monitored by the President of the Court who is able to provide administrative assistance to speed up the handling of the case, if requested by the judge (e.g the allocation of more staff to the help of a particular judge). 2. In 2006 Tallinn Administrative Court of 15 judges was merged with Pärnu Administrative Court of 3 judges. Since the workload of Pärnu judges was lower than in Tallinn, it was decided by the court that one judge from Pärnu should be assigned to deal with cases that needed priority attention in Tallinn. 25% of all the administrative cases are related to prison law disputes (complaints by inmates against the prison authorities). Since these are cases often including alleged human rights violations and demand priority attention on the part of the court, 1 judge from Pärnu was transferred to Tallinn to facilitate the proceedings in prison law cases. This remedy has proven to be a success, as the number of complaints from inmates alleging the excess length of trials has significantly reduced.																											
Georgia	City Court of Rustavi	1. In order to reduce the length of proceedings of civil cases there was established specialization of judges. 2. There were legislative amendments adopted to improve invitation of parties to the court as well as to simplify certain formal requirements;																											
Germany	District Court of Stuttgart	Ständige Optimierung der Aufbau- und Ablauforganisation Bedarfsgerechte Fortbildung für alle Mitarbeiter																											
Ireland	Commercial Court of Dublin	The Commercial Court, which was set up in 2004, was designed with a view to dealing with inefficiencies in the existing system for cases of a commercial nature. One of these problems related to length of court proceedings. No additional measures have been taken to reduce case lengths. The factors outlined above which contribute to delay are outside of the control of the judges and court staff.																											
Italy	Court of first instance of Turin	<p>Le « Programme Strasbourg » sur le plan pratique:</p> <ul style="list-style-type: none"> On a effectué le recensement de toutes les causes inscrites au rôle avant 1998 (et donc avec déjà une durée triennale) et qui, dans les 8 sections ordinaires du siège central (sans tenir compte, donc de la chambre du contentieux du travail, ni des chambres détachées) se chiffraient à 2.354 à la date du 30 avril 2001 (52 de ces causes dataient d'une époque antérieure à 1990). Ce recensement a été comparé avec celui analogue ordonné par le CSM en avril 2000, lorsque les causes ultra-triennales étaient au nombre de 2.225. M. Carbone (juge chargé par le Président du Tribunal) a été chargé d'effectuer une étude sur les raisons de la persistance des « vieilles affaires », malgré les efforts prodigués dans la période biennale 1999/2000 en vue de diminuer les arriérés les plus anciens. Au cours de cette enquête M. Carbone a pu découvrir qu'il a avait aussi 6.919 dossiers civils pendants auprès des sections spéciales instituées pour éliminer l'arriéré antérieur à la date du 30.4.1995 (et qui duraient donc depuis plus de trois ans). On a pu alors calculer qu'à la moitié de l'année 2001, le nombre total des affaires dont la durée était devenue intolérable se chiffrait en tout à 9.144 dossiers. <p>Dans le cadre des informations fournies au Procureur Général en juillet 2001, le Président du Tribunal a annoncé une initiative de nature opérationnelle (d'application immédiate) : la diffusion d'une sorte de « décalogue » pour le traitement rapide et ciblé des causes très anciennes, à répartir par catégories (par exemple ultra-décennales, ultra-quinquennales et ainsi de suite, qui se distinguent selon une couleur différente de la couverture ou par un « coupon » d'alerte).</p> <p>Le « décalogue », sous forme de circulaire ou de recommandation, contient des conseils pratiques et détaillés à l'intention de tous les juges civils (par exemple l'interdiction des « renvois purs et simples » par analogie avec la procédure du travail qui à l'art. 420 dernier alinéa c.p.c. dispose que les « audiences de simple renvoi sont interdites » ; l'usage rigoureux des pouvoirs du juge prévus par l'art. 175 c.p.c., etc.) pour assurer une pratique uniforme dans toutes les sections mais toujours en respectant la complète autonomie de chaque juge chargé de la mise en état des dossiers.</p> <p>Le Président a aussi communiqué à titre préliminaire le projet de « circulaire » au Conseil du Barreau de Turin, soit pour obtenir l'avis favorable d'un organe institutionnel fortement concerné par le cours de la justice civile, soit pour éviter que les défenseurs de causes individuelles interprètent le nouveau cours comme une vexation gratuite ou comme une initiative inopinée et épisodique de tel ou tel autre magistrat.</p> <p>Le texte des « Prescriptions et conseils pour le traitement des affaires civiles d'ancienne date », émis par le Président du Tribunal de Turin dans le cadre du « Programme Strasbourg » est joint en annexe dans sa version mise à jour au mois de mai 2006.</p> <p>Les résultats apportés par cette initiative sur le fonctionnement de la juridiction</p> <p>La mise en œuvre du « Programme Strasbourg » a immédiatement montré des résultats très positifs. Déjà les données relevées dix mois après le recensement précédent indiquaient une diminution sensible des affaires civiles pendantes depuis plus de trois ans ; ces données prouvent le succès du « Programme Strasbourg » et confirment que l'attention accrue accordée aux causes de plus longue date détermine en soi une réduction des arriérés supérieure à celle qu'on peut obtenir moyennant une approche casuelle vis-à-vis des causes pendantes ; la concentration, en particulier sur les causes de plus longue date (celles « pathologiquement anciennes ») est compatible, en principe, avec la définition des affaires datant de plus de trois ans (celles « physiologiquement anciennes »), ainsi qu'avec le traitement des affaires infra-triennales.</p> <p>A ce propos on pourra remarquer que :</p> <ol style="list-style-type: none"> Dans le premier semestre 2001, les statistiques globales des 8 Sections civiles du siège principal (sans compter les données relatives à la chambre du contentieux du travail et celles des chambres détachées) faisaient ressortir ces données : <ul style="list-style-type: none"> affaires pendantes début 2001 : 32.811, affaires pendantes le 30 juin 2001 : 31.093, « érosion » des arriérés lors du 1^{er} semestre : 1.718. 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Au moment du dernier recensement, en date du 30.4.2006, la situation des affaires de durée de plus de trois ans encore pendante était la suivante :</p> <table border="1" data-bbox="630 674 1150 775"> <tbody> <tr> <td>Auprès de 8 chambres du siège central du Tribunal</td> <td>729</td> </tr> <tr> <td>Auprès des chambres pour la définition de l'arriéré antérieur au 1995</td> <td>10</td> </tr> <tr> <td>Auprès des 4 chambres détachées</td> <td>581</td> </tr> <tr> <td>Total</td> <td>1.320</td> </tr> </tbody> </table> <p>10. Entre-temps, on a pu vérifier que, sur le nombre total des affaires pendantes auprès des sections du siège central à la même date (30.4.2006) se distribue comme il suit :</p> <table border="1" data-bbox="630 813 1370 931"> <thead> <tr> <th colspan="3">Répartition par ancienneté du nombre total des affaires pendantes auprès des sections du siège central du Tribunal de Turin à la date du 30.4.2006</th> </tr> </thead> <tbody> <tr> <td>66%</td> <td>affaires dont l'ancienneté est de</td> <td>1 an</td> </tr> <tr> <td>21%</td> <td>affaires dont l'ancienneté est de</td> <td>2 ans</td> </tr> <tr> <td>8,8%</td> <td>affaires dont l'ancienneté est de</td> <td>3 ans</td> </tr> <tr> <td>3,51%</td> <td>affaires dont l'ancienneté est de</td> <td>plus de trois ans</td> </tr> </tbody> </table> <table border="1" data-bbox="630 931 1422 1028"> <thead> <tr> <th colspan="3">Répartition par ancienneté du nombre total des affaires pendantes auprès des 4 chambres décentralisées du Tribunal de Turin à la date du 30.4.2006</th> </tr> </thead> <tbody> <tr> <td>78%</td> <td>est représenté par des affaires dont l'ancienneté est de</td> <td>1 ou 2 ans</td> </tr> <tr> <td>6%</td> <td>est représenté par des affaires dont l'ancienneté est</td> <td>3 ans</td> </tr> <tr> <td>17,73%</td> <td>est représenté par des affaires dont l'ancienneté est</td> <td>plus de 3 ans</td> </tr> </tbody> </table> <p>11. Une enquête menée en 2004 par la Présidence du Conseil des Ministres montre que le ressort de la Cour d'appel de Turin est, après celui de Trente, celui qui en Italie a donné lieu au nombre le moins élevé de recours sur la base de la loi « Pinto » (portant dispositions sur l'obligation par l'Etat de payer les dommages- intérêts pour la violation du délai raisonnable pour la durée des procédures judiciaires) : 55 recours en tout, contre, par exemple, les 2021 de Naples et de Cagliari, les 862 de Rome et les 362 de Venise. Pour ce qui est du Tribunal de Turin, après 5 ans d'application de la loi « Pinto », le Tribunal n'a donné lieu, jusqu'à aujourd'hui, qu'à 45 procédures pour le dédommagement du préjudice subi pour violation du délai raisonnable. Sur ces 45 requêtes, seulement 22 ont été reçues.</p> <p>Le Tribunal de Turin est considéré par le Ministère de la Justice comme l'une des juridictions italiennes dans les premiers rangs pour le respect du délai raisonnable, eu égard à la « durée moyenne » des procès civils.</p>	Affaires civiles de toutes les chambres civiles (y compris la chambre du contentieux du travail et les chambres détachées)	Arriéré au 1 ^{er} janvier	Pourcentage de réduction de l'arriéré	Au 1 ^{er} janvier 2001	39.144		Au 1 ^{er} janvier 2002	36.485	6,7%	Au 1 ^{er} janvier 2003	30.518	16,3%	Au 1 ^{er} janvier 2004	28.752	5,7%	Au 1 ^{er} janvier 2005	28.762	Inversion de tendance	Au 1 ^{er} janvier 2006	28.616	0,5%	Pourcentage de réduction (5 ans)		26,6%	Moyenne de réduction de l'arriéré par an		5,36%	Auprès de 8 chambres du siège central du Tribunal	729	Auprès des chambres pour la définition de l'arriéré antérieur au 1995	10	Auprès des 4 chambres détachées	581	Total	1.320	Répartition par ancienneté du nombre total des affaires pendantes auprès des sections du siège central du Tribunal de Turin à la date du 30.4.2006			66%	affaires dont l'ancienneté est de	1 an	21%	affaires dont l'ancienneté est de	2 ans	8,8%	affaires dont l'ancienneté est de	3 ans	3,51%	affaires dont l'ancienneté est de	plus de trois ans	Répartition par ancienneté du nombre total des affaires pendantes auprès des 4 chambres décentralisées du Tribunal de Turin à la date du 30.4.2006			78%	est représenté par des affaires dont l'ancienneté est de	1 ou 2 ans	6%	est représenté par des affaires dont l'ancienneté est	3 ans	17,73%	est représenté par des affaires dont l'ancienneté est	plus de 3 ans
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Latvia	City Centre District Court of Riga	Not indicated																																																														
Lithuania	Regional Administrative Court of Vilnius	<p>The Law of the Republic of Lithuania on Administrative Proceedings states that the Court in Lithuania hears oral explanations of the participants in the proceedings if they take part in Court's oral hearing, that is why the Court has no opportunity to apply a different procedure to some particular kind of administrative cases- for example, to treat similar cases in written proceedings. There are 24 judges who work in Court and they are able to deal about 6-7 thousand of cases a year. However, in 2007 13 000 of cases were registered in Court. In order to achieve better result of treating cases, Court's administration had to take up corresponding actions. Administrative cases were divided into two lines: ordinary administrative cases in one line and official disputes, relating work salary (which form around 6 000 cases), in another line. After solving the question of acceptance of the cases in Court and preparing the cases for the hearings, ordinary cases were set for 21 of 24 judges. The rest three judges were assigned to deal 200 official dispute cases a month (with situations, which are analogical or very similar). Each judge was given help by an assistant to judge and recording clerk of the court hearing. The next month the mentioned three judges were replaced by other judges, to balance the workload for all the judges of the Court. While setting the dates for the court hearings, the cases for each judge were grouped so that the respondent would be the same institution. Every week each judge dealt 50 cases of such kind. By using this method, 4 500 cases were dealt a year and it didn't prohibit to treat other cases (related to construction, environmental protection, taxes, competition, immigration, territory planning, etc.) in usual order. As a result of that, the Court dealt 10 000 cases during 2007 (for comparison: 7 300 cases were dealt in 2006, 5 200 cases were dealt in 2005).</p>																																																														
Macedonia	Basic Court of Skopje II	<p>Basic Court Gostivar has six months and one year program for backlog reduction of the cases and for the reducing the length of the court proceedings. The accomplishment of the goals set in the program is monitored by the President judge and the judges in the different areas on frequent meetings . Results: Drastic reduction of the cases older than three years and reduction of the cases in the time framework between one and three years and also the length of the court proceedings is reduced.</p>																																																														
Macedonia	Basic Court of Gostivar	<p>1) The payment of the court fees should be regulated. The timeframe of the procedure should not include the time needed for payment of the fees. 2) Establishment of the Agency for summons delivery, in accordance with the Law on Civil Procedure, with public authorization. 3) Codification of the Civil law. Computerization within the judiciary.</p>																																																														
Moldova	Riscani District court	<p>Measures that have been undertaken to reduce the length in court proceedings are the following. Increase the effectiveness and professionalism of judges by reinforcing their initial and in-service training through the National Institute of Justice. Moreover every week is organised a gathering with all judges form the court, where they are made</p>																																																														

		aware of the delays and cases with a long duration. As the result, the arrears were reduced, in 2007 in comparison with 2006, the court decided with 36, 9 percentage (of civil cases) more than in year 2006.
Monaco	Court of first instance of Monaco	L'octroi d'un nombre limité de renvoi dans les matières plus urgentes d'état des personnes et de droit social.
Netherlands	Court of first instance of Arnhem	Regarding civil law cases, a few years ago the applicable law has been changed in order to accelerate proceedings. Important changes are that the possibilities for parties to get extensions of terms in the proceedings are limited and that, as a rule, after a writ of summons and the defendant's plea, there will be an oral hearing. For many categories of cases, especially for the categories with large numbers of cases, national and internal court norms and standards have been defined. We collect data regarding the length of the proceedings. The head of a department of the court is responsible that the norms and standards are met. If necessary he will consult with the judge about the cause for a delay and what can be done about it.
Norway	Frostating Court of Appeal of Trondheim	The court has a long-term engagement in monitoring the caseload of the court and of the individual judges. A loyal staff of judges and a high level of flexibility makes it possible to avoid delays
Norway	District Court of Nordhordland	For civil cases a narrow follow up from Chief judge and an increase in the number of cases which have been mediated. Very good results. In child custody cases we mediate together with psychologist in most cases. Nearly 80 % of these cases are solved this way, which shortens the length of proceedings. Criminal cases: also narrow follow up from Chief judge and more efficient proceedings as part of a project. Decrease in number of hours spent in court in each case. Very good results.
Poland	Commercial Court of Warsaw Dept. (VIII, IX, X)	Computerization. Reorganization in court secretariat work. It enabled to speed up some types of procedures to end them within one month (simple procedures without court hearing).
Serbia	First Municipal Court of Belgrade	On the basis of a decision issued by the President of the Court, at the start of every year the Court develops a programme for clearing backlogs for the current year which prescribes expedited processing of all cases encompassed by the programme, in particular the holding of pre-trial hearings, more frequent scheduling of hearings in time-limits not exceeding 15 days, suggesting mediation to parties, regular controls of the implementation of the programme by the Court administration, asking judges to declare themselves on their handling of programme cases. A report is done at the end of every year on the programme's implementation and it may be established by an analysis whether there has been a visible reduction of the backlog of cases as a result of the programme.
Serbia	Municipal Court of Niš	When the 2006 annual report and January 2007 report on the Court's work were assessed, it was established that in certain departments the number of unresolved cases was higher than the quarterly input and that the number of cases being processed for more than two years from the date when they were first filed ('old cases') had grown. Ending January 2007, there were a total of 4,774 unresolved civil-law cases, including 1,247 'old cases' (26.1 %), 3,150 unresolved criminal cases, including 1,234 'old cases' (39.1 %), 2,184 unresolved labour disputes, including 557 'old cases' (25.5 %), 774 non-contentious inheritance cases, including 200 'old cases' (25.8 %), in land registry matters 4,268 unresolved cases, and a total of 25,292 enforcement cases (693 being 'old cases' - 2.7 %), including 7,968 cases where an enforcement procedure on the basis of an enforcement document is under way (I) where 441 are 'old cases' (5.5%). In order to clear this backlog, the Court adopted a Programme of Resolving Cases No. I Su No.-01/2007-3 dated 14 March 2007 specifying a number of measures which judges and other staff were obliged to observe in order to expedite the said cases. This measures included scheduling hearings in 'old cases' in intervals of not more than 20 days, serving summons and briefs within the City of Niš by bailiffs (for which purpose of special service was formed in the court), mandatory filing of cases in the registry on the same date when a hearing is held, strict adherence to legally-prescribed time-limits for rendering decisions. Under the Programme, in case any judge was absent from work for a longer period, that judge had an obligation to notify their superior that another judge should take over the 'old case' in order to avoid postponements of hearings, and to notify about all problems affecting the length of proceedings the departmental head and the President of the Court, who will implement necessary measures to rectify them. Employees of the Registry were ordered to attach all documents relating to 'old cases' to the relevant case files and forward them to the judge on the day they are received, and also to expedite documents referring to 'old cases' immediately – on the same day. Insistence on applying these measures in full has yielded tangible results: this year total of 11,613 'old cases' were resolved – no less than 5,061 cases, or 77%, more than in 2006.
Slovenia	District Court of Nova Gorica	No specific measures have been undertaken.
Sweden	Court of first instance of Södertörns Tingsrätt	Increase the number of the non- judge staff in preparing and assisting the judges. Then the judges can concentrate in the complex cases. Timeframes in the civil cases for the litigants Meetings with other actors and authorities in the legal system to get them to understand to be effective (Criminal cases: prosecutors and in the children custody cases: The social authorities We have not yet evaluated the results.
United Kingdom	Civil Justice Centre of Manchester	The Civil Procedure Rules 1998 provides that: Fast Track cases are heard within 30 weeks of allocation. Possession of property cases are to be heard within 8 weeks from the issue of proceedings. In Multi Track cases the judge is required to fix the trial date or window as soon as practicable. The pre trial checklist is designed for the court to check that previous directions have been complied with. HMCS has set the timeframe for Small Claim and Multi Track cases at 15 weeks and 50 weeks respectively. The Family Public Law Protocol provides for public law cases to be dealt with within 40 weeks. A Case Progression Officer Role has been introduced and there is a Case Monitoring database which identifies delays.
United Kingdom	Central County Court of London	A combination of judicial case management and prescriptive rules means that case should never drift in theory. In practice, human failings mean that some case slip through the net.

Question 18: description of an hypothetical criminal, civil, and administrative case

This question, quite innovative in its form, introduced three hypothetical cases (i.e. a voluntary violence, a road accident, and a residence permit), and then asked the courts to describe how they deal with these cases and how long usually they may take to be disposed. The interesting complete replies are presented in appendix. Below, tables 14, 15, and 16 show the number of weeks needed in each surveyed court to “dispose” the three hypothetical cases.

Table 14. - Timeframe hypothetical case A - Criminal case, voluntary violence⁵

Country	Court name	Number of weeks from commencement to decision at first instance	Number of weeks for second instance decision
Andorra	Court of first instance of Batllia of Andorra	26	3-13
Austria	District Court of Linz	19	18
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	12	n.a.
Bulgaria	District Court Burgas	12	n.a.
Croatia	Municipal Court of Varaždin	12	n.a.
Cyprus	Supreme Court of Cyprus	n.a.	n.a.
Denmark	Court of first instance of Retten i Esbjerg	5	n.a.
Estonia	Administrative Court of Tallinn	n.a.	n.a.
Finland	Administrative Court of Turku	n.a.	n.a.
Finland	Court of Appeal of Rovaniemi	n.a.	30
Georgia	Court of Appeal of Tbilisi	n.a.	28
Georgia	City Court of Rustavi	3	5
Germany	District Court of Stuttgart	n.a.	n.a.
Ireland	Commercial Court of Dublin	n.a.	n.a.
Italy	Court of first instance of Turin	22	n.a.
Latvia	City Centre District Court of Riga	12	n.a.
Lithuania	Regional Administrative Court of Vilnius	n.a.	n.a.
Macedonia Rep.	Basic Court of Skopje II	n.a.	n.a.
Macedonia Rep.	Basic Court of Gostivar	12	n.a.
Moldova	Riscani District court	12	n.a.
Monaco	Court of first instance of Monaco	4	8
Netherlands	Court of first instance of Arnhem	52	n.a.
Norway	Frostating Court of appeal of Trondheim	n.a.	n.a.
Norway	District Court of Nordhordland	2 days	n.a.
Poland	Commercial Court of Warsaw Dept. (VIII,IX, X)	n.a.	n.a.
Serbia	First Municipal Court of Belgrade	21	n.a.
Serbia	Municipal Court of Niš	21	n.a.
Slovenia	Court of first instance of Maribor	n.a.	n.a.
Slovenia	District Court of Nova Gorica	60	104
Slovenia	District Court of Novo Mesto	61	n.a.
Spain	Commercial Court N° 3 of Barcelona	n.a.	n.a.
Sweden	Court of first instance of Södertörns Tingsrätt	n.a.	n.a.
Switzerland	Court of first instance of Geneva	n.a.	n.a.
Switzerland	Administrative Court of Geneva	n.a.	n.a.
United Kingdom	Civil Justice Centre of Manchester	n.a.	n.a.
United Kingdom	Central County Court of London	n.a.	n.a.

⁵ This table has been compiled by Marco Fabri and, only for the French replies, by Jacques Buhler of the SATURN Centre.

Table 15. - Timeframe hypothetical case B - Civil case, road accident⁶

Country	Court name	Number of weeks from commencement to decision at first instance	Number of weeks for second instance decision
Andorra	Court of first instance of Batllia of Andorra	26	n.a.
Austria	District Court of Linz	42	68
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	n.a.	52
Bulgaria	District Court Burgas	26	n.a.
Croatia	Municipal Court of Varaždin	17	n.a.
Cyprus	Supreme Court of Cyprus	n.a.	n.a.
Denmark	Court of first instance of Retten i Esbjerg	35	78
Estonia	Administrative Court of Tallinn	n.a.	n.a.
Finland	Administrative Court of Turku	n.a.	n.a.
Finland	Court of Appeal of Rovaniemi	n.a.	n.a.
Georgia	Court of Appeal of Tbilisi	29	44
Georgia	City Court of Rustavi	30	n.a.
Germany	District Court of Stuttgart	n.a.	n.a.
Ireland	Commercial Court of Dublin	n.a.	n.a.
Italy	Court of first instance of Turin	43-86	n.a.
Latvia	City Centre District Court of Riga	65	91
Lithuania	Regional Administrative Court of Vilnius	n.a.	n.a.
Macedonia	Basic Court of Skopje II	50	n.a.
Macedonia	Basic Court of Gostivar	n.a.	n.a.
Moldova	Riscani District court	8	n.a.
Monaco	Court of first instance of Monaco	52-69	n.a.
Netherlands	Court of first instance of Arnhem	70	150
Norway	Frostatting Court of Appeal of Trondheim	28	52
Norway	District Court of Nordhordland	12	39
Poland	Commercial Court of Warsaw Dept. (VIII,IX, X)	n.a.	n.a.
Serbia	First Municipal Court of Belgrade	100	n.a.
Serbia	Municipal Court of Niš	57	n.a.
Slovenia	Court of first instance of Maribor	n.a.	n.a.
Slovenia	District Court of Nova Gorica	n.a.	n.a.
Slovenia	District Court of Novo Mesto	49	n.a.
Spain	Commercial Court N° 3 of Barcelona	24	n.a.
Sweden	Court of first instance of Södertörns Tingsrätt	25	52
Switzerland	Court of first instance of Geneva	66	n.a.
Switzerland	Administrative Court of Geneva	n.a.	n.a.
United Kingdom	Civil Justice Centre of Manchester	18	24
United Kingdom	Central County Court of London	19	n.a.

⁶ This table has been compiled by John Stacey and by Jacques Buhler, only for the French replies, of the SATURN Centre.

Table 16. - Timeframe hypothetical case C - Administrative case, residence permit⁷

Country	Court name	Number of weeks from commencement to decision at first instance	Number of weeks for second instance decision
Andorra	Court of first instance of Batllia of Andorra	22-52	
Austria	District Court of Linz	n.a.	n.a.
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	n.a.	n.a.
Bulgaria	District Court Burgas	n.a.	n.a.
Croatia	Municipal Court of Varaždin	n.a.	n.a.
Cyprus	Supreme Court of Cyprus	52	
Denmark	Court of first instance of Retten i Esbjerg	29	20
Estonia	Administrative Court of Tallinn	17	34
Finland	Administrative Court of Turku	n.a.	n.a.
Finland	Court of Appeal of Rovaniemi	n.a.	n.a.
Georgia	Court of Appeal of Tbilisi	n.a.	n.a.
Georgia	City Court of Rustavi	7-16	n.a.
Germany	District Court of Stuttgart	n.a.	n.a.
Ireland	Commercial Court of Dublin	n.a.	n.a.
Italy	Court of first instance of Turin	n.a.	n.a.
Latvia	City Centre District Court of Riga	26	n.a.
Lithuania	Regional Administrative Court of Vilnius	5-19	n.a.
Macedonia	Basic Court of Skopje II	n.a.	n.a.
Macedonia	Basic Court of Gostivar	n.a.	n.a.
Moldova	Riscani District court	n.a.	n.a.
Monaco	Court of first instance of Monaco	n.a.	n.a.
Netherlands	Court of first instance of Arnhem	13-17	n.a.
Norway	Frostatting Court of Appeal of Trondheim	n.a.	n.a.
Norway	District Court of Nordhordland	26	26
Poland	Commercial Court of Warsaw Dept. (VIII, IX, X)	n.a.	n.a.
Serbia	First Municipal Court of Belgrade	n.a.	n.a.
Serbia	Municipal Court of Niš	n.a.	n.a.
Slovenia	Court of first instance of Maribor	n.a.	n.a.
Slovenia	District Court of Nova Gorica	n.a.	n.a.
Slovenia	District Court of Novo Mesto	n.a.	n.a.
Spain	Commercial Court N° 3 of Barcelona	n.a.	n.a.
Sweden	Court of first instance of Södertörns Tingsrätt	n.a.	n.a.
Switzerland	Court of first instance of Geneva	18-20	n.a.
Switzerland	Administrative Court of Geneva	n.a.	n.a.
United Kingdom	Civil Justice Centre of Manchester	n.a.	n.a.
United Kingdom	Central County Court of London	n.a.	n.a.

⁷ This table has been compiled by Jacques Buhler of the SATURN Centre.

Appendixes

Tables

Table 17. - Courts that replied but that were not included in this data analysis

	Country	Court name
1	Georgia	City Court of Tbilisi
2	Georgia	District Court of Signagi
3	Georgia	District Court of Gardabani
4	Macedonia Rep.	Municipal Court of Prasalnik
5	Macedonia Rep.	Basic Court of Tetovo
6	Macedonia Rep.	Basic Court of Vinica
7	Macedonia Rep.	Basic Court of Delcevo
8	Macedonia Rep.	Basic Court of Radovis
9	Macedonia Rep.	Basic court of Prilep
10	Macedonia Rep.	Osnoven sud of Kratovo
11	Macedonia Rep.	Basic court of Bitola
12	Macedonia Rep.	Basic Court of Vinica
13	Macedonia Rep.	Primary Court of Berovo
14	Macedonia Rep.	Basic Court of Struga
15	Macedonia Rep.	Principal Court of Krusevo
16	Macedonia Rep.	Court of first instance of Gevgelija
17	Macedonia Rep.	Primary Court of Strumica
18	Macedonia Rep.	Appeal court of Bitola
19	Serbia	Municipal Court in Lazarevac
20	Serbia	Municipal Court in Vrbas
21	Serbia	Second Municipal Court of Belgrade
22	Serbia	Third Municipal Court of Belgrade
23	Serbia	Fourth Municipal Court of Belgrade
24	Serbia	Fifth Municipal Court of Belgrade
25	Serbia	Commercial Court of Belgrade
26	Serbia	District Court of Belgrade
27	Serbia	District Court of Niš
28	Serbia	District Court of Novi Sad
29	Serbia	Municipal Court of Arandjelovac
30	Serbia	Municipal Court of Backa Palanka
31	Serbia	Municipal Court of Batocina
32	Serbia	Municipal Court of Becej
33	Serbia	District court of Kragujevac
34	Serbia	Municipal Court of Kragujevac
35	Serbia	Municipal Court of Mladenovac
36	Serbia	Municipal Court of Novi Sad
37	Serbia	Municipal Court of Obrenovac
38	Serbia	Municipal Court of Raca
39	Serbia	Municipal Court of Sopot
40	Serbia	Municipal Court of Temerin
41	Serbia	Municipal Court of Titel
42	Serbia	Municipal Court of Topola
43	Serbia	Municipal Court of Vrbas

Table 18. - Court jurisdictions

Country	Court name	q2_text "Jurisdiction"
Andorra	Court of first instance of Batllia of Andorra	Type d'affaire: Toutes les affaires civiles, de droit public et administratif, et de droit penal traitées en première instance.
Austria	District Court of Linz	1) General civil procedures up to EUR 10.000,- value in dispute; 2) All civil cases in tenancy matters; 3) All civil cases in family matters; 4) All cases in respect to private attorneys; 5) All heritage cases; 6) All execution procedures; 7) Land register matters; 8) Penal cases up to one year possible sentence of imprisonment
Bosnia & Herzegovina	Cantonal Court of Novi Travnik	Criminal law cases: For all criminal cases – prescribed jail sentence 10 years or over 10 years, for example: intentional homicide cases, armed robbery, domestic burglary, rape cases, war crime cases, traffic offences, drug offences. Civil law cases: This court is a higher instance court for all civil cases, and for Commercial law cases. Administrative law cases: Social welfare/security cases, fiscal/tax cases, general disputes between private person and government.
Bulgaria	District Court Burgas	1. First instance for civil cases with material interest up to 10000 BGN /5000 E / and for some criminal cases for heavy crime. 2. Special cases, which are delegated to the district court. /ex. insolvency, adoption etc. / 3. Both civil and criminal cases as an appeal instance when regional courts decisions are appealed. 4. Administrative cases.
Croatia	Municipal Court of Varaždin	CRIMINAL CASES: Deciding on criminal proceedings of authorised prosecutors on whether the accused is guilty of the criminal act or not; in connection to that, procedures and decisions on the measures of security for the appearance of the accused on the main hearing, on the revocation of conditional sentences, giving opinions or proposals on extraordinary legal remedies. CIVIL CASES: Civil processes in disputes between physical entities, and between physical and legal entities in connection with damage compensation, real law, labour law and family law; Non-contentious proceedings in connection with agreed boundary doctrine, cancellation of joint ownership, settlement of co-ownership relations, securing evidence. ENFORCEMENT CASES: Cases in which certain obligations are executed based on enforcement/execution or authentic documents which the enforcement debtors did not execute of their own free will within the set time frame
Cyprus	Supreme Court of Cyprus	A. Appeals. The Supreme Court has jurisdiction to hear and determine all appeals from all inferior courts in civil and criminal matters. It also has appellate administrative jurisdiction. The jurisdiction, which is not exclusive of the matters mentioned is as follows: (i) Civil Jurisdiction: Commercial cases (disputes between companies, breaches of contract, bankruptcy, insolvency). Land cases (ownership, easements). Family cases (divorce, maintenance, custody of children). Banking cases (loans, hire-purchase agreements various guarantees). Labour cases (redundancy, dismissal, working conditions, social insurance, compensation). Tort cases (negligence, trespass, assault, nuisance, defamation, libel, false imprisonment). (II) Criminal Jurisdiction: Offences against the Person (murder, manslaughter, assault). Offences relating to property (theft, robbery). Sexual Offences (rape, indecent assault, incest). Drug offences (possession, trafficking). Traffic Offences (negligent driving, dangerous driving). (III) Administrative Jurisdiction. The Supreme Court in its administrative jurisdiction consists of panels of single Judges with first instance jurisdiction and panels of five Judges in its appellate and final jurisdiction. Civil Service (Appointment, emplacement, promotion, transfer, retirement, dismissal and exercise of disciplinary control over civil servants). Residence permits, award of tenders, compulsory acquisition and fiscal and tax cases (tax duty, import duty). Cases concerning asylum, immigration and refugee law. B. Recourses The Supreme Court as the only administrative court in the country, has exclusive jurisdiction to adjudicate on any recourse filed against a decision, act or omission of any organ, authority or person exercising any executive or administrative authority on the ground that it violates the provisions of the Constitution or any law or it is in excess or in abuse of any power vested in such organ, authority or person. C. Prerogative orders The Supreme Court has exclusive jurisdiction to issue the prerogative orders of habeas corpus, mandamus, prohibition, quo warrantor and certiorari. D. Admiralty. The Supreme Court has jurisdiction to hear and determine admiralty cases concerning the arrest of vessels, crew wages, losses or damages to goods carried on board a vessel. The original jurisdiction is exercised by a single judge and an appeal against his decision lies to the Full Bench of the Supreme Court. E. Election petitions The Supreme Court as the Electoral Court has the power to hear and determine petitions concerning the interpretation and application of the Electoral Laws. F. Constitutional cases The Supreme Court has jurisdiction to adjudicate as to whether a law is compatible with the provisions of the Constitution or any conflict of power or competence which arises between any organs or authorities of the Republic. In addition the Supreme Court has jurisdiction to hear recourse by the President of the Republic as to whether a law passed by the House of Representatives is repugnant or inconsistent with any provisions of the Constitution.
Denmark	Court of first instance of Retten i Esbjerg	Case: Civil cases (incl. administrative law cases): Description: Ordinary disputes of moneyclaim, declaration action, family law, right of occupation and taking of evidence cases. Case: Enforcement proceeding. Description: Moneyclaim, collect of debts, special enforcement (e.g. custody cases), injunction and foreclosure auction cases. Case: Criminal case Description: Proceedings with lay judges, without lay judges, summary proceedings on the basis of a guilty plea, constitutional, admission and other criminal cases. Case: Probate and bankrupt cases

		Estate, insolvency, bankruptcy, composition with creditors, suspension of payments, rescheduling of debts and division of matrimonial property cases.
Estonia	Administrative Court of Tallinn	Administrative courts in Estonia include separately formed administrative courts and the administrative chambers of courts of appeal and the Supreme Court in hearings of administrative matters (there is no separate courts of appeal and cassation for administrative cases). Tallinn Administrative Court is an administrative court of first instance. There are two administrative courts in Estonia with altogether 27 judges working in them, one in Tallinn and one in Tallinn and one in Tartu. The following fall within the competence of administrative courts: 1) adjudication of disputes in public law; 2) grant of permission to take administrative measures in the cases provided by law (e.g in deportation issues);
Finland	Administrative Court of Turku	
Finland	Court of Appeal of Rovaniemi	
Georgia	Court of Appeal of Tbilisi	Civil Law cases: cases related to civil, family law, labour law, land law, use of nature resources and environment protection, disputes among public and religious organizations, confiscation of property, cases of child adoption, other categories of cases determined by law. Administrative Law cases: compliance of administrative-legal act with other laws, conclusion, implementation or cancellation of administrative agreement, obligations of administrative institution in regard to compensation for injury or implementation of illegal activity, annulment of legal act, determination of presence/absence of right or legal relationships. Criminal Law cases: determination of factual circumstances or perpetrator of crime or other illegal act, ensuring the proper administration of law, prevention of conviction of innocent person, correction of investigation and judicial errors, protection of rights of accused, convicted person, victim, citizens and all other parties to the case.
Georgia	City Court of Rustavi	Rustavi City Court, as a court of first instance, hears all types of civil, administrative and criminal cases which fall under its jurisdiction.
Germany	District Court of Stuttgart	See answer n. 3
Ireland	Commercial Court of Dublin	A list of the most common categories of case is set out at the end of this questionnaire. The vast majority of cases appear in the first category.
Italy	Court of first instance of Turin	Affaires civiles contentieuses, à partir de la valeur de 2582,28 €. Pour les affaires concernant les dommages-intérêts suite à des accidents de la circulation le Tribunal est compétent à partir de la somme de 15493,71. Contentieux en matière de rapports civils tels que : propriété et droits réels, obligations et contrats, droit de la famille, droit des successions, sûretés, garanties réelles et personnelles, exécutions des jugements civils, etc. Affaires civiles non contentieuses. Nomination d'experts, expertises préventives, état civil, autorisation au mariage, adoptions, administration des patrimoines des mineurs et des incapables, juridiction gracieuse en matière de succession, etc. Procédures civiles d'injonction. Il s'agit d'une procédure « unilatérale » qui aboutit à un décret émis par le juge sur la demande d'un créancier d'une somme d'argent, lorsque celui-ci peut prouver sa créance par écrit. Affaires pénales. Compétence pour n'importe quel délit prévu par le code pénal et par les lois complémentaires pénales. Cour d'assise. Compétence pour certains délits particulièrement graves, tels que les meurtres etc. Tribunal du Réexamen. Compétence pour les questions concernant la liberté des détenus N.B. : Suivant les directives concernant la rédaction des statistiques italiennes, les données sont organisées par rapport aux différentes chambres civiles et pénales. Les chambres civiles ont une « compétence » grosso modo correspondante aux genres de matières traitées. Ci-dessous on fournira les données relatives aux chambres civiles selon le type de matière plus fréquemment traité par celles-ci. Les chambres pénales n'ont pas une répartition spécifique par matière.
Latvia	City Centre District Court of Riga	In the Riga City Centre District Court are decided such type of cases: Civil cases - description: all types according competence defined by law Criminal cases - according competence defined by law. Administrative cases - according competence defined by law, so-called "Small criminal cases"
Lithuania	Regional Administrative Court of Vilnius	Vilnius Regional Administrative Court deals with disputes arising from administrative legal relations, relating to: legality of individual administrative acts and actions adopted by state and municipal administrative subjects (e.g. ministries, departments, inspectorates, services, commissions and other central or territorial state and municipal establishments), and legality and validity of refusals to perform actions assigned within the competence of such subjects or delay of performing such actions; indemnification of material and non-material (moral) damage which was caused by illegal actions of state or local municipal establishment, institution, service and their officials or by inaction in the field of public administration; payment, refund or recovery of taxes, other mandatory payments, duties, application of financial sanctions; office-related disputes – when one of the parties is a state or municipality official having authorization of public administration; according to complaints on a decision of polling district committee or a decision of polling area referendum committee relating to mistakes made in a voter list or in a list of citizens having the right to take part in a referendum; decisions of administrative disputes commissions of municipalities, counties, the Chief Administrative Disputes Commission and other institutions in the events of advance extrajudicial investigation of disputes provided by the law; also cases according to requests to ensure the execution of decisions made by administrative disputes commissions; legality of normative administrative acts adopted by territorial or municipal administrative subjects; according to statements of the Seimas ombudsmen with reference to the Law on the Seimas Ombudsmen; according to statements of municipality boards on infringement of their rights when respondents are central or territorial state governance subjects; according to statements of the Government representative on acts of local municipal establishments and their officials that are against the Constitution and laws, on non-compliance of laws and Government resolutions, on legality of acts and actions infringing the rights of residents and organizations; according to statements when disputes arise between public administration subjects non-

		dependant upon each other on competence or on violation of a law regulating administrative relations; according to complaints of foreigners on refusal to issue permits of residence or work in Lithuania or on annulment of such permits, also complaints on refugee status; according to complaints on resolutions in cases of violations of administrative offences that were investigated by state authorized officials.
Macedonia	Basic Court of Skopje II	Criminal acts (which law determines imprisonment up to 5 years), and criminal act cases against minors; Investigations and particular investigation activities (for which the law determines imprisonment up to 5 years); Violation of law (for all types of violation, except those which are by law put under jurisdiction of another institutional body). Civil law cases (estate cases) and cases between private and legal entity (worth up to 15.000eur.); Confirmation and dispute of paternity and maternity; Legal maintenance, Violation of (property) estate, -lifetime maintenance; Claim damages (which those not overcome 15.000eur); Insuring litigious claim and their fulfilment; Labour case; Inheritance cases; Registration of political parties; Extradite cases; Bankruptcy and winding up; Enforcement of decisions, cases of the physical and legal person and their economic and commercial relations; Out of legal procedure (inheritance, deprivation of business ability, division of share things and property, giving permission for marriage, determination of compensation for expropriated real estate, and etc)
Macedonia	Basic Court of Gostivar	Basic human and citizen rights and obligations in cases of personal and family relations, labour relations of physical and legal persons
Moldova	Riscani District court	Riscani court (Chişinău district) is a common court, it decides all types of cases, with involvement of natural persons and legal entities, citizen and foreign person, public authorities, foreign and international organization concern defining broken laws, freedom and legal interest with exception of economic disputes and other cases that are in competence of specialised courts (economical, military).
Monaco	Court of first instance of Monaco	Le Tribunal de première instance, juridiction collégiale, dispose d'une compétence générale en toutes matières civile, administrative et commerciale, à l'exception des actions civiles et commerciales qui sont de la compétence du Juge de Paix à raison de leur nature ou de leur valeur ; Le Tribunal de première instance est juge d'appel des jugements rendus en premier ressort par le Juge de Paix, ainsi que des sentences arbitrales prononcées en matière civile ou commerciale. Le Président du tribunal statue en matière de référé comme juge unique ; il se prononce par ordonnance ; Le Président du Tribunal statue également sur requête des parties qui donne la suite qu'il convient directement au pied de ce document ; Le Président dispose enfin de pouvoirs identiques à ceux du Juge de Paix en matière d'injonction de paiement. Toutefois, la demande doit dépasser le taux de compétence du Juge de Paix et elle doit être fondée sur une lettre de change acceptée ou un billet à ordre.
Netherlands	Court of first instance of Arnhem	- civil law cases, including family law cases - public and administrative law cases - criminal law cases
Norway	Frostating Court of Appeal of Trondheim	The court is a court of appeal. It handles all types of cases, including civil cases, criminal cases and administrative cases.
Norway	District Court of Nordhordland	We decide in all kinds of civil law cases and criminal law cases.
Poland	Commercial Court of Warsaw Dept. (VIII, IX, X)	Type of case: Commercial cases defined as civil cases between business associations, i.e. companies and sole proprietorships, acting based on the general rules defined in statutes, in business matters, company law cases and insolvency cases. Description: claims for breach of contract (for payment); minor cases based on contractual agreements; claims for civil wrongs other than breach of a contract (torts); claims (action) for revoking the resolutions (company law); claims for dissolution of a company; claims for exclusion of a shareholder; motions for repartition of partnership's assets after dissolution of a partnership; claims for declaration of enforceable title (judgments and other title being declared enforceable); claims for invalidation of enforceability of a title; petitions for bankruptcy; bankruptcy procedure after declaration of bankruptcy; motions for ban on a business activity of a member of the management board, partners or sole proprietorships ; rehabilitation procedures
Serbia	First Municipal Court of Belgrade	Type of case: description: Civil Law 1. Labour cases 2. Family disputes 3. Marital disputes 4. Inheritance cases 5. Probate cases 6. Material law cases 7. Debt disputes 8. Claims for damages 9. Non litigious cases 10. International legal assistance 11. Eviction cases 12. Trespassing cases Criminal Law 1. Criminal procedures for criminal offences punishable by up to ten years' imprisonment
Serbia	Municipal Court of Niš	In criminal cases, the Municipal Court adjudicates in the first instance criminal offences for which the law prescribes as the principal penalty a fine or a term of imprisonment of up to ten years, unless a different is competent for individual offences; adjudicates in the first instance criminal offences for which the jurisdiction of municipal courts is prescribed by specific law; conducts investigations for which the law prescribes municipal courts as competent; decides on appeals against investigating judges' decisions and on objections to the indictment for criminal offences for which the municipal court has jurisdiction. In civil law matters, the Municipal Court processes in the first instance property claims, unless the commercial court is competent; suits in connection with the existence or non-existence of marriage, on annulment of marriage and on divorce; paternity and maternity suits; legal support and child custody cases; trespassing cases; official

		and personal capacity cases; lifelong support suits; suits on termination of contracts, lease of effects or premises, tenancy rights. In labour law matters, the Municipal Court adjudicates in the first instance employment and dismissal cases; collective contract conclusion and implementation suits, as well as employer-union disputes; disputes involving the application of the right to strike; disputes on election and dismissal of organs in enterprises and other legal persons. In other cases, the Municipal Court rules handles in the first instance non-litigious business; enforcement matters and disputes in connection with enforcement, unless specified otherwise by law; land registry matters; claims for indemnification filed by wrongfully convicted and wrongfully arrested persons; conducts proceedings in connection with pleas to strike convictions, terminate security measures or terminate legal consequences of convictions and rules in these matters where it had pronounced the said conviction or measure; transacts international legal assistance business; conducts legal aid activities. Municipal courts are also authorised to rule in the first instance in other matters, where that is not within the jurisdiction of another court.
Slovenia	Court of first instance of Maribor	
Slovenia	District Court of Nova Gorica	
Slovenia	District Court of Novo Mesto	
Spain	Commercial Court N° 3 of Barcelona	Bankruptcy cases; commercial cases and regular civil claims: disputes between companies or between a company and its shareholders. This category includes the disputes regarding the legal representative's liability. Cases regarding intellectual propriety, unfaithful competition, publicity and transport. Class actions regarding the consumer protection law; application of interim relief cases in the categories mentioned above; Enforcement of judicial decisions in the categories mentioned above
Sweden	Court of first instance of Södertörns Tingsrätt	Criminal cases (all sorts and degrees of crimes). Non litigious divorce cases. Litigious divorce cases. Children Custody cases. Commercial litigious and regular litigious civil claims. Small claims. Company cases. Contract cases. Inheritance cases. Bankruptcy cases. Court matters of custodian, adoption etc.
Switzerland	Court of first instance of Geneva	Le Tribunal administratif est l'autorité supérieure ordinaire de recours en matière administrative. Il a un rôle de contrôle de l'activité de l'administration. Le recours au TA est ouvert contre les décisions des autorités et commissions de recours administratives. Lorsqu'une autorité mise en demeure refuse sans droit de statuer ou tarde à se prononcer, son silence est assimilé à une décision. Compétent pour statuer dans des domaines variés, le TA traite notamment de litiges en matière de : - circulation routière (retrait de permis, avertissement); - élection, votation - impôts - marché public - autorisation de construire - licenciement d'un fonctionnaire - sanction administrative et/ou disciplinaire prise à l'encontre notamment d'un médecin, avocat, restaurateur, chauffeur de taxi, etc.
Switzerland	Administrative Court of Geneva	Every judge in the Court of First Instance is given a chamber where he presides as single judge. The Court of First Instance has full jurisdictional powers. He namely statutes on disputes, with the exception of those which the law expressly hands over to another judicial or administrative power (for example: leases and rents, industrial disputes). He deals in civil matters (divorce, inheritance, etc.), commercial matters (sale of contracts, businesses, companies, etc.), in cases concerning movable and immovable goods (protection of private properties, etc.). Furthermore, he is entrusted with dealing with all non-litigious matters (changes in the registration of births, deaths and marriages, etc.). He is also the judicial authority in matters where the law allows a judge to prosecute in debt and bankruptcy.
United Kingdom	Civil Justice Centre of Manchester	Civil Proceedings; Family Proceedings
United Kingdom	Central County Court of London	Civil only (not family or employment) – includes personal injury (road traffic and employment); clinical negligence; discrimination (race, sex and disability); claims against police; housing; real property; contractual disputes. Circuit judges (10 including visitors) do more substantial cases – District judges (9) do less substantial cases and more pre-trial work

Table 19. - Frequencies 'applicable' on civil law cases (total number)

		Frequency	Percent
Valid	yes	20	55,6
Missing		16	44,4
Total		36	100,0

Table 20. - Frequencies on civil law cases (total number)

		No. pending cases on 1 Jan. '06 (total)	No. of incoming cases (total)	No. of decisions (total)	No. of pending cases on 31 Dec. '06 (total)
N	Valid	21	21	21	22
	Missing	15	15	15	14
Mean		5210,14	11353,62	8240,29	16447,55
Median		1117	2062	1177	984
Minimum		86	240	239	68
Maximum		46914	74350	51102	259409

Table 21. - Percentage of cases pending more than 3 years (civil total number)

N	Valid	10
	Missing	26
Mean		4,9%
Median		3,0%
Minimum		0%
Maximum		19%

Table 22. - Frequencies 'applicable' on public & administrative law cases (total number)

		Frequency	Percent
Valid	yes	7	19,4
Missing		29	80,6
Total		36	100,0

Table 23. - Frequencies on public & administrative law cases (total number)

		No. pend. cases on 1 Jan. '06 (total)	No. of incoming cases (total)	No. of decisions (total)	No. of pending cases on 31 Dec. '06 (total)
N	Valid	7	7	7	7
	Missing	29	29	29	29
Mean		963,14	2267,29	1700,14	1176,43
Median		594,00	1350,00	1412,00	408,00
Minimum		42	189	123	54
Maximum		3389	8809	6056	3892

Table 24. - Percentage of cases pending more than 3 years (public & administrative total number)

N	Valid	3
	Missing	33
Mean		0,4%
Median		0,2%
Minimum		0%
Maximum		1%

Table 25. - Answers to the % of cases pending more than 3 years for case category (public & adm. cases)

		Social welfare	Fiscal_tax cases	General disputes	Asylum and immigration
N	Valid	2	2	2	1
	Missing	34	34	34	35

Table 26. - Frequencies 'applicable' on criminal law cases (total number)

		Frequency	Percent
Valid	yes	15	41,7
Missing		21	58,3
Total		36	100,0

Table 27. - Frequencies on criminal law cases (total number)

		No. pend. cases on 1 Jan. '06 (total)	No. of incoming cases (total)	No. of decisions (total)	No. of pending cases on 31 Dec. '06 (total)
N	Valid	18	18	18	18
	Missing	18	18	18	18
Mean		795,62	2962,07	2856,72	702,41
Median		299,00	741,50	733,50	401,50
Minimum		2	2	2	2
Maximum		4703	28286	27248	3760

Table 28. - Percentage of cases pending more than 3 years (criminal total number)

N	Valid	11
	Missing	25
Mean		5%
Median		1,7%
Minimum		0%
Maximum		23%

Table 29. - Answers to the % of cases pending more than 3 years for case category (criminal cases)

Case category	Valid cases	Missing cases	Total
Intentional homicide	2	34	36
Assault	1	35	36
Rape	2	34	36
Armed robbery	2	34	36
Theft	3	33	36
Domestic burglary	5	31	36
Traffic offences	5	31	36
Drug offences	3	33	36
Money laundering	1	35	36
Terrorist act	0	36	36
Cyber crime	1	35	36
Organised crime	0	36	36

Table 30. - Average length in days (civil total)

	Days	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	133	1	2,8	11,1	11,1
	150	1	2,8	11,1	22,2
	168	1	2,8	11,1	33,3
	197	1	2,8	11,1	44,4
	223	1	2,8	11,1	55,6
	247	1	2,8	11,1	66,7
	277	1	2,8	11,1	77,8
	300	1	2,8	11,1	88,9
	415	1	2,8	11,1	100,0
Total		9	25,0	100,0	
Missing		27	75,0		
Total		36	100,0		

Table 31. - Percentage of cases decided within a certain period (civil cases)

Case category	Valid cases	Missing cases	Mean %
< 1 month	7	29	31,9
> 1 month and < 6 month	10	26	34,8
> 6 months and < 1 year	9	27	33,2
> 1 year and < 1 year	8	28	15,1
> 2 year and < 3 year	5	31	3,5
> 3 year	7	29	2,3

Table 32. - Average length in days (public & administrative total)

	Days	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	171	1	2,8	50,0	50,0
	304	1	2,8	50,0	100,0
	Total	2	5,6	100,0	
Missing		34	94,4		
Total		36	100,0		

Table 33. - Percentage of cases decided within a certain period (public & administrative)

Case category	Valid cases	Missing cases	Mean %
< 1 month	2	34	6,2
> 1 month and < 6 month	4	32	37,2
> 6 months and < 1 year	4	32	50,5
> 1 year and < 1 year	4	32	9,1
> 2 year and < 3 year	1	35	0
> 3 year	1	35	0

Table 34. - Average length in days (criminal total)

	Days	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	55	1	2,8	14,3	14,3
	68	1	2,8	14,3	28,6
	115	1	2,8	14,3	42,9
	129	1	2,8	14,3	57,1
	149	1	2,8	14,3	71,4
	295	1	2,8	14,3	85,7
	357	1	2,8	14,3	100,0
	Total	7	19,4	100,0	
Missing		29	80,6		
Total		36	100,0		

Table 35. - Percentage of cases decided within a certain period (criminal cases)

Case category	Valid cases	Missing cases	Mean %
< 1 month	8	28	43,4
> 1 month and < 6 month	10	26	51,9
> 6 months and < 1 year	10	26	23,6
> 1 year and < 1 year	9	27	7,7
> 2 year and < 3 year	7	29	2,7
> 3 year	7	29	4,3

Table 36. - Level of complexity in the collection of data (incoming cases)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	very easy	16	44,4	47,1	47,1
	easy	11	30,6	32,4	79,4
	problematic	5	13,9	14,7	94,1
	very problematic	1	2,8	2,9	97,1
	not applicable	1	2,8	2,9	100,0
	Total	34	94,4	100,0	
Missing		2	5,6		
Total		36	100,0		

Table 37. - Level of complexity in the collection of data (pending cases)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	very easy	13	36,1	38,2	38,2
	easy	12	33,3	35,3	73,5
	problematic	7	19,4	20,6	94,1
	very problematic	1	2,8	2,9	97,1
	not applicable	1	2,8	2,9	100,0
	Total	34	94,4	100,0	
Missing		2	5,6		
Total		36	100,0		

Table 38. - Level of complexity in the collection of data (decisions)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	very easy	13	36,1	38,2	38,2
	easy	13	36,1	38,2	76,5
	problematic	6	16,7	17,6	94,1
	very problematic	1	2,8	2,9	97,1
	not applicable	1	2,8	2,9	100,0
	Total	34	94,4	100,0	
Missing		2	5,6		
Total		36	100,0		

Table 39. - Level of complexity in the collection of data (length of proceedings)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	very easy	6	16,7	17,6	17,6
	easy	10	27,8	29,4	47,1
	problematic	9	25,0	26,5	73,5
	very problematic	5	13,9	14,7	88,2
	not applicable	4	11,1	11,8	100,0
	Total	34	94,4	100,0	
Missing		2	5,6		
Total		36	100,0		

Table 40. - Court performance registration

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 manually regist	3	8,3	8,8	8,8
	2 comput registr	31	86,1	91,2	100,0
	Total	34	94,4	100,0	
Missing		2	5,6		
Total		36	100,0		

Table 41. - Level of information (internal and or external) published and available for judges

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	8	22,2	24,2	24,2
	very detailed	25	69,4	75,8	100,0
	Total	33	91,7	100,0	
Missing		3	8,3		
Total		36	100,0		

Table 42. - Level of information (internal and or external) published and available for court staff

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	13	36,1	39,4	39,4
	very detailed	20	55,6	60,6	100,0
	Total	33	91,7	100,0	
Missing		3	8,3		
Total		36	100,0		

Table 43. - Level of information (internal and or external) published and available for higher courts

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	13	36,1	43,3	43,3
	very detailed	17	47,2	56,7	100,0
	Total	30	83,3	100,0	
Missing		6	16,7		
Total		36	100,0		

Table 44. - Level of information (internal and or external) published and available for the Ministry of justice

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	10	27,8	33,3	33,3
	very detailed	20	55,6	66,7	100,0
	Total	30	83,3	100,0	
Missing		6	16,7		
Total		36	100,0		

Table 45. - Level of information (internal and or external) published and available for the High Judicial Court

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	8	22,2	30,8	30,8
	very detailed	18	50,0	69,2	100,0
	Total	26	72,2	100,0	
Missing		10	27,8		
Total		36	100,0		

Table 46. - Level of information (internal and or external) published and available for Parliament

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	15	41,7	51,7	51,7
	very detailed	14	38,9	48,3	100,0
	Total	29	80,6	100,0	
Missing		7	19,4		
Total		36	100,0		

Table 47. - Level of information (internal and or external) published and available for society & citizens

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	general	23	63,9	74,2	74,2
	very detailed	8	22,2	25,8	100,0
	Total	31	86,1	100,0	
Missing		5	13,9		
Total		36	100,0		

Table 48. - Remarks on performance information and margin of error

Country	Court name	q10_rem "Remarks on performance information"	q11_merr "Margin of error"
Andorra	Court of first instance of Batllia of Andorra		
Austria	District Court of Linz	There is no centrally organized information of the public to see	Every court manager has to control the correct registration, every judge has to control his own registration office every 3 months. The higher courts does a short registration control if there seems to be any need. Every 5 years the department of internal revision controls the court (including data collection) completely. So there is low possibility of error. Therefore everyone relies on the collected data.
Bosnia & Herzegovina	Cantonal Court of Novi Travnik		The margin of error of the court performance data collected and used in our court is very small.
Bulgaria	District Court Burgas	The judges and the administration have free access to all kinds of books and electronic register Ministry of Justice and Supreme Judicial Council have free access to the information given each 6 months and 12 months. Parliament and Society – through e-net.	Up to 0,1 % - the percentage of error is determined up to 0,1 % ± only for electronically calculated reports. Calculated by hand, the system does not give error. In cases of making reports to disciplinary procedure – no error is allowed. Higher courts, Parliament and Society have information through the annual report at Internet.
Croatia	Municipal Court of Varaždin	In accordance with the Rights of Information Access and Transparency Act, individuals shall have the right to access all information on court performance; therefore, they may acquire such information.	Margin of error for court performance has not been set, it is assumed that the information is absolutely correct.
Cyprus	Supreme Court of Cyprus		
Denmark	Court of first instance of Retten i Esbjerg	Statistical data, user surveys and other court connected information are available at the website of the Danish Court Administration.	All data is being extracted through an IT-system. Therefore there is no margin of error.
Estonia	Administrative Court of Tallinn	Court statistics are published on a publicly-accessible web-site. The personal statistics of judges is accessible to those who have access to court information register, i.e court staff and relevant authorities (Ministry of Justice, higher courts).	The data is reliable for the analysis of the current back-log and performance of judges, but with information available to me it is quite difficult to reconstruct the status of cases back on Jan 1st 2006 and Dec 31st 2006 as requested in the questionnaire. Therefore I shall forward this part of the questionnaire to the ministry of Justice to provide you more detailed data of the cases back in 2006.
Finland	Administrative Court of Turku		
Finland	Court of Appeal of Rovaniemi		
Georgia	Court of Appeal of Tbilisi	Data regarding the performance of Tbilisi Appeal Court is sent to the Supreme Court of Georgia that periodically publishes the data of performance of all general courts of Georgia.	Margin of error of performance of Tbilisi Appeal Court is very low
Georgia	City Court of Rustavi		There is no officially approved margin of error
Germany	District Court of Stuttgart		< 5% (Plausibilitätsprüfung durch EDV-Programme)
Ireland	Commercial Court of Dublin	Court performance information is published annually in the Irish Courts Service annual report. Other, up to date information is made available upon request.	Estimated at less than 5%
Italy	Court of first instance of Turin		
Latvia	City Centre District Court of Riga	We have no such institution as "High Judicial Council". In Latvia is established Court Administration, which is a direct administrative institution subordinate to the Minister for Justice, which organizes and provides the organizational management of district (city) courts, regional courts and Land Registry Offices. The court performance information is available for Court Administration and it is very detailed information.	In court statistics there is no such term as margin of error.
Lithuania	Regional Administrative Court of Vilnius	Common courts' information system was introduced, which includes detailed information about cases that judges and staff of particular Court can use; not that detailed information is accessible to the staff of other courts (including	The margin of error is related to the human factor while registering data into court's informational system. Though the reliability and quality of data is not inspected using information-audits.

		higher instance). General court's performance information is presented to society while giving announcements, press reports, etc.	
Macedonia	Basic Court of Skopje II		There are absolutely no tolerance for errors in the data collection process. No error margins. All unintentional errors are fixed immediately when noticed. All intentional errors are considered as a criminal act.
Macedonia	Basic Court of Gostivar	The information depending of the category, according to the law for free access to information, are available to the citizens in a certain extent.	
Moldova	Riscani District court		Collection of information is important moment, but some difficulties (uncomfortable) could appear because all information is registered manually. We cannot say that some error happens or are used by our instance.
Monaco	Court of first instance of Monaco	Lors de l'audience de rentrée solennelle des cours et tribunaux de la Principauté de Monaco qui marque le début de la nouvelle année judiciaire, il est notamment évoqué, sur la base d'éléments statistiques, l'activité judiciaire de l'année écoulée.	La marge d'erreur est très minime depuis la récente informatisation (système ESABORA)
Netherlands	Court of first instance of Arnhem	The Raad voor de rechtspraak publishes an annual report which is available to the public. Court performance information is part of that annual report.	0,1 %.
Norway	Frostating Court of Appeal of Trondheim	Detailed statistics concerning number of cases, backlog, and length of proceedings are public	Zero
Norway	District Court of Nordhordland		Not known.
Poland	Commercial Court of Warsaw Dept. (VIII, IX, X)	Parliament is informed by the ministry of justice. Citizens are informed through mass media or by individual queries.	Very small. It may be a human error or a system error, but, generally this error should be corrected in usual processing.
Serbia	First Municipal Court of Belgrade	All reports on the work of the Court are provided at their request to other public authorities, including the National Assembly of the Republic of Serbia; information about the Court's work is available to the general public on the First Municipal Court's website: www.prvisud.com	The margin of error in the drafting of reports is 1% at an annual level
Serbia	Municipal Court of Niš	All data about the results of the court's work are published and available to all those who ask for them, and are also submitted in official form at monthly and other intervals to higher courts and the Ministry of Justice.	The margin of error is relatively high, because the results of work are recorded manually, by persons who also have other responsibilities.
Slovenia	Court of first instance of Maribor		
Slovenia	District Court of Nova Gorica		Not specified
Slovenia	District Court of Novo Mesto		
Spain	Commercial Court N° 3 of Barcelona	Every three months a statistic is carried out in each court. This information is submitted to the High Council of the Judiciary and is annually published. The statistical information is available on the website www.poderjudicial.es (link: estadística)	
Sweden	Court of first instance of Södertörns Tingsrätt		It is no margin because you take the statistics directly from the administration registry system.
Switzerland	Court of first instance of Geneva	Compte rendu de l'activité des tribunaux, validé par la Commission de gestion du Pouvoir Judiciaire Rapport du Conseil supérieur de la magistrature	
Switzerland	Administrative Court of Geneva		
United Kingdom	Civil Justice Centre of Manchester		There is no official margin of error at this court. Concerns have been expressed regarding the accuracy of the data.
United Kingdom	Central County Court of London	Data is input by junior court staff. The database is accessible at various levels of management. Judges look at it rarely except when a judge with management responsibility has to make a report.	Reasonable.

Table 49. - Do you monitor timeframes with a long duration?

		Frequency	Percent	Valid Percent
Valid	yes	16	44,4	100,0
Missing		20	55,6	
Total		36	100,0	

Table 50. - Factor level of delays in the court proceedings (Complexity of a case)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	sometimes	16	44,4	50,0	50,0
	often	10	27,8	31,2	81,2
	very often	6	16,7	18,8	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 51. - Factor level of delays in the court proceedings (Delaying tactics from the parties)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	2	5,6	6,2	6,2
	sometimes	18	50,0	56,2	62,5
	often	7	19,4	21,9	84,4
	very often	5	13,9	15,6	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 52. - Factor level of delays in the court proceedings (Lack of information from the part)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	3	8,3	10,3	10,3
	sometimes	18	50,0	62,1	72,4
	often	7	19,4	24,1	96,6
	very often	1	2,8	3,4	100,0
	Total	29	80,6	100,0	
Missing		7	19,4		
Total		36	100,0		

Table 53. - Factor level of delays in the court proceedings (Involvement of witnesses)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	4	11,1	12,5	12,5
	sometimes	15	41,7	46,9	59,4
	often	12	33,3	37,5	96,9
	very often	1	2,8	3,1	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 54. - Factor level of delays in the court proceedings (Involvement of experts)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	3	8,3	9,4	9,4
	sometimes	14	38,9	43,8	53,1
	often	9	25,0	28,1	81,2
	very often	6	16,7	18,8	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 55. - Factor level of delays in the court proceedings (High caseload)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	2	5,6	6,2	6,2
	sometimes	7	19,4	21,9	28,1
	often	17	47,2	53,1	81,2
	very often	6	16,7	18,8	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 56. - Factor level of delays in the court proceedings (Lack of court staff)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	7	19,4	21,9	21,9
	sometimes	16	44,4	50,0	71,9
	often	6	16,7	18,8	90,6
	very often	3	8,3	9,4	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 57. - Factor level of delays in the court proceedings (Lack of judges)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	5	13,9	15,6	15,6
	sometimes	17	47,2	53,1	68,8
	often	7	19,4	21,9	90,6
	very often	3	8,3	9,4	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 58. - Factor level of delays in the court proceedings (Internal court organisation)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	14	38,9	45,2	45,2
	sometimes	17	47,2	54,8	100,0
	Total	31	86,1	100,0	
Missing		5	13,9		
Total		36	100,0		

Table 59. - Factor level of delays in the court proceedings (The complexity of the law)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	7	19,4	22,6	22,6
	sometimes	18	50,0	58,1	80,6
	often	4	11,1	12,9	93,5
	very often	2	5,6	6,5	100,0
	Total	31	86,1	100,0	
Missing		5	13,9		
Total		36	100,0		

Table 60. - Factor level of delays in the court proceedings (Extraordinary events in the court)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	19	52,8	59,4	59,4
	sometimes	13	36,1	40,6	100,0
	Total	32	88,9	100,0	
Missing		4	11,1		
Total		36	100,0		

Table 61. - Factor level of delays in the court proceedings (Waiting time or stand still time)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	6	16,7	25,0	25,0
	sometimes	15	41,7	62,5	87,5
	often	3	8,3	12,5	100,0
	Total	24	66,7	100,0	
Missing		12	33,3		
Total		36	100,0		

Table 62. - Factor level of delays in the court proceedings (Other)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	never	3	8,3	17,6	17,6
	sometimes	11	30,6	64,7	82,4
	often	2	5,6	11,8	94,1
	very often	1	2,8	5,9	100,0
	Total	17	47,2	100,0	
Missing		19	52,8		
Total		36	100,0		

Question 18: remarks on the questionnaire

This question was designed in two parts, as a multiple response (table 60), which means that the categories are not mutual exclusive so the number of responses can more numerous than the number of cases (36), and as an open question, which answers are collected in table 61. The questionnaire collected quite positive answers, only 9 courts commented that the questionnaire was “too long”. However, some courts also stressed this comment in the open remarks

Table 63. - Remarks on the questionnaire

	Responses	
	N	Percent
Understandable	25	35,7%
Close to judicial reality	19	27,1%
Too long	9	12,9%
Usable for obtaining information from other courts	17	24,3%
Total	70	100,0%

Table 64. - Open remarks on the questionnaire

Country	Court name	q18_a "Remarks on the questionnaire"
Estonia	Administrative Court of Tallinn	I have referred questions 3, 6 and 7 to the Ministry of Justice to provide you the detailed information that is in their possession and not mine. Also it should be noted that I am able to provide you information about only administrative courts as we do not deal with either civil or criminal cases. Data about the latter cases can be obtained from the Ministry of Justice (info@just.ee). I have asked them to provide you the information that is unavailable to me. Their answer should arrive in a month.
Finland	Court of Appeal of Rovaniemi	The questionnaire was very difficult to fill out because of the programme. I am not sure I have succeeded and all is possible to be read.
Ireland	Commercial Court of Dublin	The case studies referred to in the questionnaire quite specific and fall outside the scope of the Commercial Court.
Macedonia	Basic Court of Skopje II	Since the court does not possess technical equipment, we are not in position to respond on this type of questionnaire. Concerning the point 7, please find attached our table containing the summary review for 2006.
Macedonia	Basic Court of Gostivar	We hope that the given answers in this questionnaire pleased your requests. The answers are given in the frames of our possibilities and our free of use resources.
Monaco	Court of first instance of Monaco	Le questionnaire est très long, assez compréhensible, mais il ne reflète que partiellement notre réalité judiciaire, compte tenu des spécificités monégasques et du caractère très récent de notre informatisation. Il ne nous est pas encore possible de renseigner certaines rubriques, tandis que notre organisation judiciaire propre ne correspond pas à certains des cas évoqués. (cf. compétence administrative du tribunal en matière de responsabilité, mais pas pour apprécier la légalité des décisions de l'Administration).
Netherlands	Court of first instance of Arnhem	Because of the length of the questionnaire and the time needed to answer the questions, it is not usable for obtaining information from other courts.
Norway	Frostatting Court of Appeal of Trondheim	Some questions require very specific statistics, some were difficult to answer. I had some technical problems. I am uncertain of the value of the questions. I have tried to give comprehensive and understandable answers
Poland	Commercial Court of Warsaw Departments (VIII, IX, X)	The questionnaire was prepared for three departments of the district court of the city of Warsaw (Sąd Rejonowy dla m.st. Warszawy) that constitute the commercial part of the court. The District Court of the city of Warsaw consists of, apart from the three commercial departments mentioned above, 11 departments. These departments deal with civil, penal, family, employment and registrar cases. Staff presented in forth category in point 2 of the questionnaire also participate in making decisions but only technically and not materially. They keep the minutes, prepare files but do not make any type of decisions that could be subject to appeal. Statistical data relevant to bankruptcy cases (types of data as in the table no 7; positions from table no 7: < 1 month; > 1 month and < 6 months; > 6 months and < 1 year; > 1 year and < 2 years; > 2 years and < 3 years; > 3 years). petitions for bankruptcy - 0; 518; 9; 1; 0; 0 bankruptcy procedure after declaration of bankruptcy - 0; 4; 14; 45, 18, 19 motions for ban on a business activity of a member of the management board, partners or sole proprietorships - 0; 142; 19; 3; 1; 0. Data from the table no 7 is not presented in days, because bankruptcy department does not use the same computer software as the two other commercial courts. The bankruptcy court's software is less sophisticated, but it will be upgraded soon.
Serbia	Municipal Court of Niš	In order for all requested data to be collected, as things stand at the moment it is necessary to mount systematic monitoring, lasting several years, of all data of relevance for assessing the duration of procedures, directly from judges who process specific types of cases.
Slovenia	District Court of Nova Gorica	Detailed information cannot be given because the registered data is not so structured.

Hypothetical cases

Question 18.

Can you give a description of how these cases are treated by the court (only the cases that are applicable for your court)? Can you give also an indication of the timeframes for these cases?

Description of the treatment of the case *in practice* and an estimation of the average length of proceedings in days for this particular case over all and for all the different stages.

Case A. Criminal law case - Voluntary violence

During a night out in a club, X consumed several alcoholic beverages and behaved aggressively towards several people present, provoking them verbally. A fight ensued between X and Y during which X punched and kicked Y very hard, before A and Z, employees of the club, overcame him.

Y, who had been heavily wounded and apparently had a broken nose, a broken wrist and many contusions, was immediately brought to hospital, while X, who suffered a few bruises on the forearms, was handed over to the police who had been called by the manager of the club.

Investigation of the facts:

- determining of the course of events, X and Y obviously giving contradictory versions of the setting off of the fight and of its progression,
- determining the nature and the seriousness of the injuries sustained by Y: for the needs of the case, we will assume that the injuries led to a 5-day hospitalisation and a month of sick leave,
- determining the nature and the seriousness of the injuries sustained by X: for the needs of the case, we will assume that the bruising suffered by X did not lead to any sick leave.

Case B. Civil law case - Road accident

This case study is typical of a road traffic case heard in a civil court. The aim of this exercise is to have identified how a court in your Country would manage this case and the timeframes in days for each stage of the proceedings. The information should be presented in the form of a chronology in four parts. The parts should focus on the following stages: 1. Commencement of proceedings, covering pre action behaviour, issue and service of proceedings, 2. Pre trial stage from filing of defence to commencement of the final hearing, 3. Final hearing and 4. Preparation and perfection of the judgment

Case C. Administrative law case – Residence permit

Person A was born in X country on 12 April 1971 and has that country's nationality. She gave birth to a son, called B, on 2 October 1991; he has the same nationality as his mother.

In 1999, A stayed for the first time legally in country Y (Y = the country of the referring court). During her stay in the country Y, she worked professionally as a kitchen help in the Grand Hotel Palace in the capital city of the country.

After that first stay, A stayed for short periods of time in her country of origin in order to look after her son B and remained the rest of the time in country Y to work regularly in the same hotel. Her stay and professional activity were authorized by the relevant administrative authorities of country Y. She regularly gives part of her salary to the members of her family who are bringing up her son in order to pay his allowance and various other costs linked to her son's education and schooling. She also phones him regularly, in general once a week and does not fail to send him a present for his birthday as well as for the main religious festivals.

During her stay in Y country, A met person C, born on 3 January 1951 and from Z country (neighbouring country of Y country, member of the Council of Europe). He has been living in Y country since 1966; he has permission to live there on an unlimited basis.

Person A and person B Dupond got married on 12 December 2003. In January 2004, person A was also given an unlimited residence permit to live in Y country. On 15 June 2007, she asked for her son to join her in Y country, invoking the clause relative to family regrouping. The relevant administrative authority refuses the request on 16 July 2007. within the legal timeframe, person A opposes the decision.

To this day, person A has never been the subject of any penal request from his country. Since the end of his schooling, he has worked as a storekeeper in various big shopping malls in his country. His income is irregular, he has indebted himself to buy a motorcycle, a debt which he pays back at regular intervals.

Person A opposes all the negative decisions which refuse family regrouping, by invoking Art. 8 ECHR and the bilateral treaties in force between countries X and Y which only allow limited immigration subject to the authorisation of X country to Y country. She states, on the basis of the facts mentioned above, that she has a

privileged strong bond with her son, despite the geographical distance. She invokes that her son could have a better professional training in Y country. She produces all the necessary information within the given deadlines, without asking for any further delay.

All the administrative and/or judicial authorities called upon to give a verdict on this case ruled against family regrouping, giving the following reason: The mother herself was instrumental in being separated from her son; the latter has no privileged relationship with his step-father person C; he has an adequate family setup in his own country; he is almost an adult; he does not have a profession which would justify authorising immigration; the fact that he would benefit from a better professional training in Y country does not justify family regrouping.

1. Andorra – Court of first instance of Batllia of Andorra

Cas pratique A - Cas de droit pénal - Violences volontaires

1) ENQUÊTE SUR LES FAITS:

Une fois la police a fini son enquête préliminaire, et celle-ci est transmise au juge d'instruction, celui-ci procède a faire l'instruction préparatoire de l'affaire. Dans ce cas précis, X sera mis en cause pour des présumées violences volontaires sur Y. Cette mise en cause sera communiquée au Procureur Général.

X sera convoqué afin de procéder à son audition, assisté de son avocat ou de celui de permanence. Avant l'audition, X sera informé des droits que lui reconnaît la constitution andorrane, ainsi qu'il lui sera donné connaissance du réquisitoire.

Par la suite, Y sera aussi convoqué afin de procéder à son audition, et lui seront offertes les actions pénales et civiles qui lui correspondent, avec la possibilité que ce soit le procureur qui agisse en son nom. Le même jour de l'audition, Y sera de même convoqué afin qu'il puisse être objet d'une expertise médicale afin de déterminer et évaluer les lésions subies par Y.

Finalement, dans le cas où il y aurait des témoins, ceux-ci sont également convoqués afin de procéder à leur audition.

Pour toutes les auditions, il est dressé le correspondant procès-verbal.

Il faut remarquer, que de nombreux autres actes d'instruction peuvent être pratiqués, cela dépendra du cas par cas.

2) DÉCISION SUR LA SUITE À L'ENQUÊTE :

Dans ce cas précis, et vus les 5 jours d'hospitalisation et le mois d'arrêt de travail de Y, X sera mis en examen pour un délit majeur de violences corporelles sur une personne qui comporte pour sa guérison, un suivi d'un traitement médical postérieur a la première assistance.

Cette mise en examen sera notifiée à X, ainsi qu'au Procureur, avec la possibilité de procéder à faire appel dans un délai de 5 jours, mais uniquement pour les mesures imposées, telles qu'une imposition de caution, la prison provisionnelle, etc.

Par la suite, sera notifiée aux parties l'article 121 du Code de Procédure Pénale, qui permet dans un délai de 15 jours, soit de demander la pratique de nouveaux actes d'instruction, soit la clôture de la procédure. Ainsi, le juge d'instruction, ou bien procède à la pratique des actes d'instruction qu'il considère pertinents pour l'instruction, ou dans le cas contraire, il procèdera à la clôture de l'instruction, en exposant les motifs pour lesquels il ne procède pas à la pratique des actes demandés.

La clôture de l'instruction sera aussi notifiée aux parties, et par la suite, le tribunal compétent sera saisi.

3) JUGEMENT DE PREMIÈRE INSTANCE

Le tribunal saisi procèdera à notifier aux parties l'article 123 du Code de Procédure Pénale, et dans un délai de 15 jours, le Procureur devra présenter son écrit de qualification provisionnelle, et les autres parties auront la possibilité de demander les actes d'instruction qui n'ont pas été admis par le juge d'instruction ou qui n'ont pas été demandés lors de l'instruction.

Par la suite à la présentation de l'écrit de qualification provisionnelle du Procureur, dans le cas où Y s'aurait constitué en partie civile, celui-ci aurait 15 jours pour présenter son écrit de qualification provisionnelle. Une fois ce délai écoulé, ce sera à la défense de X de présenter son écrit de qualification provisionnelle.

C'est alors que le tribunal fixera le jour de l'audience, et procédera à la convocation de toutes les parties. La convocation est effectuée un mois et demi avant le jour de l'audience.

Une fois l'audience pratiquée, le tribunal n'aura plus qu'à prononcer son jugement. Le délai écoulé entre le jour de l'audience et la notification du jugement est très variable, allant de 3 semaines à plusieurs mois, dépendant de la complexité de l'affaire.

L'estimation du délai moyen nécessaire pour une affaire de ce type, sera approximativement de six mois, bien que celui-ci puisse varier en vue des différents actes d'instruction qui puisse ou ne pas être demandés et/ou pratiqués (sans inclure l'instance d'appel, instance non suivie par la Batllia d'Andorra).

4) INSTANCE D'APPEL

Après la notification du jugement à toutes les parties, celles-ci peuvent interjeter appel dans un délai de 15 jours, à compter du lendemain de la notification, toujours près du tribunal qui a dicté le jugement de première instance. Dans ce cas, une résolution sera dictée afin de saisir le tribunal compétent pour juger le recours d'appel, et imposant un délai de 15 jours aux parties qui n'ont pas fait appel, pour se prononcer sur celui-ci, mais qui devra être présenté par devant du tribunal compétent pour juger le recours d'appel.

C'est alors que le tribunal datera le jour de l'audience, et procédera à la convocation de toutes les parties.

Une fois l'audience a été faite, le tribunal n'aura plus qu'à prononcer son jugement. Le délai écoulé entre le jour de l'audience et la notification du jugement est très variable, allant de 3 semaines à plusieurs mois, dépendant de la complexité de l'affaire.

Cas pratique B. Cas de droit civil – Accident de la route

I.- Demande pécuniaire contre M. B de [somme de] Euros pour des dommages corporels, [somme de] Euros pour les réparations du véhicule et [somme de] Euros pour la perte de salaire pendant la convalescence

Pour le traitement de ce type d'affaire, le droit andorran dispose de trois procédures, dénommées « Mínima Quantia », « Abreujat » i « Ordinari », lesquelles se distinguent selon le montant que la partie demanderesse désire réclamer. En effet, si la demande pécuniaire présentée (dommages corporels, matériels et autres types d'indemnités) contre M. B. n'excède pas la somme totale de 1.202,02 euros, la partie demanderesse devra opter pour la procédure de « Mínima Quantia ». Par contre pour les réclamations pécuniaires comprises entre 1.202,02 euros et 12.020,24 euros, le litige sera traité selon la procédure dénommée « Abreujat ». Finalement si le montant de l'indemnisation n'est pas chiffrable au moment de l'interposition de la requête ou si celle-ci excède la somme de 12.020,24 euros, la procédure à choisir sera celle de l'« Ordinari ».

Trois procédures à distinguer selon la quantité à réclamer, mais aussi qui se distinguent par le nombre d'actes judiciaires à pratiquer. A des fins de mieux comprendre le déroulement et surtout la durée que ces trois procédures impliquent, nous les représenterons schématiquement ci-dessous:

A-/ La procédure de « Mínima Quantia » : procédure orale ou écrite, l'intervention de l'avocat n'est pas obligatoire

La demande qui intègre également la pétition à comparaître est présentée près du registre du tribunal
Dans les 5 jours

Le Président du tribunal désigne le juge qui sera chargé de traiter l'affaire
Dans le mois suivant

Le juge chargé du dossier cite les parties à l'audience. Avec la citation à comparaître du défendeur s'accompagnera la copie de la demande. Au cours de cette audience le défendeur contestera, par écrit ou oralement, les prétentions de la demande et les deux parties devront apporter les moyens de preuves appuyant leurs respectives prétentions, également cela peut se faire oralement ou par écrit.

Après cette audience, et une fois pratiquées les preuves sollicitées par les parties, (exemple une expertise) le juge rendra son jugement.

Une affaire qui suit la procédure de Mínima Quantia peut être traitée dans un délai d'un à six mois

B-/ La procédure dite de l' « Abreujat » : procédure écrite

Une pétition de citation à comparaître est présentée près du registre du tribunal contre M-B ou M.C

Dans les 5 jours

Le Président du tribunal désigne le juge qui sera chargé de traiter l'affaire

Dans le mois suivant

Le juge chargé du dossier cite les parties à l'audience, au cours de laquelle la partie demanderesse présentera un écrit exposant ses prétentions, lequel sera remis au défendeur

Quinze jours après

Sera célébrée une autre audience au cours de laquelle, le défendeur devra par écrit contester les prétentions de la partie adverse

Quinze jours après

Sera célébrée l'audience au cours de laquelle les parties apporteront ou proposeront la pratique des moyens de preuves appuyant leurs respectives positions

Une semaine après

Se célébrera l'ouverture de la période probatoire (« judici de proves »), à partir de cette audience le juge en charge de l'affaire pratiquera uniquement les preuves considérées comme utiles et essentielles pour résoudre l'affaire. Cette période probatoire est de durée variable. En effet, si une expertise médicale est demandée, que cela soit à instance du juge ou des parties, celle-ci peut-être pratiquée dans le délai de deux mois, mais cela est variable selon la disponibilité de l'expert i selon la complexité de l'expertise à élaborer.

Une fois obtenu le résultat de toutes les preuves, le juge convoquera les parties à l'audience la plus proche afin de leur donner connaissance des moyens de preuves sollicités par la partie adverse ainsi que leur résultat. Cela se dénomme « Tancament »

Quinze jours après

Les parties sont convoquées à l'audience pour présenter leur écrit de conclusion. Après cette audience le juge dispose du dossier afin de rendre le jugement. Selon la procédure civile andorrane le juge a 45 jours pour rendre ce jugement

Une affaire qui suit la procédure de l' « Abreujat » peut être traitée dans un délai de trois mois au meilleur des cas. En effet, le volume des moyens de preuves à pratiquer ainsi que l'attente de leur résultat peuvent dilater considérablement ce délai.

C-/ La procédure de l' « Ordinari » : procédure écrite

Une pétition de citation à comparaître est présentée près du registre du tribunal contre M-B ou M.C

Dans les 5 jours

Le Président du tribunal désigne le juge qui sera chargé de traiter l'affaire

Dans le mois suivant

Le juge chargé du dossier cite les parties à l'audience, au cours de laquelle la partie demanderesse présentera un écrit exposant ses prétentions, lequel sera remis au défendeur

Trois semaines après

Sera célébrée une autre audience au cours de laquelle, le défendeur devra par écrit contester les prétentions de la partie adverse ou formuler la reconventionnelle.

Trois semaines après

Sera célébrée l' audience au cours de laquelle, la partie demanderesse devra par écrit contester les prétentions de la partie adverse et éventuellement contester la reconvention formulée par le défendeur. (« Rèplica »)

Trois semaines après

Une autre audience est célébrée (la Dúplica) au cours de laquelle, le défendeur devra par écrit contester les prétentions de la partie adverse c'est-à-dire celles contenues dans l'écrit de « Rèplica ».

Trois semaines après

Sera célébrée l'audience au cours de laquelle les parties apporteront ou proposeront la pratique des moyens de preuves appuyant leurs respectives positions. Se célébrera également l'ouverture de la période probatoire (« Tribunal de proves »), à partir de cette audience le juge en charge de l'affaire pratiquera uniquement les preuves considérées comme essentielles pour résoudre l'affaire. Cette période probatoire est de durée variable. En effet, si une expertise médicale est demandée, que cela soit à instance du juge ou des parties, celle-ci peut-être pratiquée dans le délai de deux mois, mais cela est variable selon la disponibilité de l'expert i selon la complexité de l'expertise à élaborer.

Une fois obtenu le résultat de toutes les preuves, le juge convoquera les parties à l'audience la plus proche afin de leur donner connaissance des moyens de preuves sollicités par la partie adverse ainsi que leur résultat. Cela se dénomme « Tancament »

Trois semaines après

Les parties sont convoquées à l'audience pour présenter leur écrit de conclusion. Après cette audience, la décision sera rendu par un Tribunal collégial, composé de trois juges.

Une affaire qui suit la procédure de l' « ordinari » peut être traitée dans un délai de six mois au meilleur des cas. En effet, le volume des moyens de preuves a pratiquer ainsi que l'attente de leur résultat peuvent dilater considérablement ce délai

II.- M. B demande plus de temps pour se constituer une défense

Dans les trois types de procédures présentées ci-dessus, M.B pourra demander plus de temps pour se constituer une défense mais il faudra l'accord de la partie demanderesse.

Il y a une exception à cette règle. En effet, si M.B. ne dispose pas de moyens économiques pour faire front aux honoraires d'un avocat celui-ci peut solliciter qu'un avocat lui soit commis d'office et après valorisation de son dossier le juge par ordonnance peut lui concéder, ce qui impliquera que si la procédure est en cours, le juge chargé de l'affaire peut concéder plus de temps a M.B pour se constituer une défense. En principe, le juge concèdera 15 jours dans les procédures de Mínima Quantia et d'Abreujat et trois semaines dans la procédure Ordinari.

III.- M. B a présenté une action contre M. C pour l'indemnité à verser à M. A et sa propre indemnisation à raison de [somme de] Euros pour dommages corporels et de [somme de] Euros pour dommage matériel la défense de M. C demande des indemnités et des frais de litige sur les prétentions de M. B

Première solution :

M.B présente son action contre M.C en conformité avec les trois procédures décrites ci-dessus i peut demander a que soit procédé a une accumulation d'actions afin que les deux procédures se réunissent et soit rendu un seul jugement.

Deuxième solution :

Si M.A. interpose son action uniquement contre M.B, ce dernier au moment de présenter sa défense peut demander a que M.C soit appelé en garantie. Il faut préciser que le droit positif andorran ne le prévoit pas mais cela a été reconnu par jurisprudence.

IV.- des experts médicaux sont nommés et une/des auditions préliminaires peuvent être nécessaires pour le traitement de la procédure

L'intervention des experts apparaîtra en principe au moment de la période probatoire, ils seront choisis ou par les parties ou par le juge. Si les parties au moment de la présentation de leur écrit de proposition de preuves n'ont pas sollicité la pratique d'une expertise le juge a la faculté de l'imposer, s'il considère cela essentiel pour rendre son jugement.

V.- affaire traitée et jugée – jugement en faveur de M. A contre M. B, mais le montant des indemnités pour dommages corporels a été réduit. Jugement en faveur de M. B contre M. C, mais le montant des indemnités a été réduit pour cause de négligence concurrente

A.- le jugement est envoyé aux parties :

Le délai de signification d'un jugement est variable, si les parties sont représentées par un avoué le jugement est immédiatement signifié, sinon les parties seront citées a comparaître près du tribunal dans les meilleurs délais, mais le jugement n'est pas envoyé aux parties ni signifié aux avocats.

B.- M. A souhaite exécuter le jugement immédiatement

Cela ne sera possible que si l'affaire a été suivi par la procédure de « Mínima Quantia » et si le montant des indemnités est inférieur à 600 euros. Dans les autres cas M.A. devra attendre que le délai de 13 jours ouvrables suivant la dernière signification de jugement soit écoulé pour présenter une demande d'exécution du jugement.

C.- M. B veut faire appel de la décision refusant de lui accorder l'intégralité des indemnités.

M.B a 13 jours ouvrables suivant la notification du jugement pour interjeter appel et si la prétention initiale est supérieure a la somme de 600 euros

D.- la cour d'appel (le cas échéant) décide que le juge avait tort en se fondant sur la négligence concurrente (Ceci pouvant, ou non, faire l'objet d'un renvoi vers une cour de première instance)

Le jugement de la cour d'appel, qui se prononce également sur le fond de l'affaire (Tribunal Supérieur de la Justice, salle civil) sera définitif il ne peut faire en aucun cas l'objet d'un renvoi vers la cour de première instance, à exception de la constatation de l'existence d'un acte de la procédure qui est nul de plein droit.

E.- les parties décident de ne plus interjeter d'autre appel, la décision finale est rendue et exécutée. Il faudra que la partie qui a eu le jugement rendu en sa faveur présente une demande d'exécution.

Cas pratique C. Affaire de droit administratif – Permis de résidence

La personne « A », titulaire d'un permis de séjour et travail, aujourd'hui illimitée, dans le Pays « Y », (en réalité à la Principauté d'Andorre les permis de résidence sont pour une durée maximale de 10 ans renouvelables), a effectuée une sollicitude de regroupement familial pour demander que son fils « B » puisse la rejoindre dans le pays « Y ». L'autorité administrative compétente (en Andorre le Ministre chargé de l'Intérieur ou la personne expressément déléguée à cet effet par le gouvernement) refuse sa demande.

Mme. « A » dispose d'un délai de 8 jours naturels, à compter de la notification du refus de la demande de regroupement familial, qu'il soit par décision expresse ou par voie de silence administratif, pour formuler recours administratif devant le Gouvernement, qui dispose d'un délai de 15 jours naturels pour résoudre. Une fois le délai expiré, Mme. « A » peut recourir à la voie juridictionnelle, devant interposer recours juridictionnel, accompagné des moyens de preuve à l'appui, contre la désestimation expresse ou tacite (en cas de silence du Gouvernement dans le délais de 15 jours naturels) devant les Tribunaux administratifs. Cette demande juridictionnelle doit intervenir dans les 8 jours suivants à compter de la notification de la résolution expresse ou tacite.

La procédure en première instance (*Tribunal de Batlles*)

La section administrative dispose d'un délai de 5 jours habiles pour accepter ou refuser la demande. Dans le cas où celle-ci serait acceptée, le Gouvernement dispose de 8 jours naturels pour la contester et proposer les moyens de preuves qu'il estime pertinents.

Le Juge chargé de l'affaire (*Batlle ponent*) doit ensuite décider du refus ou de l'admission des moyens de preuves proposés par les parties, ainsi que pratiquer ceux jugés pertinents pour la résolution de l'affaire en cours dans un délai de 30 jours naturels.

Une fois expiré ce dernier délai, les parties disposent de 8 jours naturels pour examiner le résultat des preuves pratiquées et avancer leurs respectives conclusions sur l'affaire. Le Tribunal dicte alors Sentence dans les 8 jours naturels suivants.

La Procédure en deuxième instance (*Tribunal Superior de Justícia, sala administrativa*)

La partie qui considère ses droits lésionés par la sentence rendue par le Tribunal de première instance, peut interjeter appel devant le même Tribunal dans les 8 jours naturels suivants à la date de notification de la Sentence. L'appellation doit comprendre tous les fondements qui motivent la prétention de révocation.

Le Juge (*Ponent*) concède alors 8 jours naturels à la partie appelée pour contester le recours et dispose finalement de 5 jours naturels pour élever l'affaire devant le Tribunal Supérieur de la Justice (*sala administrativa*). Le magistrat chargé de l'appellation (*ponent*) décide de l'éventuelle admission de nouvelles preuves dans les 5 jours suivants, la pratique des quelles ne peut excéder, dans tous les cas, le délai de 15 jours naturels.

Finalement, la Sala administrative dicte Sentence dans le délai de 15 jours naturels à compter de la date de clôture de la phase probatoire ou de la résolution que dénie la pratique des mêmes, ou de la réception du dossier si celles-ci n'ont pas été proposées.

Conclusions

Cette procédure est applicable en vertu de la Loi d'Immigration du 14 mai 2002, en vigueur au moment des faits exposés dans le cas pratique. Actuellement, la Loi 27/2007, du 22 novembre 2007 a modifié la Loi du 14 mai du 2002 en ce qui concerne substantiellement, et pour ce qui intéresse le présent cas pratique, les délais de la phase administrative et de la phase juridictionnelle.

En effet, au cours de la phase administrative comme de la phase juridictionnelle de première instance, les délais doivent désormais être comptabilisés en jours habiles, à l'exception des 30 jours dont dispose le Tribunal pour pratiquer les preuves jugées pertinentes, qui demeurent naturels. De même, le Tribunal de

première instance dispose toujours de 5 jours naturels pour élever l'affaire, en cas de recours d'appellation, devant le Tribunal Supérieur de la Justice.

Quant à la phase juridictionnelle de deuxième instance, la décision sur l'éventuelle admission de nouvelles preuves, ainsi que leur pratique si nécessaire et la Sentence rendue par le Tribunal de deuxième instance doivent toujours se régir par leurs respectifs délais comptabilisés en jours naturels.

En guise de conclusion, il convient de souligner qu'une affaire de ce type nécessite un délai approximatif de 5 mois minimum afin d'être définitivement résolue, pouvant se voir prolonger jusqu'à un an.

2. Austria – District court of Linz

Case A. Criminal law case - Voluntary violence

days	activity
1	Income of the demand for penalty, sent by the public prosecutor Fixing of the hearing day(s)
30	Public hearing, appointment of a medical expert, sending the file to the expert
60	Files comes back with the expertise, fixing of the next hearing
30	Final hearing, pronouncing of judgement
30	Written sentence is sent to the parties
131	All together First Instance
30	Appeal comes in
30	Answer of respondent, file is sent to court of appeal
5	Court of appeal fixes appeal hearing
30	Hearing, pronouncing of appeal judgement
30	Written appeal judgement is sent to first instance, First instance sends Judgement to the parties
125	All together procedure of appeal
256	Total length of procedure at both courts

Case B. Civil law case - Road accident

In Austrian this problems need two separate claims. Usually this two claims should be brought together into a connected proceeding. In the further estimations my basis are connected hearings about this two claims.

days	activity
1	1 st claim sent to court
5	payment summons in 1 st proceeding and served to defendant
28	Period for raising an objection, objection sent to court, no possibility to reach a longer period for the objection; at the same time 2 nd claim against C, payment summons und serving it to C
28	Waiting time for 2 nd objection in 2 nd proceeding, 2 nd objection sent to court
30	Connection of the 2 proceedings, appointment of a hearing time; preparing time to preliminary hearing, written pleadings of all parties
60	Preliminary hearing; decision about the value in dispute; election of a technical expert; preparation time to next hearing, the file then is sent to the expert for preparation; parties pay the expected costs of the expert to court;
1	Hearing, in which parties and witnesses are questioned, papers and pictures are shown, oral technical expertise, election of a medical expert.
90	Calling for a written medical expertise
15	Delivering of the expertise to the parties and waiting time if there are questions to the expert; in this case he would be summoned to the next hearing.
28	Appointment of the final hearing; final hearing, end of hearings.
40	Writing of a written sentence and delivering to the parties
30	Period fur written appeal
30	Period for answering the appeal and sending the file to the court of appeal
120	Procedure of appeal, file goes back to 1 st instance
5	Delivering the sentence of court of appeal to the parties, end of procedure
296	Total time 1st instance
481	Total time 1st and 2nd instance

Case C. Administrative law case – Residence permit

Not applicable to an Austrian district court

3. Bosnia and Herzegovina – Cantonal Court of Novi Travnik

Case A. Criminal law case - Voluntary violence

In this hypothetical case, our court represents the second instance court (public session held before the panel of three judges), and the average length of proceeding in this particular case is 3 months (90 days).

Case B. Civil law case - Road accident

In this hypothetical case, our court represents the second instance court (session held before the panel of three judges), and the average length of proceeding in this particular case is 1 year.

Case C. Administrative law case – Residence permit

This case doesn't fall under the competence of our court. Our court is a court of general jurisdiction. In our country there is a specialised court for these cases (the Court of Bosnia and Herzegovina).

4. Bulgaria – District Court of Burgas

Case A. Criminal law case - Voluntary violence

According to Criminal Procedure code such case is examined in the district court as an appellate court. We do all the research on the circumstances on which the appeal is made. We may have new experts or witnesses. Judges in a panel of 3 decide between 3 opportunities – to confirm the decision of the regional court, to have own decision “guilty or not guilty”, or to send the case back to the regional court for a lawful trial. In all cases it takes not more than 90 days which 90 days includes – receiving the file from the regional court, sending documents to the parties, court hearings, decision and sending the file back to the regional court.

Case B. Civil law case - Road accident

1. Becomes a court file in one day, and is delivered to a judge
2. It takes between 3 to 30 days. Depends on the lawfulness of the claim.
3. Courts give not more than 30 days with.
4. Not later than first hearing.
5. Not later than first hearing.
6. First and every next hearing. Every next hearing is held between 20-30 days.
7. 30 days after the day of the last hearing.
8. In 3 days after signing.
9. 14 days after receiving the decision.
10. If it is asked with the claim it is decided. If it is not, it takes another 30-45 days – exchange of papers and one hearing.
11. Appeal court is always engaged when the appeal is lawful. /sent on time/
12. Appeal court has only one reason to send the case back – no written decision, no signature, no reason – very heavy breach of procedure.
13. If no appeal is made, it takes 14 days for the decision to come into force

Case C. Administrative law case – Residence permit

Not applicable

5. Croatia - Municipal Court of Varaždin

Case A. Criminal law case - Voluntary violence

After receiving the indictment, its validity is checked, i.e. its suitability for treatment and the main hearing set for the earliest free term, on average within one or two months. At the main hearing, statements of the accused and of the injured party are recorded, as well as the disputed facts in view of the type of injury, while the inspection of the mechanism of emergence of the same and injury qualifications are determined through witnesses and the court and medical expert; this demands two to three hearings, i.e. two to three months of time. Decision is reached at the final hearing, while the written judgment must be completed within 30 days.

Case B. Civil law case - Road accident

- Party A files charges against party B for compensation of non-property damages due to injuries, and compensation of property damages for the repair of a personal vehicle and lost earnings during the recovery due to bodily harm;

- Immediately after receiving the claim, the court executes the procedure of preliminary examination of the claim, i.e. whether the same is suitable for debate, after which the same is submitted to party B for his/her/its response (1 day);

- Party B has the right to submit to the court a written response to the claim within 15 days. If party B has justified reasons for doing so, the party may ask for an extension for submitting a response to the claim; this extension may take another 15 days at the most (15-30 days);

- Party B may not submit a claim against party C for damage compensation in the same procedure being held between parties A and B, since party C is not a party to civil proceedings between parties A and B. Party B may submit the claim against party C in a special civil proceedings, and if the court having real and territorial jurisdiction should be the same court in jurisdiction for the proceedings between parties A and B, the said court may combine the two cases in order to have joint disputes, which this court, in principle, accepts due to cost-effectiveness of proceedings;

- After receiving the response to the claim of party B, the court reaches a decision on the same day scheduling the main hearing, no later than 15-30 days from the day of the decision, summoning witnesses whom the parties A and B proposed in the claim or the response to the claim, to examine said witnesses. In addition to the summons to the hearing, the court shall send to party A a written response to the claim of party B (15-30 days);

- After the court ascertains evidence by examining proposed witnesses, it uses the same hearing to assign medical expertise for bodily injuries of party A (timeframe for the expert report shall be 30 days); before that, party A shall be called on to pay an advance on expertise costs (time frame for payment 8-15 days);

- After receiving the expert's report, the court submits the same to parties A and B for their statements (within 15 days);

Case C. Administrative law case - Residence permit

No answer.

6. Cyprus – Supreme Court

Case A. Criminal law case - Voluntary violence

The case falls within the jurisdiction of the District Courts. The Supreme Court examines as an appellate court the judgments of District Courts

Case B. Civil law case - Road accident

The case falls within the jurisdiction of the District Courts. The Supreme Court examines as an appellate court the judgments of District Courts

Case C. Administrative law case - Residence permit

According to Article 146.1 of our Constitution the Supreme Court has exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provision of this

constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

By the enactment of the Administration of Justice (Miscellaneous Provisions) Law (33/64). the jurisdiction and powers of the Supreme Constitutional Court have been vested in the Supreme Court

Article 146.3 of the Constitution provides that a recourse must be filed within 75 days from the date of the publication of the act or decision or, if not published and in the case of an omission, the above period of 75 day starts from the day when it comes to the knowledge of the applicant. If there is doubt or uncertainty as to the commencement of the period, such doubt is to be resolved in favour of the applicant.

It follows that an application for annulment must be filed to the Supreme Court, which must contain a statement of the case of the applicant setting out in a summary form all the material facts relied upon, the requested remedy and the legal grounds of the application. The application is served on the respondent authority which is obliged to file an opposition and then the case is fixed for directions before a judge for the filling of pleadings. When the pleadings have been filled, the case will be set for clarifications and the judgment is issued. The time that elapses between the filing of the application until the delivery of the judgment is approximately 1 year.

7. Denmark – Court of first instance of Retten i Esbjerg

Case A. Criminal law case - Voluntary violence

In 1994 the Danish Parliament decided, that the proceedings in cases of violence like this should be shorter. The court has to deliver judgment within 37 days from the day the court has received the case from the prosecutor.

Case B. Civil law case - Road accident

The case is a normal civil case. We receive a claim from the plaintiff, and the provisions of the Danish Administration of Justice Act describes in details the normal proceedings.

The Civil Court typically would handle a case like this within 6 – 12 months. The proceedings will take longer, if we need medical experts.

In case of appeal against the judgment the proceedings in the Appeal Court might take 12-22 months.

Case C. Administrative law case - Residence permit

The following is taken from the homepage of the Immigration Service in Denmark:

“If you wish to appeal the Immigration Service's ruling, you can file a complaint with the Ministry of Refugee, Immigration and Integration Affairs, Holbergsgade 6 1057 Copenhagen K. Your complaint must include your full name, alien identification number (if applicable), nationality and date the ruling was given. If you are currently residing in Denmark, you will normally be required to leave the country while the Ministry processes your complaint. However, if your complaint is in regard to a revocation or denied extension of your residence permit, you will often be permitted to remain in the country during the appeal process. Your complaint must be filed no later than seven days after the Immigration Service announces its ruling. The appeal process will be explained in detail when you receive the Immigration Service's ruling.”

The timeframes of the proceedings is according to the homepage of the Immigration Service:

Family reunification cases etc.*	Average processing time
50% of the cases:	66 days
80% of the cases:	118 days
100% of the cases:	202 days
<i>Target for all cases:</i>	180 days**

Including cases regarding adoption, former Danish citizenship, Danish descent etc. **For cases submitted after 1 February 2007, the target is 125 days.

The Danish Law on Foreigners § 52 gives in some degree a foreigner an easy way to get the courts decisions in cases regarding family reunification.

The Civil Court in the area, where the foreigner lives makes an order in 1-2 months. Normally the case is fully outlined. In some cases the court can decide, that a DNA examination has to be obtained. If so the case will take longer – perhaps about 3-6 months.

The foreigner can appeal against the order. The proceedings in the appeal court will normally take from 3-6 months.

8. Estonia – Administrative Court of Tallinn

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

It is a typical case to adjudicate in Tallinn Administrative Court. 7% of total cases concern immigration law. Usually these cases are dealt with in written proceedings with the consent of the parties. I would estimate that a decision of the court of 1st instance will be pronounced on average in 4 months. The appeals stage (occurs often as in administrative cases the court fees and other monetary risks for the parties are extremely low), would take on average 8 month and in exceptional cases when leave of appeal is granted, the proceedings in the Supreme Court would take about 6 months. Therefore final decision should be in force in about a year or a year and a half.

9. Finland – Administrative Court of Turku

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

No answer.

10. Finland – Court of Appeal of Rovaniemi

Case A. Criminal law case - Voluntary violence

The Bundle of the case including the appeals of X and Y and the counter appeal of the prosecutor is first sent from the District Court to the Court of Appeal (the time for an appeal is 30 days and for a counter appeal two weeks after the appeal) . In the Court of Appeal the case is recorded to the Lotus Notes -system and divided to a judge responsible for the preparation(1-3 days). He or she determines the necessity of the main hearing and other case management measures(10 days including some days waiting time) and gives the case back to the recorder, who records the decisions made by the judge. The recorder chooses a senior secretary for the case. The appeals are then served on the respondents who are asked to file their responses within 14 days. Within 90 days from the arrival and the recording the date for main hearing must be fixed with the advocates of X and Y and prosecutor. Before it the senior secretary together with the judge get to know the evidence of the case and make the list of them to an office (2 days, stand till time about 60 days). Within 45 days before the main hearing the office calls X and Y and witnesses A and Z and one

eyewitness and drafts a minutes for the main hearing (one day). The main hearing where the written documents are talked through, the called 5 persons are heard and the introductions and summing-ups taken takes one day. After the main hearing the court also negotiates the case (one hour) . Within 5 days the senior secretary drafts the judgement (one day) and within 5 days the member responsible for the case checks the draft for the judgement (2 days) The Court of Appeal decided to chance the determinations as to the self-defence and the compensation to Y. The first member makes some corrections to the reasoning of the case. The second member reads through the draft (one hour). The chairman checks the case and makes some corrections to the reasoning, too (half a day). Then the office corrects the mistakes and files the copy of the judgement to the senior secretary and members(one day). The president checks the file before the judgement is handed out by the office (one day). According to the law the case must be handed out within 30 days from the main hearing. The date for it is declared in the main hearing and the normal practice is that it takes those 30 days. The hole proceeding in the Court of Appeal took 7,5 months.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

No answer.

11. Georgia – Court of Appeal of Tbilisi

Case A. Criminal law case - Voluntary violence

If we consider as established the fact that X acted in a way that grossly violates public order and demonstrates open contempt toward the public, committed under violence or threat of violence then his action would be qualified as a crime of hooliganism (art. 239 of the Criminal Code of Georgia).

According to the degree of sustained injury X's act shall also be qualified as a crime - intentional serious damage to health or as intentional less serious damage to health (arts.117, 118 of the Criminal Code of Georgia). For committing the aforementioned acts, pursuant to the Criminal Procedure Code of Georgia, X would be detained by the police. Upon detention he would enjoy the rights to remain silent, the right to defense counsel, as well as other rights of a suspect guaranteed by the law.

Within 48 hours from the moment of his arrest the prosecutor should charged him and within the following 24 hours, the court should decide upon application the issue of a preventive measure (bail, detention). Decision of a court can be appealed to a higher instance court (Court of Appeals) by the prosecution or defence within 48 hours after the pronouncement of the decision. Court of Appeals hears an appeal within 72 hours.

Within not later than 2 months after detention the criminal case along with indictment should be referred to court.

In the first instance court criminal cases are heard by general procedure pursuant to the following stages: Preparatory part of court session; Judicial investigation; Debates by the parties and a final statement of the defendant; Rendering of a judgment.

The first instance court should render a judgment within a reasonable period of time but not later than within 9 months after detention of a person. The judgment of the court shall enter into force upon its pronouncement and it can be appealed by prosecution or defense in the Criminal Chamber of the Appeal Court under the appeal procedure. Judgment rendered by the Court of Appeals can be appealed to the Supreme Court.

The term for the delivery of decision in the Court of Appeals shall not exceed 3 months, as to the Supreme Court it should render a decision within 6 months.

The decision of the Supreme Court is final and cannot be subject to any further appeal.

Case B. Civil law case - Road accident

No aswer.

Case C. Administrative law case - Residence permit

No answer.

12. Georgia – City Court of Rustavi

Case A. Criminal law case - Voluntary violence

I stage – Starting of Investigation

Investigation of the place of accident – 1 hour;

Finding out the persons who witnessed X's actions, their interrogation and interrogation of victim V – 1 day;

Appointment and carrying out medical expertise to find out the level of X's and V's health damage- 10 days;

Starting of X's prosecution, determining his status as convicted and solving the issue of his preliminary detention or other preliminary measure, for example, bail.

Overall – 14 days;

II stage – Proceedings in the first instance Court

Adoption of decision on preliminary detention – 24 hours;

Preparation of a case – 10 days;

Discussion of a case on merits (court investigation) – 1 or 2 days;

Final Speeches of the parties – 1 day;

Delivery of judgment – 1 day;

Overall – 15-20 days;

III – Appeal of the judgment

Appeal of the judgment – checking the grounds for non-argumentation and illegality of the judgment - 1 month;

Filing an appeal and/or additional appeal – 5 days to be sent to another party;

Filing an answer to appeal – 5 days from the moment of delivery of the appeal;

Preparation of the case for hearing – 1 day;

Court investigation – 1 day;

Final speeches of the parties and delivery of the judgment – 1 day;

Overall – if the procedures are carried out fast and efficiently – 1 month, if there are some problems – 3 months;

Case B. Civil law case - Road accident

Commencement of proceedings, covering pre action behaviour, issue and service of proceedings.

Drafting a lawsuit by A against B - approximately 10 days.

Filing A's lawsuit in court – 1 day;

Admission of the lawsuit by the court – issuing a formal resolution about it - 5 days from filing a lawsuit;

Sending and delivering of a lawsuit to B – 10 days;

Pre trial stage from filing of defence to commencement of the final hearing

Filing a request of B to give him/her more time – 5 days from the delivery of the lawsuit;

Adoption a formal resolution by the Court to give B more time – 5 days. However, it is not allowed to give defendant more than 14 days in ordinary cases and more than 21 days in very difficult cases. This term may be prolonged only in exceptional circumstances when the party has respectful grounds (for example, the illness of the party or death of close relative etc.)

Sending B's answer to A – 10 days;

In case A wants to respond to B's answer he/she can do so in 5 days from receipt of B's answer – 5 days;

In case the judge deems necessary to appoint a preparatory hearing, it may be appointed within 5 days from the receipt of written responses from the parties.

B's lawsuit against C should be filed as a separate action and should pass all the stages as it was indicated above in relation to A's lawsuit. However, C's lawsuit against B should be filed in a form of counter-lawsuit (counter-action). Counter-lawsuit is an ordinary lawsuit the only deference is that it is derived from those circumstances as a main lawsuit itself and therefore, it has slightly different admissibility requirements. Counter-lawsuit should also be admitted by court's formal resolution.

If B's action against C and C's counter-lawsuit against B is filed simultaneously to B's dispute with A, than the terms with coincide with each other. If not, than the terms with be increased a lot since the same procedure as indicated above will be necessary to prepare a case for hearing.

Usually in practice, it is possible that the court on its own or based on parties motion 'join together two or more cases that are similar and legally interrelated. The judge adopts a formal resolution on joining the cases provided that that joining will cause fast and correct discussion of the case.

If we assume that B and C's case started simultaneously with A's action against B, then at the preparatory hearing held for discussion of A's lawsuit, the court could join the two cases together. Appointment of medical expertise usually takes place at the preparatory stage and its completion takes about 1 month;

Final hearing

At the end of preparatory hearing (or if medical expertise is appointed after receipt of expert's conclusion) the court appoints a main (final) hearing – 21 days;

Main (final) hearing usually takes 1 day, however, if the case is difficult it may be postponed but usually not more than once. In this particular case it is not expected that the hearing would have been postponed.

After the hearing the resolution part of judgement is announced to parties.

Preparation and perfection of the judgment

The judge has to draft argumentative judgement within 14 days from the day of hearing – 14 days;

Delivery of the judgement to the parties – 10 days;

In case A wants to enforce the judgement immediately he/she has to file a request and a new hearing will be held but only on the subject of immediate enforcement. Usually 14 days is necessary – 14 days;

Filing an appeal by B – 14 days from the date of delivery of judgement;

Adoption of judgement by Appeal Court – 3-5 months.

Enforcement

After the entrance of the judgment into force the party may request the court to issue an execution list (writ) which is submitted to the Office of Bailiff;

The Office of Bailiff sends a letter to the debtors i.e. B and C, offering them 5 days to execute the judgment voluntarily.

There are no special terms (for example, maximum and minimal terms) for execution;

Overall terms (including appeal and enforcement) – 321 days.

Case C. Administrative law case - Residence permit

I. Starting of an Administrative Action in the Court

Filing of an Administrative Claim (which is not a lawsuit!) in the Administrative Body within 1 month from receipt of Administrative Act;

Discussion of the Administrative Claim in the Administrative Body – 1 month (which in exceptional circumstances may be prolonged for the term of additional 1 month);

Delivery to the party of the decision of an Administrative Body to the party – approximately 15 days;

Filing of an Administrative Action (lawsuit) in the Court – 1 month from the receipt of the decision of Administrative Body;

II. Preliminary hearing, Preparatory stage

Deciding the issue of admissibility of the lawsuit within 5 days from the date of filing a lawsuit in the court.

If there are not certain formal requirements met (for example court fee is not paid, or the name of the defendant is not indicated in the lawsuit etc.) the court may give a plaintiff several days to eradicate shortcomings, usually 5-10 days. After all the formal requirements are met, the court will admit a lawsuit;

If there is a motion together with a lawsuit to suspend the activity of a decision of the Administrative Body such motion should be discussed within 3 days. If the party requests to use injunction, then the term of its discussion is 1 day. In both cases some formal requirements should be met by the plaintiff.

If something is not clear about admissibility, the court may appoint a hearing for checking admissibility within 14 days from conditional admission of the lawsuit;

At the same stage the copies of lawsuit and other documents submitted by the plaintiff is sent to the defendant who is given certain period for filing an answer – 14 or 21 days;

It usually needs about 15 days to appoint preparatory hearing (which should not be mixed with hearing for checking admissibility).

At the preparatory hearing there may be motions from the parties to request some documents from various agencies, to interrogate witnesses, to send summons to parties (for example, the son in the case lives abroad) etc;

If we assume that at preparatory stage there are no motions than main hearing may be scheduled after some 15 days unless the preparatory hearing is transformed in the main hearing.

III. Main Hearing

Main hearing is usually finalized the same day if there are no legal grounds for its postponement. In such a case it may be postponed for some 10-15 days;

IV. Drafting of a Judgment and Enforcement

The judgments are adopted after the main hearing. After the hearing the judge after deliberation announces resolution part of the judgment to the parties. If the case is very difficult the announcement of the judgment may be postponed for a maximum term of 1 month (this term is very seldom used in full in practice, usually 14 days is quite enough to come to the conclusion when after hearing on a very difficult case);

After declaring resolution part of the judgment the judge has 14 days to write an argumentative judgment that is sent to the parties within 3 days after it is ready;

It needs some 15 days to deliver the judgment to the parties;

After 14 days from the date of delivery the judgment enters into the force.

V. Enforcement

After the entrance of the judgment into force the party may request the court to issue an execution list (writ) which is submitted to the Office of Bailiff;

The Office of Bailiff sends a letter to the debtor offering him/her 5 days to execute the judgment voluntarily.

There are no special terms (for example, maximum and minimal terms) for execution;

VI. Overall terms

Overall terms about 200 days (7 months), increased terms – 286 days (9 months);

Litigation in Court will take 49 days (2 months) in case no additional procedural actions need to be taken (for example, request evidences form various agencies, calling witnesses etc.);

Litigation in Court in cases of postponement of hearings (provided no additional procedural actions need to be taken) – 110 days (4 months);

13. Germany – District Court of Stuttgart

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

No answer.

14. Ireland – Commercial Court of Dublin

Case A. Criminal law case - Voluntary violence

The case studies referred to in the questionnaire quite specific and fall outside the scope of the Commercial Court.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

No answer.

15. Italy – Court of first instance of Turin

Case A. Criminal law case - Voluntary violence

Après avoir reçu les plaintes de la part de X et de Y le ministère public déléguera la police judiciaire d'interroger les prévenus, d'acter les certificats médicaux concernant les blessures et de recevoir d'autres informations de la part d'autres personnes qui se trouvaient sur les lieux lors de l'agression. Grâce aux informations reçues le procureur n'aura pas de difficultés à comprendre que la seule version crédible est celle fournie par Y, A et Z et que les blessures subies par X n'ont pas été causées par les autres trois, mais par la tentative de fuite de X.

Afin de comprendre la gravité de la blessure et la durée de la maladie, il ne sera pas nécessaire d'ordonner une expertise, du moment que les certificats médicaux devraient suffire. Après ces activités, le ministère public demandera un non-lieu pour Y, A et Z et transmettra à X et à son avocat l'avis de cessation des enquêtes préliminaires.

Si dans les 20 jours suivants X ne demandera pas d'être interrogé, ou bien de procéder à d'autres actes d'enquête, le ministère public sommera en jugement X, comme prévenu, son avocat et Y, ès qualité de personne offensée par le délit.

Juge compétent est le juge monocratique qui va indiquer une date pour la sommation, compte tenu du calendrier de ses audiences. La première audience est utilisée pour connaître quel est le rite selon lequel le prévenu désire être jugé : plaider coupable, rite abrégé, ou bien rite ordinaire.

Dans le premier cas le prévenu concorde avec le ministère public une peine et le juge, s'il estime que la peine est congrue et s'il n'y a pas d'évidentes raisons pour acquitter le prévenu, émet sentence de condamnation de l'inculpé à la peine qui forme objet de l'accord.

Dans le deuxième cas le jugement se fait sur la base des éléments de preuve contenus dans le dossier du ministère public et le juge condamnera X, mais la peine sera réduite d'un tiers.

Dans le troisième cas le juge devra instruire l'affaire en respectant le principe du contradictoire (examen, contre-examen et contestations du prévenu), sauf que les parties décident d'accepter d'utiliser les actes et les pièces du dossier du ministère public.

Une fois l'instruction terminée, ce qui ne devrait occuper pas plus qu'une audience, les parties discutent l'affaire et X sera condamné pour le délit de coups et blessures volontaires.

Contre cette sentence X pourra se pourvoir en appel. Le jugement de deuxième degré, dans un cas aussi simple, ne comporte aucune activité d'instruction et s'accomplit avec la discussion des parties.

Pour ce qui est du délai moyen il faut penser que les affaires devant les chambres pénales du Tribunal de Turin durent en moyenne 150 jours env. Pour l'année 2007 le nombre total des affaires terminées a été de 19.697 face à 15.316 nouvelles affaires. Ces délais ne tiennent pas compte, bien entendu, de la durée de la procédure devant le ministère public.

1ère question : Y peut-il obtenir, dans le cadre de cette procédure pénale, réparation du préjudice résultant des blessures qu'il a subies ou doit-il engager une procédure distincte ?

A la première audience la partie lésée peut se constituer partie civile dans la procédure pénale pour demander le dédommagement du préjudice subi.

Pourtant la réponse varie selon le rite choisi par le prévenu. Si le prévenu demande de plaider coupable le juge peut liquider à la partie civile seulement les frais de la procédure. Puisque cet arrêt pénale n'a pas l'autorité de la chose jugées dans la procédure civile, la partie lésée devra recommencer une procédure civile à part, au cours de laquelle elle devra prouver tous les éléments constitutifs de ses prétentions.

Dans le cas de procédure abrégée le juge peut condamner le prévenu au dédommagement de la partie civile, mais il faut que celle-ci ait accepté le rite abrégé. Autrement la décision pénale ne constituera pas autorité de chose jugée sur la question civile. Dans le cas de rite ordinaire la partie lésée peut demander le dédommagement et devient à tous les effets une partie de la procédure.

2ème question : X dispose-t-il de moyens pour engager des poursuites pénales (en raison des hématomes qu'il a subis) dans le cadre de la même procédure ou d'une procédure distincte?

Dans ce cas-ci cela n'est pas possible, du moment que le ministère public a pensé que les blessures ne sont pas la suite d'une agression subie par X, mais la suite de sa tentative de fuite. Le ministère public a demandé le non-lieu, contre lequel X pourra faire opposition devant le juge pour l'enquête préliminaire. Si ce juge rejette la demande de non-lieu, le ministère public procédera aussi contre A, Z et Y. Dans ce cas il se peut que deux procès distincts soient célébrés. Si par contre le ministère public pense que la réaction de A, Z et Y ait été disproportionnée par rapport à l'offense subie, il citera dans le même jugement A, Z, X et Y ; mais, dans ce cas, il est vraisemblable que l'inculpation ne sera pas de blessures volontaires, mais de rixe (art. 588 du code pénal italien).

Case B. Civil law case - Road accident

Voici, en gros, le déroulement typique d'un procès civil pardevant un Tribunal italien.

L'affaire commence par la notification au défendeur d'un acte de sommation de la part du demandeur

pardevant le Tribunal. Dans l'acte de sommation le demandeur doit fixer la date de la première comparution des parties devant le juge.

Entre la date de la notification et la date de la première audience il doit y avoir au moins 60 jours.

Le défendeur doit faire sa constitution d'avocat par écrit au moins 20 jours avant la première audience.

Dans la constitution d'avocat le défendeur doit demander au juge de reporter la première audience, de façon à lui permettre, le cas échéant, de sommer en jugement un tiers et de lui permettre de notifier son acte contre le tiers : cette acte aussi devra respecter le délai de 60 jours (entre la notification et la nouvelle date de la première audience).

A la première audience les parties ont le droit de demander un autre délai de 30 jours pour préciser par écrit leurs requêtes ou modifier leurs demandes ou exceptions ; ensuite elles ont le droit de demander un autre délai de 30 jours pour déposer un autre mémoire contenant leurs répliques aux demandes proposées par les contre-parties, ainsi que pour indiquer des moyens de preuve et pour produire des pièces. Finalement elles ont droit à un autre délai de 20 jour, afin de proposer de moyens de preuve contre les moyens déduits des contre-parties.

Le juge doit ensuite décider sur les moyens de preuve ; il devra donc décider sur la pertinence et admissibilité de l'enquête et entendre les témoins ; il devra aussi, le cas échéant, nommer un expert pour vérifier le montant exact des dommages-intérêts.

Finalement il devra inviter les parties à préciser leurs conclusions dans une audience fixée ad hoc. A partir de cette audience les parties ont le droit de déposer leurs mémoires définitifs entre 60 jours, suivis par des éventuelles répliques entre les 20 jour suivant. Le juge doit déposer son jugement dans le 30 jours qui suivent l'échéance de ce dernier délai.

Il faut ajouter que la procédure civile italienne connaît, selon les types d'affaires, une grande quantité de différents « rites ». Dans le cas d'accident de la route une loi récente a introduit une procédure semblable à celle des affaires de travail, avec concentration de la discussion de l'affaire dans une seule audience, ce qui portant n'est pas possible lorsqu'il y a des témoins à entendre et lorsque il y a des expertises à faire.

Il faut encore préciser que le cas de figure ici présenté ne pourrait pas donner lieu à un jugement devant le Tribunal, puisque, selon l'art. 7 du code de procédure civile italien, cet affaire relèverait de la compétence du juge de paix, vu le montant du préjudice causé.

En conclusion, pour ce qui est du cas ici présenté, il faudra compter qu'un litige de ce genre – s'il se déroulait devant le Tribunal – pourrait demander entre 300 et 600 jour pour être défini en premier degré.

Le jugement est toujours doté d'efficacité exécutoire, même s'il s'agit d'un jugement émis en premier degré.

Le juge d'appel peut pourtant suspendre l'exécution, lorsque la partie fait état de la présence de motifs suffisamment graves

Case C. Administrative law case - Residence permit

Ce genre d'affaires ne sont pas traitées par le Tribunal de Turin.

16. Latvia - Riga City Centre District Court

Case A. Criminal law case - Voluntary violence

The length of proceeding starting from the case acceptance in the court till the judgement is 3 month. For court hearing and announcement of the judgment – 2 days.

Case B. Civil law case - Road accident

From the initiation of case till receiving the explanations approximately 1 month; if there is initiated counter claim or additions to the claim has been made– one month for giving the explanation.

If there is assign expertise and asked time for submitting additional evidences - till final hearing could pass approximately 1,5 years

Final hearing – 1 day

Preparation and perfection of the judgment – till 28 days

Case adjudication in appeal institution – 3 months till 1 year

Readjudication of case after the case has been received from appeal instance court – till 3 months

Case C. Administrative law case - Residence permit

Initiation of case – 3 days

Receiving explanations 1 month

Court hearing – 2 hours till 1 day

In total for adjudication of case – till 6 month

17. Lithuania – Vilnius Regional Administrative Court

Case A. Criminal law case - Voluntary violence

No answer

Case B. Civil law case - Road accident

No answer

Case C. Administrative law case - Residence permit

Leading Council Directive 2003/86/EC of 22 September 2003 Article 2, item d, family reunification' means the entry into and residence in a Member State by family members of a third country national residing lawfully in that Member State in order to preserve the family unit, whether the family relationship arose before or after the resident's entry.

According to Article 4, paragraph 1, item b of the Directive, the Member States shall authorize the entry and residence of the minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State <...>. It is also stated in the Directive that in cases when the child is aged over 12 years old and arrives independently from the rest of his/her family, the Member State may, before authorizing entry and residence under this Directive, verify whether he or she meets a condition for integration provided for by its existing legislation on the date of implementation of this Directive.

Article 5, item 5 establishes that while examining an application, the Member States shall have due regard to the best interests of minor children.

Republic of Lithuania Law on the Legal Status of Aliens, issued on the 29 of April in 2004, Article 43 states that a temporary residence permit to live in the Republic of Lithuania may be issued for the reason of family reunification. Article 43, paragraph 1, item 2 of the same law sets that a temporary residence permit may be issued to an alien in the event of family reunification if the parents of the minor alien or one of them or the spouse of one of them holding the residence permit, in whose guardianship the minor alien is, are residing in the Republic of Lithuania.

Based on the material of the case, person A (mother of the child) has a residence permit to live in country Y (Lithuania). It also gives information that person A lives permanently in Lithuania from 1999 and in January of 2004 has obtained a permission to live in Lithuania on an unlimited basis. It means that pursuant to Republic of Lithuania Law on the Legal Status of Aliens Article 43, paragraph 6, person A (mother) corresponds to a determined status of an alien, whose family member- her son (person B) wants to join her (person A) in country Y (Lithuania) for the reason of family reunification. The permission that was given to person A (mother) to live in country Y (Lithuania) on unlimited basis, has not been abolished. According to Republic of Lithuania Law on the Legal Status of Aliens Article 35, there is no ground for refusing to issue an Alien's residence permit for person B (son). Based on Article 133, person B (son of person A) is not forbidden to come to Republic of Lithuania.

The European Convention on Human Rights (ECHR) Article 8 provides a right to respect for one's private and family life. This principle means that everyone not only has a right to respect for his private life but also a right to be and to live together with his family. European Convention on Human Rights Article 8, paragraph 2 provides that there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

European Court of Human Rights has marked that one of the most important means for a successful integration of the minor child is family reunification.

Person A (mother) has been living in Republic of Lithuania for 10 years, has a stable job, constant and sufficient income, good living conditions. The relationship between person A and person B has not been broken off, person A (mother) has always been caring after her son- person B, has visited him regularly.

While considering these circumstances, Court comes to a conclusion that person B has no obstacles to integrate into Lithuanian society. Taking into account the best interests of a child (person B), his right and wish to live together with his family, the decision of administrative authority not to satisfy the request of person B to join his mother- person A in country Y (Lithuania) has been found groundless.

The complaint has been satisfied.

An estimation of the average length of proceedings in days for this particular case over all and for all the different stages:

The case is heard according the procedure established in Law of the Republic of Lithuania on Administrative proceedings. The hearing of the case usually has the following stages:

1. The acceptance of the complaint in court

Based on the Article 37, paragraph 1 after the court has received a complaint/petition, the chairman or the judge of the administrative court shall within seven days decide the issue of acceptance thereof by making an order. If a complaint/petition does not comply with the requirements, the person doesn't mention the circumstances upon which the claimant's claim is based or supporting evidence, the order shall set the time limit for rectifying the shortcomings. In this case the acceptance of the complaint may take up to the period of one month.

It means that the shortest period that this procedure can take is one day, the longest period- one month.

2. Preparation for the hearing of administrative case

According to Article 68 of the same law, the chairman or judge of the court who by virtue of an order recognised the appeal/petition to be receivable, shall, as necessary, determine the following mandatory issues relating to the preparation for the hearing of the case in the court: send transcripts of the appeal/petition to the respondent and demand that the respondent would present to the court the opinion and submit necessary documents as regards the submitted claims within the specified time limit.

As it is set in Article 65, the preparation of administrative cases for hearing in the court must be completed within one month from the day of acceptance of the complaint/petition. In practise, the shortest time limit is fourteen days, the longest- one month.

3. The hearing of the case

Article 65, paragraph 3 states that the hearing of the case in the administrative court must be completed and the decision must be adopted in the court of the first instance within two months from the day of issuance of the order to hear the case in the court. Paragraph 4 of the same Article establishes that the above-mentioned time limit for the hearing of the case may be extended for up to three months. Before setting the date for the hearing of the case, the participants in the proceedings have to be informed about the place and time of the hearing. As a rule, the preparation of the case must be completed twenty days before the hearing of the case. But if there is a big caseload in court, the date of the hearing will be set according to the completion of the schedule. It means that the hearing of this case can be set in a period of a month or two. So, the shortest timeframe to hear the case from its preparation for the hearing are twenty days, the longest- two months.

4. Adoption and declaration of the decision

The decision of the administrative court shall be adopted and pronounced only after a direct examination of the case. However Article 85, paragraph 5 enables the judge to postpone the adoption and pronouncement of the case for ten days. In this case the shortest period to render the decision is one day, the longest- ten days.

To sum up, the shortest timeframe during which Vilnius Regional Administrative Court could treat this dispute and render the final decision is one month and six days, the longest- four months and ten days.

18. Macedonia – Basic Court of Gostivar

Case A. Criminal law case - Voluntary violence

1. Investigation (all actions according to the criminal law to be taken)-estimated time 1 month
2. Trial phase(all actions according to the criminal law to be taken)- estimated time 2 months

Case B. Civil law case - Road accident

1. Acceptance of the claim and close examination
2. Mailing the claim with all evidence to the opposite party and setting a preparation trial date in a period no longer than 30 days.
3. Main trial (all actions according to law to be taken)
4. Announcement of the verdict

Case C. Administrative law case - Residence permit

No answer

19. Macedonia – Basic Court of Skopje II

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

1. Commencement of proceedings, covering pre action behaviour, issue and service of proceedings:
In this stage of the procedure, the court fee is being paid (20 days), the claim is being arranged (20 days) and the answer of the claim is being delivered (20 days) – 60 days in total.
2. Pre trial stage from filing of defence to commencement of the final hearing
This stage is composed of: reception of the answer of the claim, setting up and commencement of the preparatory hearing.
3. Final hearing
Commencement of the final hearing. This stage of the procedure lasts at least 120 days, with time needed for preparation of the expert opinion included.
4. Preparation and perfection of the judgment
It takes about 30 days for preparation and perfection of the judgement.

The first instance procedure lasts about 250 days

Case C. Administrative law case - Residence permit

No answer.

20. Moldova – Riscani District court Court

Case A. Criminal law case - Voluntary violence

Average length of proceedings in this case is 3 months.

Case B. Civil law case - Road accident

The average length of proceedings is 2 month.

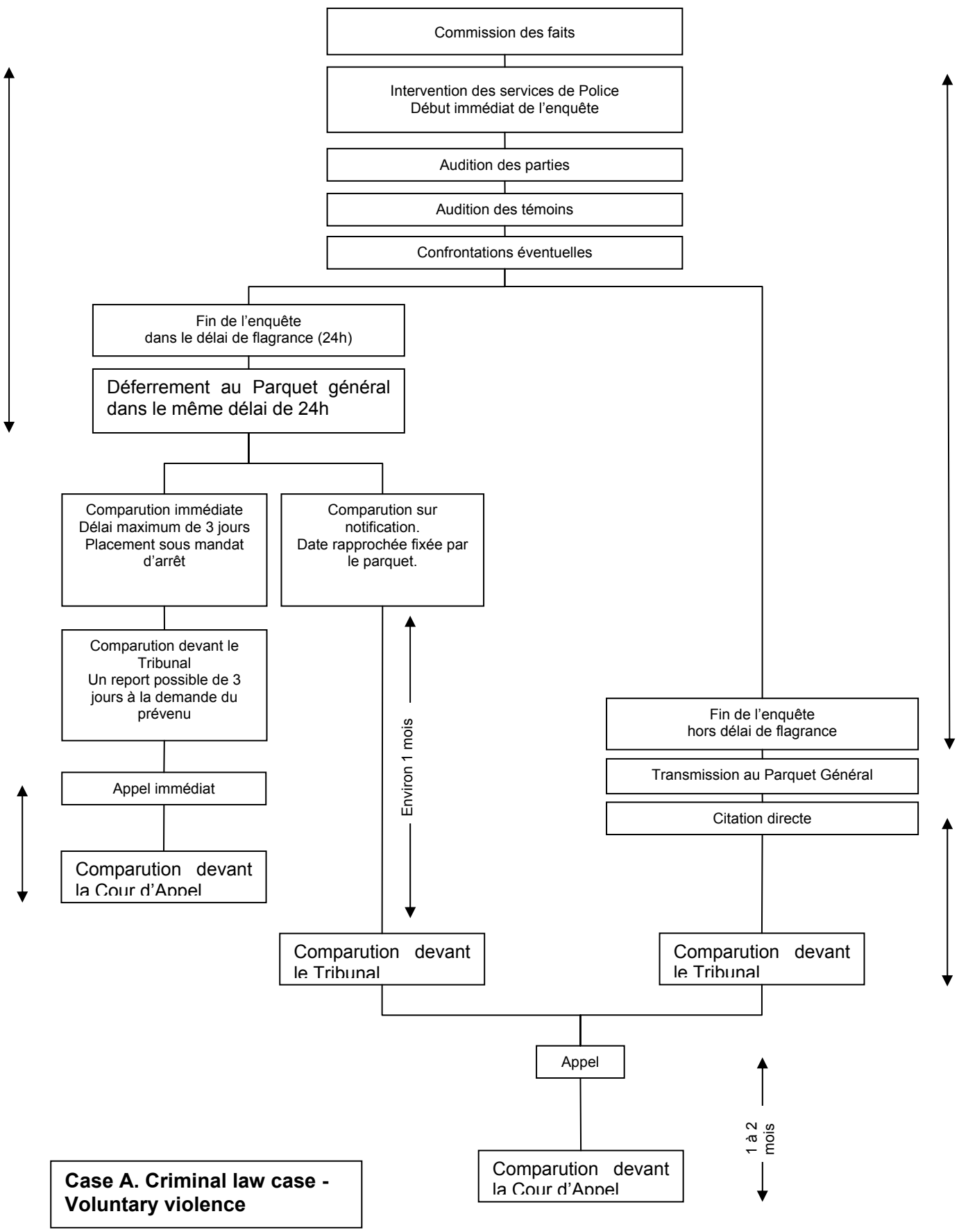
First stage, preliminary proceeding - 15 days, next step, fundamental examination – 1 month, and for hearings – 3 days.

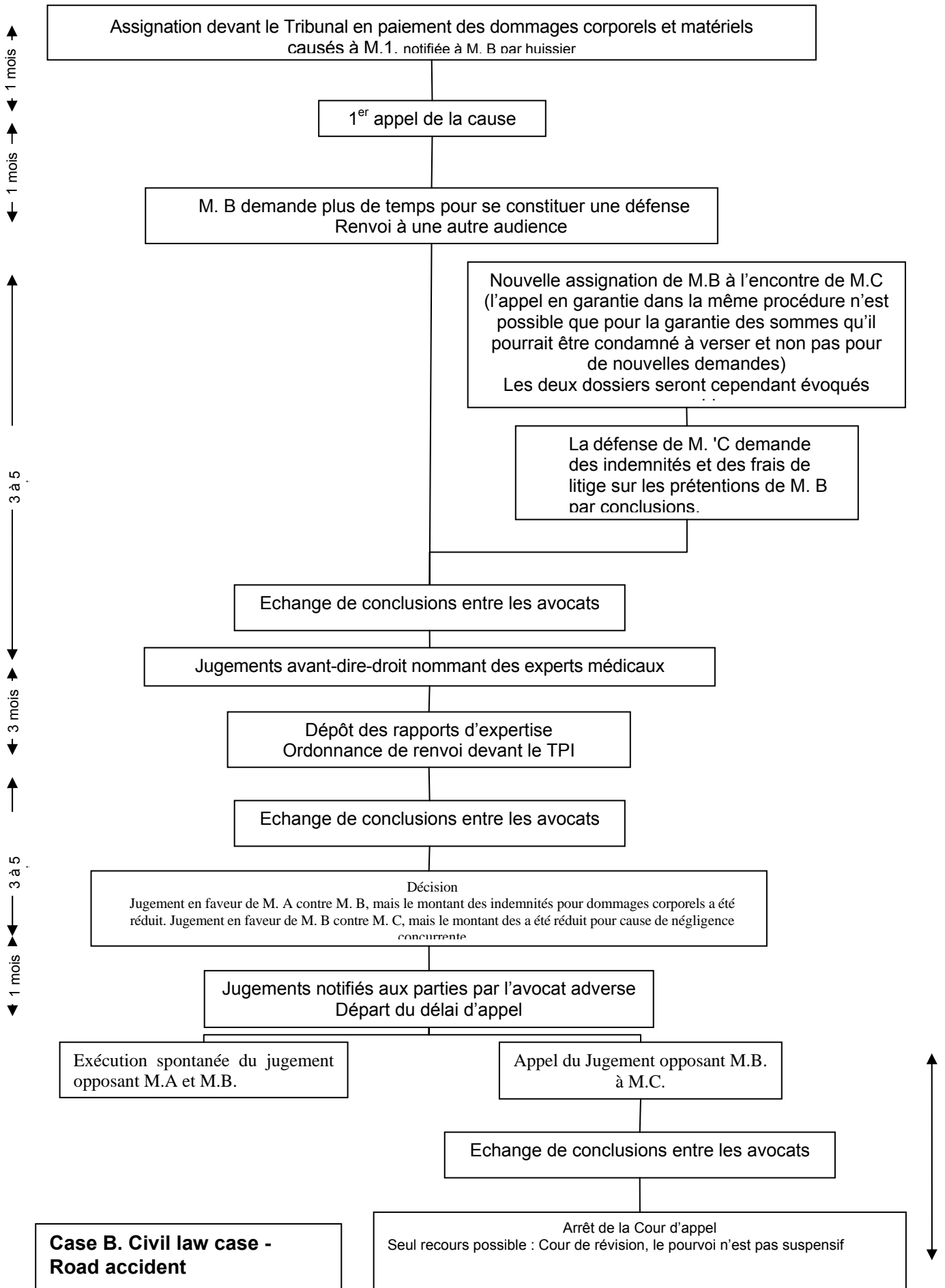
Case C. Administrative law case - Residence permit

The average length of proceedings is 2 months.

Our verdict is for family regrouping.

21. Monaco – Court of first instance of Monaco





Case C. Administrative law case - Residence permit

Le tribunal de première instance est incompétent dans le cas évoqué.

22. Netherlands – Court of first instance of Arnhem

Case A. Criminal law case - Voluntary violence

The police will investigate the case. During the investigation they will hear the accused, the victim and witnesses. The police will also collect medical reports. After this work is done, the file is handed over to the public prosecutor by the police. The investigation will last a few (at least: three) months.

The public prosecutor will have to decide whether to prosecute the accused or not. In a case like this (with X and Y giving contradictory versions of the setting off of the fight and Y heavily wounded), normally prosecution of X

and Y will follow. The case will be assigned to one judge. In special circumstances, if A or Y is a recidivist or if there seem to be serious mental problems, the case may be assigned to three judges.

The public prosecutor will inform the victims about the prosecution: X about the prosecution of Y and Y about the prosecution of X. They will be informed that they have the opportunity to claim their damages in the criminal case. A talk between the prosecutor and the victim can take place. Before the public prosecutor summons the accused, another three or four months will be gone by.

The court and the public prosecutor's department have arranged at the beginning of the year when there will be court sessions. The hearing by the court will be on one of these dates. The public prosecutor decides on what date. The hearing will take approximately 30 minutes. The judge will give his oral decision directly at the end of the hearing. The accused will get a written confirmation. They have two weeks to appeal. Only in case of an appeal the accused will get the minutes of the hearing and a written decision.

In total the length of the proceedings will be 6 months up to 12 months.

Case B. Civil law case - Road accident

In a civil law case like this the claim will probably be higher than € 5.000,-. This means that legal aid by a barrister-at-law is obligatory. So if B does not pay the amount of money A claims, A has to go to a barrister. He will draft a summons. After B is summoned, the writ of summons will be send back to the barrister. He will send the summons to the court.

A court-employee will register the case in the court's database.

On the date mentioned in the writ of summons, the barrister of B will electronically ask and be granted a respite of six weeks. If B thereafter wants more time, he has to request the judge a further respite (maximum of six weeks). Unless the barrister of A agrees with a further respite, he has to motivate that request.

In his written defence, B has to present his claim against C and ask permission to summon C. If B omits to do that, he has to start a separate proceeding against C. A gets the opportunity to state if he objects against this impleader, where after the court will decide about the admissibility. In a case like this, it will be admissible. From the defence of B till the decision about the admission, at least 12 weeks will pass.

The proceedings between A and B on the one hand and B and C on the other hand are regarded as separate but connected. Because they are regarded as separate, both proceedings have their own speed.

After the abovementioned decision about the admissibility, an oral hearing will be held (A-B). The judge will gather information and investigate whether a settlement could be reached or mediation would be useful. If not, the judge will consult with the parties about the necessity of medical examinations, the experts, the costs of the experts etc. The oral hearing would take 90-120 minutes. In a decision, about six weeks after the hearing, an expert will be appointed. Sometimes, in complicated cases, three experts are appointed. It can take a long time, up to one year, before the report of the expert is ready. The parties are allowed to comment on the report, in writing. The judgment will probably be given by three judges.

The proceeding between B and C will take place in a similar fashion.

A has the possibility to enforce the judgement immediately. The appeal of B cannot forestall that.

The appeal court will decide the case by itself and will not refer back to our court.

The proceeding in first instance will take at least one year, but possibly much longer if the expert is slow. In case of an appeal, the proceeding may take as much as three years.

Case C. Administrative law case - Residence permit

The case is not fully clear: some persons seem to be mixed up.

A (or her assignee) has to appeal against the decision to the Centraal Intakebureau Vreemdelingenzaken (CIV). Within a day after the appeal the CIV assigns the case to a court, f.e. rechtbank Arnhem. Within 3 days after the assignment, the court registers the case in a computerised database.

Within four weeks A has to submit the decision and the grounds of her appeal to the court. Thereafter the state (IND, as the department is called) has to submit the file and its written defence to the court, also within four weeks. A has to pay an amount of € 145,- court's fees. If the payment has been made, a senior employer of the court (not a judge) checks if the file is complete and decides whether the case will be investigated and decided by one judge or by three judges. In consultation with A a date is set for the hearing. With a customary workload, the period between the setting of the hearing and the date of the hearing is 30-60 days. The hearing takes approximately 30 minutes. Before the hearing a judicial clerk analyses the case for the judge(s) and writes a summary. During the hearing the same clerk is present. Afterwards the judge(s) and the clerk discuss the case. According to the directives the judge(s) has/have given, the clerk writes the draft of the decision for the judge(s). The judge(s) read(s) the draft, the clerk revises the draft if necessary and the judge and the clerk sign the decision. Within two days thereafter, the decision is sent to the parties, A and the IND.

The average length of the proceedings is 90-120 days.

23. Norway – Frostating Court of Appeal of Trondheim

Case A. Criminal law case - Voluntary violence

In Frostating lagmannsrett, the parties to the fight would give evidence, as would witnesses to the fight and to the circumstances leading up to the fight, possibly witnesses would also be heard as to the events after the fight

The medical evidence would be presented to the court by expert statement in writing or by expert testimony in court, the former being the most usual form

The court hearing, including closing arguments, would probably be held during one day. Depending on the number of witnesses, the judgement would probably be read out at the end of the day or on the following day

Case B. Civil law case - Road accident

I will give a general answer to this question, as the case starts in the court of first instance. I will base my answer on the former code of civil procedure, as the other questions have been related to 2006. The new code of civil proceedings entered into force on 01.01.08, and has provisions to increase the active role of the court. Please advise me if you wish an answer based on this code.

1.The lawsuit is registered in court of first instance, and the defendant is given a time limit of 3 weeks to answer.

2.The defendant is usually granted extension of the time limit once.

3.It is sometimes, but not always, possible to allow the case B and C to be considered in the case between A and B. In the following I will assume that the case against C is allowed within the case.

4.C is given three weeks to answer to the claim.

5.Mediation is considered and discussed with parties.

6.Time for main hearing is set, to be held within 4 to 5 months after the case was registered in the court.

7.Medical expert/s is/are appointed by the court. They are generally asked to make a written report and to make a testimony in court. The appointment of medical experts might delay the main hearing.

Generally no preliminary hearings are held.

8.Two parties appeal. The time limit is one month.

9.The court of appeal either confirms the judgment or changes it. Civil judgements are only rarely referred back to the court of first instance.

The case would probably take 6 months in the court of first instance and another 6 months in the court of appeal. Because there are three parties to the case and there are medical experts, the case might take more time.

Case C. Administrative law case - Residence permit

It is difficult to understand this case. A seems to have changed sex, and B is both her/his child and husband. In Norway, A would be allowed to challenge the administrative decision before the courts. The case would be treated as an ordinary civil case, and would probably be completed within 6 months in the court of first instance, and eventually 6 months in the court of appeal.

24. Norway – District Court of Nordhordland

Case A. Criminal law case - Voluntary violence

This case would need one day proceedings in court, and one day for the judge to write a verdict.. We would hear around 4 witnesses. Court proceedings normally last from 9am until 4 pm. The length of work before the court proceeding will be approx. one hour for the judge and the staff.

Case B. Civil law case - Road accident

Claim issued against B, claim served will be done at the most two days after. B will be given 2 weeks to file defence. Same procedure for B's claim against C. Medical expert required and would be given 4 weeks to give a statement. Case heard within next 6 weeks, approx one and a half day in court. Judgment written within one week, and two days would be reserved for the judge to write the verdict. Appeal from both parties must be filed within 4 weeks. The case will be decided in appeals court within 6 months from the day the case was received in appeals court.

Case C. Administrative law case – Residence permit

We have no experience with such cases.

25. Poland – Commercial Court of Warsaw (VIII,IX,X)

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case – Residence permit

The cases presented above are not under jurisdiction of the proposed court (commercial departments).

26. Serbia – First Municipal Court of Belgrade

Case A. Criminal law case - Voluntary violence

Where a criminal offence subject to *ex officio* prosecution is involved, the competent Prosecution submits a request for an investigation, after which the investigating judge summons and questions the suspect and witnesses, if necessary orders forensic evidentiary actions, if and when the necessary conditions are met issues a decision on the conduct of an investigation, and after the investigation submits the case files to the competent Public Prosecution, which may then file charges. The interval between these two actions varies between 20 days and two months.

The bill of indictment is then submitted to defendants and defence attorneys; if no objection is filed, the next phase is the trial, in which evidence is presented; when the court determines that the facts of the case have been established to a sufficient degree, the court issues a decision on the defendant's responsibility.

This phase lasts on the average between three and six months.

Case B. Civil law case - Road accident

After a claim for damages has been filed, the judge handling the case first verifies that the claim is orderly, timely and permitted by law.

If these conditions are fulfilled, the court submits the claim to the respondent for a response to be provided within no more than 30 days from receiving the claim.

If the respondent does not provide a response to the claim within the 30-day deadline, the court may render a decision without a trial provided all relevant evidence is attached to the claim. (Domestic law does not allow extending a time-limit for responding to an action.)

If all facts required for adjudication are not provided with the claim, the court schedules a pre-trial hearing to which it summons both parties so that they can inform the court about the evidence they can offer to substantiate their assertions.

Where a properly-summoned respondent does not appear at the hearing, the court may issue a decision due to omission (which may go either way) or a judgement on account of default in attending a small-claims hearing.

In the concrete case if the court continues the proceedings the respondent will most probably move for the lawsuit to be joined to the action submitted by B against C.

If the court continues the proceedings in the concrete case it will at the proposal of a party ask for an expert opinion of the damage sustained by the plaintiff's car, and of the loss of personal income due to absence from work, and of the non-material damage in connection with the injuries sustained by the plaintiff in the accident. The court will also usually question the plaintiff as a party in the proceedings. Through this process the court will also establish the plaintiff's contribution to the occurrence of the accident, taking into consideration that respondent B will claim shared responsibility.

After the court has rendered a written judgement the parties are entitled to lodge appeals, which if filed defer *res judicata* and enforceability.

On the average proceedings of this kind usually last two years.

Case C. Administrative law case - Residence permit

The court which has jurisdiction for administrative cases is the District Court in Belgrade.

27. Serbia – Municipal Court of Niš

Case A. Criminal law case - Voluntary violence

Service of the indictment and preparation of the trial – 30 days

The trial:

- Defendant, injured party are heard - 30 days
- Examination of witnesses - 30 days
- Expert testimony - 30 days
- Judgement - 30 days

Case B. Civil law case - Road accident

Initial phase of the procedure - 45 days

2. Pre-trial phase, from submission of the defence until the commencement of the trial - 30 days

3. The trial - 180 days

4. Rendering the judgement - 30 days

Case C. Administrative law case - Residence permit

No answer.

28. Slovenia - District Court of Maribor

Case A. Criminal law case - Voluntary violence

zaslišanje obdolženca x

izdaja sklepa o preiskavi

zaslišanje prič glede dogodka

pritegnitev izvedenca medicinske stroke

Postopek bi vključno z izdelavo izvedeniškega mnenja trajal cca 1,5 meseca

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

No answer.

29. Slovenia - District Court of Nova Gorica

Case A. Criminal law case - Voluntary violence

1. Court investigative proceedings starts on the prosecutor request. Both parties are heard, all the witnesses are heard, the material evidence is assessed by the investigatory judge. An expert is appointed to assess the nature and seriousness of the injuries. After finishing the investigation the case is handed to the prosecutor (district attorney) who prepares the indictment. All together approx. 6 months.
2. The indictment is filled. The case waits to be tried. (an approx. amount of time could be 6 months). When the trial starts it usually ends in approx. 2 months.
3. If the judgement is appealed the second instance court takes approx. 2 years to reach a decision.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

No answer.

30. Slovenia - District Court of Novo Mesto

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

It takes approximately 430 days from receiving the criminal case to the court until the decision is reached.

Case B. Civil law case - Road accident

It takes approximately 320 days from receiving the civil case to the court until the decision is reached.

Case C. Administrative law case – Residence permit

No answer.

31. Spain – Commercial Court N° 3 of Barcelona

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

STAGE 1. Commencement of the proceeding, issue and service of proceedings. The claim is registered in our database; the legal proceeding starts with a judicial resolution and the claim is delivered to the defendant party. If there is not any default that needs correction, this first stage takes approximately 30 days.

STAGE 2. Pretrial. Once the defendant party has submitted to the court the responsive pleading, the date of the preliminary hearing is fixed. This takes approximately 60 days.

STAGE 3. Final hearing. One of the main objectives of the preliminary hearing is to fix the date of the final hearing. There are normally 60 days between the preliminary and the final hearing.

STAGE 4. Judgement. 20 days.

These are optimum estimations about the duration of a case. Nevertheless, there are very often new circumstances that lead to a longer duration of the case.

Case C. Administrative law case - Residence permit

No answer.

32. Sweden – Court of first instance of Södertörn

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

Step 1 claim issues studied of the court staff	2-3 days
Step 2 claim served on party B	14 days
Step 3 B gets more time	14 days
Step 4 B's claim studied of the court staff	2-3 days
Step 5 C defence	14 days
Step 6 waiting time before Preliminary hearing	1-2 months
Step 7 exchange of pleading letters	1 month
Step 8 Main hearing	1 month
Step 9 Judgement	14 days
Step 10 Appeal court	6-12 months

Case C. Administrative law case - Residence permit

No answer.

33. Switzerland – Court of first instance of Geneva

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

On part du principe qu'il s'agit d'un cas genevois avec des parties au procès qui ont leur domicile à Genève.

Quatre étapes:

1ère étape:

La procédure commence par le dépôt de la **demande en vue de la conciliation**. Une Invitation à payer un émolument de mise au rôle (120 CHF en principe) est adressée au demandeur, lequel a 30 jours pour payer l'émolument (prolongation du délai de paiement possible). Une fois l'émolument payé, les parties sont convoquées à l'audience de conciliation (dans un délai de 15 à 30 jours). Le mémoire est envoyé à la partie défenderesse avec la convocation. L'audience de conciliation se déroule devant la chambre de conciliation du TPI (si la valeur litigieuse est inférieure ou égale à 8000 CHF, l'audience se tient devant la Justice de Paix). -> si conciliation, fin de procédure, sinon, autorisation de citer délivrée par le juge (on autorise le demandeur d'introduire sa demande devant le TPI lequel a 30 jours pour l'introduire).

2ème étape:

Dépôt de la demande en vue de l'introduction. Invitation à payer l'émolument de mise au rôle adressée au demandeur (le montant de l'émolument est déterminé en fonction de la valeur litigieuse). Délai de 30 jours pour payer l'émolument (prolongation du délai de paiement possible). Après paiement de l'émolument, l'affaire est attribuée à une chambre civile. Convocation des parties à une audience d'introduction fixée en fonction de l'agenda du juge (15 à 60 jours (fêtes judiciaires)), la demande étant adressée au défendeur avec la convocation.

Audience d'introduction au cours de laquelle les parties viennent en personne ou se font représenter par des avocats. Le juge ordonne en principe une instruction préalable écrite qui consiste à donner un délai à la partie défenderesse pour répondre par écrit à la demande (30 à 60 jours).

L'affaire est remise à plaider à une **audience de plaidoirie**. Quand le défendeur a répondu, le mémoire - réponse est communiqué au demandeur. A cette audience, le juge garde la cause à juger. Si l'affaire est en l'état d'être jugée, le juge rend un jugement. Si tel n'est pas le cas, le juge ordonne des mesures probatoires, notamment :

- Comparution personnelle des parties

- Enquêtes
- Expertises (médicales, techniques)
- Transport sur place

La durée de cette étape est très aléatoire. Elle peut durer plusieurs années.

3ème étape:

Audience finale. Après les mesures probatoires, l'affaire est remise à plaider. Le juge garde l'affaire à juger.

4ème étape:

Élaboration de la décision. Jugement doit être lu en audience publique avant d'être notifié aux parties.

Étapes:

- A) demande pécuniaire contre M. B de [somme de] Euros pour des dommages corporels, [somme de] Euros pour les réparations du véhicule et [somme de] Euros pour la perte de salaire pendant la convalescence. - demande initiale 1-30 jours
- B) demande notifiée à M. B
 - - notifiée entre 1-60 jours vu la phase de la taxation (conciliation)
 - - notifiée entre 1-60 jours vu la phase de la taxation (introduction)
- C) M. B demande plus de temps pour se constituer une défense - 60 jours
- D) M. B a présenté une action contre M. C pour l'indemnité à verser à M. A et sa propre indemnisation à raison de [somme de] Euros pour dommages corporels et de [somme de] Euros pour dommage matériel
 - À l'audience d'introduction B peut demander à appeler en cause C, à quoi peut s'opposer A. Si A s'oppose, le juge remet l'affaire à plaider sur le principe de l'appel en cause (30 jours). Si le juge admet le principe de l'appel en cause, il donne un délai de 30 jours à B pour déposer sa demande d'appel en cause contre C. Les affaires sont ensuite instruites parallèlement.
- E) la défense de M. C demande des indemnités et des frais de litige sur les prétentions de M. B - 30 jours pour que C puisse déposer son mémoire de réponse à l'appel en cause.
- F) des experts médicaux sont nommés et une/des auditions préliminaires peuvent être nécessaires pour le traitement de la procédure
 - Phase probatoire - durée très aléatoire - minimum 6 mois. Peut durer plusieurs années.
- G) affaire traitée et jugée – jugement en faveur de M. A contre M. B, mais le montant des indemnités pour dommages corporels a été réduit. Jugement en faveur de M. B contre M. C, mais le montant des a été réduit pour cause de négligence concurrente - 2 mois pour que le juge rende son jugement
- H) Le jugement est envoyé aux parties.- une fois que le jugement est rendu, il est notifié aux parties dans un délai de 1-8 jours
- I) M. A souhaite exécuter le jugement immédiatement - il devra attendre 30 jours (délai d'appel)
- J) M. B veut faire appel de la décision refusant de lui accorder l'intégralité des indemnités - B a 30 jours pour faire recours
- K) la cour d'appel (le cas échéant) décide que le juge avait tort en se fondant sur la négligence concurrente (Ceci pouvant, ou non, faire l'objet d'un renvoi vers une cour de première instance)
 - La durée de la procédure d'appel est aléatoire, elle peut durer plusieurs années (instance: Cour de justice civile)
- L) les parties décident de ne plus interjeter d'autre appel, la décision finale est rendue et exécutée.
 - La décision peut être exécutée à l'issue du délai de 30 jours pour faire recours contre l'arrêt de la Cour de justice au Tribunal Fédéral si aucun recours n'a été déposé.

Case C. Administrative law case - Residence permit

No answer.

34. Switzerland - Administrative Court of Geneva

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

No answer.

Case C. Administrative law case - Residence permit

The judicial authority competent to deal with this type of case is the "Commission cantonale de recours de police des étrangers (CCRPE)". The CCRPE statutes in single cantonal instance, following the agreement of

the Federal Office for Migration, on appeals against decisions taken by the Department of Justice, the police and security or decisions taken by the Cantonal Office for Population in matters concerning the police for foreigners; it is also competent to statute on appeals against decisions taken by the Office of Foreign Workforce in matters concerning employment and which the State Council has stopped dealing with in the framework of the applicable clauses. The CCRPE is also competent, in the first instance, to statute on referral, opposition or *ex officio* against restraining measures (detention, territorial arrest) taken against foreigners. The decisions given by the CCRPE are subject to appeal in the Federal Court within 30 days, except for sentences pronounced in cases of restraint, which can be appealed against in the Administrative Court within 10 days.

The stages:

0. Negative decision concerning family regrouping given by the *Office Cantonal de la Population* (OCP)

1. Lodging of the appeal with the CCRPE

2. Written instruction

3. Convocation to a hearing

4. Hearing (attended by: the plaintiff assisted by a lawyer, the OCP (who is the administrative authority in the matter), the witnesses (husband and son), 1 professional judge and 2 non-presiding judges)

5. Deliberations

6. Written decision drafted by the clerk

7. The plaintiff and the OCP are notified of the decision by post

b) How much time would the various procedures take before each of the judicial instances, including the supreme administrative court?

Average length of proceedings with the CCRPE: 18 to 20 weeks

3. a) Can the ruling of the supreme administrative court of your country still be taken before another national body (Supreme Court, Appeal Court, State Council, etc.) before being taken before the European Court of Human Rights?

b) In case the answer is yes, please specify the point of law which is based on and the bodies concerned, as well as the length of time estimated for the case to be ruled on? NO

4. Please explain the length of procedures by describing the internal stages necessary to complete the process and how this is worked out.

The length of the proceedings is explained by:

- the great number of cases being dealt with

- reduced staff

- the time taken for the investigation

- The importance given to the wish to hear all the parties concerned - or request that the OCP make written observations

35. United Kingdom – Civil Justice Centre of Manchester

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

1. Pre-action protocol requires a detailed letter of claim to be sent by A to B to which B must respond. The Claimant has 3 years from the date of the action in which to issue proceedings. The claim is issued. If the court serves B it will be done within 1 week. If the solicitor is to serve they have 4 months in which to do so.

2. B wants more time to file a defence. The parties can agree an extension of time of up to 28 days. If there is no agreement or a longer period is sought then B must apply to the court. The current waiting time for an appointment is 5 weeks. The claim by B against C can be issued without permission if it is done at the same time as the defence is filed otherwise B must apply to the court. The current waiting time for an appointment is 5 weeks. On receipt of C's defence the court will fix a Case Management hearing to deal with both claims. The current waiting time for an appointment is between 5 and 7 weeks. At the case management hearing the court will consider the disclosure of documents, service of witness statements and the expert evidence required. The court may also fix the trial date or window but, if the case is complex, may fix another case management conference. The time lapse between the case management hearing and trial

will depend on the complexity of the case. If allocated to the Fast Track, the trial is expected to take place within 30 weeks.

3. In most cases the judge delivers an oral judgment.

4. The order made by the judge is sent out to the parties within 5 days. B wants to appeal the order. The appeal must be lodged at court within 21 days of the order. A is entitled to enforce the judgment unless B obtains a stay of execution. Permission to appeal must be obtained. there is no specific timeframe, but the appeal hearing will be fixed when permission is granted..

Case C. Administrative law case - Residence permit

Manchester County Court does not currently deal with Judicial Review claims. Such claims are dealt with by the Administrative Court which is part of the High Court in London

36. United Kingdom – Central County Court of London

Case A. Criminal law case - Voluntary violence

No answer.

Case B. Civil law case - Road accident

A case like this would be allocated to track by a District Judge without a hearing within 21 days of receipt of a defence by the court and should be tried within 30 weeks of allocation. Cases where the claim exceeds £15,000 might have more case management including hearings and might take up to a year to be tried depending on the need to accommodate expert witnesses.

Case C. Administrative law case - Residence permit

No answer.

Strasbourg, 22 October 2007

CEPEJ-SATURN (2007)3

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

**SATURN CENTRE
for the study and analysis of judicial time management**

**QUESTIONNAIRE ON
COMMON CASE CATEGORIES,
JUDICIAL TIMEFRAMES AND DELAYS**

Name of the court:
Address:
Country:

Name of the contact person:
Email:
Telephone number:

1. Basic information of the court

	Absolute numbers
1. Number of professional judges	
2. Number of <i>non</i> -professional judges (including lay judges)	
3. Number of non-judge staff whose task is to <i>assist the judges</i> (case file preparation, assistance during the hearings, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars and/or non-judge staff (<i>Rechtspfleger</i>), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	
4. Number of staff in charge of different <i>technical, administrative or managerial tasks</i> (management of human resources, of material and equipment – including computer systems – of finances and budget and the management of training)	

2. What type of cases does your court decide? (Please include a brief definition of the types of cases)

Type of case:	description:

3. Can you provide statistical information of the following *common-case categories* (if applicable and available for your court) for the reference year 2006?

Common case categories	Applicable	Caseload of the court				
	Yes	No. pending cases on 1 jan. '06	No. of incoming cases	No. of decisions	No. of pending cases on 31 dec. '06	% cases pending more than 3 years
Civil law cases (total number)	<input type="checkbox"/>					
1. Commercial litigious and regular litigious civil claims	<input type="checkbox"/>					
2. Small claims	<input type="checkbox"/>					
3. Company cases	<input type="checkbox"/>					
4. Bank law cases	<input type="checkbox"/>					
5. Patent cases	<input type="checkbox"/>					
6. Contract cases	<input type="checkbox"/>					
7. Tort cases (esp. car accidents, medical liability, liability of other professionals)	<input type="checkbox"/>					
8. Inheritance cases	<input type="checkbox"/>					
9. Labour cases	<input type="checkbox"/>					
10. Litigious employment dismissal cases	<input type="checkbox"/>					
11. Application of interim relief cases i.e. injunction procedures	<input type="checkbox"/>					
12. Opposition to injunction cases	<input type="checkbox"/>					
13. Land registry cases	<input type="checkbox"/>					
14. Business register cases	<input type="checkbox"/>					
15. Enforcement of judgment action and of other enforceable titles	<input type="checkbox"/>					
16. Litigious divorce cases	<input type="checkbox"/>					
17. Non-litigious divorce cases	<input type="checkbox"/>					

18. Children custody cases	<input type="checkbox"/>					
19. Action for support and maintenance	<input type="checkbox"/>					
Public and administrative law cases (total numbers)	<input type="checkbox"/>					
20. Social welfare/security cases	<input type="checkbox"/>					
21. Fiscal/tax cases	<input type="checkbox"/>					
22. General disputes between a private person and the government	<input type="checkbox"/>					
23. Asylum and immigration law cases	<input type="checkbox"/>					
Criminal law cases (total numbers)	<input type="checkbox"/>					
24. Intentional homicide cases	<input type="checkbox"/>					
25. Assault	<input type="checkbox"/>					
26. Rape cases	<input type="checkbox"/>					
27. (Armed) robbery	<input type="checkbox"/>					
28. Theft	<input type="checkbox"/>					
29. (Domestic) Burglary	<input type="checkbox"/>					
30. Traffic offences (with defence)	<input type="checkbox"/>					
31. Drug offences	<input type="checkbox"/>					
32. Money laundering	<input type="checkbox"/>					
33. Terrorist acts	<input type="checkbox"/>					
34. Cyber crime	<input type="checkbox"/>					
35. Organised crime	<input type="checkbox"/>					

Remarks/comments on statistics and common case categories

4 To which extent do you register information on the length of proceedings for the following main case categories?

	No information collection on length of proceedings	Start and end of procedures only	Also including intermediary steps	Including information on waiting time
Non-criminal cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Specification/description of the starting point and the ending point of a court proceeding

Specification/description of the intermediary steps (if applicable)

5. Please describe the definition used to calculate the average length of proceedings/timeframes:

6. What kind of statistical information regarding *the length of proceedings* can be extracted from the available court performance information (e.g. only average length of proceedings (in days, months, years), median, spread, percentage of cases decided in a given period, etc)?

7. Can you provide statistical information on the following case categories concerning the average length of proceedings (in days and the percentage of cases of the year 2006 decided within a given period)?

Common case categories	Applicable	Percentage cases decided within a period of:						
		Average length in days	< 1 month	> 1 month and < 6 months	> 6 months and < 1 year	> 1 year and < 2 year	> 2 year and < 3 year	> 3 year
Civil law cases (total number)	<input type="checkbox"/>							
1. Commercial litigious and regular litigious civil claims	<input type="checkbox"/>							
2. Small claims	<input type="checkbox"/>							
3. Company cases	<input type="checkbox"/>							
4. Bank law cases	<input type="checkbox"/>							
5. Patent cases	<input type="checkbox"/>							
6. Contract cases	<input type="checkbox"/>							
7. Tort cases (esp. car accidents, medical liability, liability of other professionals)	<input type="checkbox"/>							
8. Inheritance cases	<input type="checkbox"/>							
9. Labour cases	<input type="checkbox"/>							
10. Litigious employment dismissal cases	<input type="checkbox"/>							
11. Application of interim relief cases i.e injunction procedures	<input type="checkbox"/>							
12. Opposition to injunction cases	<input type="checkbox"/>							
13. Land registry cases	<input type="checkbox"/>							
14. Business register cases	<input type="checkbox"/>							
15. Enforcement of judgment action and of other enforceable titles	<input type="checkbox"/>							
16. Litigious divorce cases	<input type="checkbox"/>							
17. Non-litigious divorce cases	<input type="checkbox"/>							
18. Children custody cases	<input type="checkbox"/>							
19. Action for support and maintenance	<input type="checkbox"/>							
Public and administrative law cases (total numbers)	<input type="checkbox"/>							
20. Social welfare/security cases	<input type="checkbox"/>							
21. Fiscal/tax cases	<input type="checkbox"/>							
22. General disputes between a private person and the government	<input type="checkbox"/>							
23. Asylum and immigration law cases	<input type="checkbox"/>							
Criminal law cases (total numbers)	<input type="checkbox"/>							
24. Intentional homicide cases	<input type="checkbox"/>							
25. Assault	<input type="checkbox"/>							
26. Rape cases	<input type="checkbox"/>							
27. (Armed) robbery	<input type="checkbox"/>							
28. Theft	<input type="checkbox"/>							
29. (Domestic) Burglary	<input type="checkbox"/>							
30. Traffic offences (with defence)	<input type="checkbox"/>							
31. Drug offences	<input type="checkbox"/>							
32. Money laundering	<input type="checkbox"/>							
33. Terrorist acts	<input type="checkbox"/>							
34. Cyber crime	<input type="checkbox"/>							
35. Organised crime	<input type="checkbox"/>							

8. Please give an indication of the level of complexity in the collection of data on the court performance:

	Very problematic	Problematic	Easy	Very easy	Not applicable
Incoming cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pending cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Length of proceedings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. How is the court performance information registered?

- Information manually registered (handwritten or typed registers)
- Information is registered in a computerised (court) database

10. Is court performance information (internal and or external) published and available for: judges, court staff, and ministry of justice, parliament and society and at what level of detail?

	Yes	Very detailed information	General information
Judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Higher courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
High Judicial Council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parliament	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Society/citizens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Remarks

11. What is the margin of error of the court performance data collected and used in your court?

12. Do you monitor timeframes with a long duration (in terms of numbers of days and according to the (performance) norms you are using) separately? (Tick box if yes). If not, go to question 14.

13. What is in your court defined as a case with a long duration (according to the norms (days, months, years) you are using)?

Definition:

14. Can you describe the case categories tending to last longer than the norms that in your court are defined as reasonable? Can you also give an indication of the percentage of these cases in relation to the total number of incoming cases in the court?

Case categories	% of the total number of incoming cases
1	
2	
3	
4	
5	

15. How often causes the following factors in your court delays in the court proceedings ?

Cause	Very often	Often	Some-times	Never	
Complexity of a case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Delaying tactics from the parties		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of information from the parties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Involvement of witnesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Involvement of experts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
High caseload	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Lack of court staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Lack of judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Internal court organisation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
The (complexity of the) law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Extraordinary events in the court		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waiting time or stand still time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

16. Can you rank the five main causes for delays (1 is the factor which contributes the most to a delay and 5 is the factor which contributes the least to a delay). Please give a score to five causes from 1 to 5

Cause	Score (1 to 5)
Complexity of a case	<input type="checkbox"/>
Delaying tactics from the parties	<input type="checkbox"/>
Lack of information from the parties	<input type="checkbox"/>
Involvement of witnesses	<input type="checkbox"/>
Involvement of experts	<input type="checkbox"/>
High caseload	<input type="checkbox"/>
Lack of court staff	<input type="checkbox"/>
Lack of judges	<input type="checkbox"/>
Internal court organisation	<input type="checkbox"/>
The (complexity of the) law	<input type="checkbox"/>
Extraordinary events in the court	<input type="checkbox"/>
Waiting time or stand still time	<input type="checkbox"/>
Other	<input type="checkbox"/>

17. Which measures have been undertaken to reduce the length in court proceedings and for which specific case categories? What are the results.

18. Hypothetical cases. Can you give a description of how these cases are treated by the court (only the cases that are applicable for your court)? Can you give also an indication of the timeframes for these cases?

Case A. Criminal law case - Voluntary violence

During a night out in a club, X consumed several alcoholic beverages and behaved aggressively towards several people present, provoking them verbally. A fight ensued between X and Y during which X punched and kicked Y very hard, before A and Z, employees of the club, overcame him.

Y, who had been heavily wounded and apparently had a broken nose, a broken wrist and many contusions, was immediately brought to hospital, while X, who suffered a few bruises on the forearms, was handed over to the police who had been called by the manager of the club.

Investigation of the facts:

- determining of the course of events, X and Y obviously giving contradictory versions of the setting off of the fight and of its progression,
- determining the nature and the seriousness of the injuries sustained by Y: for the needs of the case, we will assume that the injuries led to a 5-day hospitalisation and a month of sick leave,
- determining the nature and the seriousness of the injuries sustained by X: for the needs of the case, we will assume that the bruising suffered by X did not lead to any sick leave.

Description of the treatment of the case *in practice* and an estimation of the average length of proceedings in days for this particular case over all and for all the different stages

...

Case B Civil law case - Road accident

This case study is typical of a road traffic case heard in a civil court. The aim of this exercise is to have identified how a court in your Country would manage this case and the timeframes in days for each stage of the proceedings. The information should be presented in the form of a chronology in four parts. The parts should focus on the following stages: 1. Commencement of proceedings, covering pre action behaviour, issue and service of proceedings, 2. Pre trial stage from filing of defence to commencement of the final hearing, 3. Final hearing and 4. Preparation and perfection of the judgment

Party A's car was struck from behind by party B and is claiming damages for injuries, the costs of repair to the car and loss of wages. Party B intends to defend the action for damage because a third driver, party C struck him from behind, he also has his own claim against party C. Party C defends the indemnity claim on the grounds of contributory negligence in that party B did not have his handbrake on whilst sitting in traffic.

Process

This case study shows how the case progress in terms of steps but does not indicate how those steps are managed in your particular court as all judicial codes are different and you should apply this scenario to your code. It may be the case that in your code numerous hearings take place, etc.

Steps:

- claim issues against party B for [amount] euro for personal injury, [amount] euro for repairs to the car and [amount] euro for the loss of wages whilst recovering from injuries
- claim served on party B
- Party B wants more time to file a defence
- Party B presented a claim filed against party C for indemnity against the claim of party A and his own claim for [amount] euro personal injuries and [amount] euro for repair
- Party C defence to claim for indemnity and disputes value of party B's claim
- Medical experts are required and preliminary hearing(s) may be required to manage the process of the case
- Case heard and determined – judgement for party A against party B, but reduces the amount of personal injury damages. Judgement for party B against party C but reduces indemnity on grounds of party B's contributory negligence.
- Judgement sent out to parties
- Party B wants to appeal because of the refusal to grant full indemnity
- Party A would like to enforce judgement immediately
- Appeal court (if they become engaged) decides the judge was wrong on contributory negligence (this may ore not be referred back to the court of first instance)
- the parties decide on no further appeals, final judgement given and proceeds to enforcement.

Description of the treatment of the case *in practice* and an estimation of the average length of proceedings in days for this particular case over all and for all the different stages

Case C Administrative law case – Residence permit

Person A was born in X country on 12 April 1971 and has that country's nationality. She gave birth to a son, called B, on 2 October 1991; he has the same nationality as his mother.

In 1999, A stayed for the first time legally in country Y (Y = the country of the referring court). During her stay in the country Y, she worked professionally as a kitchen help in the Grand Hotel Palace in the capital city of the country.

After that first stay, A stayed for short periods of time in her country of origin in order to look after her son B and remained the rest of the time in country Y to work regularly in the same hotel. Her stay and professional activity were authorized by the relevant administrative authorities of country Y. She regularly gives part of her salary to the members of her family who are bringing up her son in order to pay his allowance and various other costs linked to her son's education and schooling. She also phones him regularly, in general once a week and does not fail to send him a present for his birthday as well as for the main religious festivals.

During her stay in Y country, A met person C, born on 3 January 1951 and from Z country (neighbouring country of Y country, member of the Council of Europe). He has been living in Y country since 1966; he has permission to live there on an unlimited basis.

Person A and person B Dupond got married on 12 December 2003. In January 2004, person A was also given an unlimited residence permit to live in Y country. On 15 June 2007, she asked for her son to join her in Y country, invoking the clause relative to family regrouping. The relevant administrative authority refuses the request on 16 July 2007. within the legal timeframe, person A opposes the decision.

To this day, person A has never been the subject of any penal request from his country. Since the end of his schooling, he has worked as a storekeeper in various big shopping malls in his country. His income is irregular, he has indebted himself to buy a motorcycle, a debt which he pays back at regular intervals.

Person A opposes all the negative decisions which refuse family regrouping, by invoking Art. 8 ECHR and the bilateral treaties in force between countries X and Y which only allow limited immigration subject to the authorisation of X country to Y country. She states, on the basis of the facts mentioned above, that she has a privileged strong bond with her son, despite the geographical distance. She invokes that her son could have a better professional training in Y country. She produces all the necessary information within the given deadlines, without asking for any further delay.

All the administrative and/or judicial authorities called upon to give a verdict on this case ruled against family regrouping, giving the following reason: The mother herself was instrumental in being separated from her son; the latter has no privileged relationship with his step-father person C; he has an adequate family setup in his own country; he is almost an adult; he does not have a profession which would justify authorising immigration; the fact that he would benefit from a better professional training in Y country does not justify family regrouping.

Description of the treatment of the case *in practice* and an estimation of the average length of proceedings in days for this particular case over all and for all the different stages

18. Remarks on the questionnaire

The questionnaire is understandable	<input type="checkbox"/>	Yes	<input type="checkbox"/>
The questionnaire is close to judicial reality	<input type="checkbox"/>		
The questionnaire is too long	<input type="checkbox"/>		
The questionnaire is usable for obtaining information from other courts	<input type="checkbox"/>		

Remarks and suggestions

TRIBUNAL ORDINAIRE DE TURIN
PRÉSIDENCE

« Programme Strasbourg – Mise à jour 2006 »

PRESCRIPTIONS ET CONSEILS
pour le traitement des affaires civiles d'ancienne date

1. Identification des dossiers et leur traitement diversifié

Tous les procès pendants depuis plus de trois ans devant les Sections civiles du Siège principal et des 4 Sections décentralisées, devront être marquées par un coupon ayant une couleur différente pour les groupes suivants:

(a) affaires antérieures à l'an 2000;

(b) affaires commencées en 2000-2001-2002;

(c) affaires commencées dans le premier semestre de l'an 2003.

Le Greffe, à l'aide du Juge d'instruction ou du Président de la Section se chargera de la révision systématique et des notes sur la couverture des dossiers, en actualisant le nom et le nombre des parties au procès, le prénom et le nom des défenseurs respectifs, les dates des audiences. Les couvertures usées ou avec des annotations incompréhensibles devront être remplacées, en gardant à l'intérieur celles originales.

La tractation de ces causes devra être privilégiée par rapport aux autres, en fixant, le cas échéant, des audiences expressément réservées dans ce but.

2. Programme de définition des affaires

Il faudra assurer la définition des affaires visées au point précédent selon le programme suivant:

pour les affaires du groupe a), avant le 31.12.2006

pour les affaires du groupe b) et du groupe c), avant le 30 juin 2007.

Exceptionnellement, pour assurer un passage graduel du « Programme Strasbourg » de projet transitoire à « *Programme perpétuel* », les affaires commencées au cours du deuxième semestre de l'année 2003 devront être définies avant le 31 décembre 2007 (durée maximale: 4 ans).

Toutes les autres affaires devront être définies dans les trois ans suivants, selon le programme suivant, à valoir perpétuellement:

affaires commencées en 2004, avant la fin de l'année 2007,

affaires commencées en 2005, avant la fin de l'année 2008,

affaires commencées en 2006, avant la fin de l'année 2009,

et ainsi de suite pour les années suivantes.

Par « définition » on entend la date de l'audience collégiale pour les affaires qui suivent l'ancienne procédure et de précision des conclusions pour les affaires qui suivent la nouvelle procédure.

3. Dépôt du jugement

Le dépôt du jugement (si possible en original, complet de l'intitulé et des conclusions) doit advenir dans les délais fixés par la loi; sa communication doit être faite dans les 5 jours qui suivent le dépôt du document sur support papier de la part du juge (art. 133, alinéa 2, c.p.c.).

Dans les cas (à retenir exceptionnels) de dépôt de la minute selon l'art. 119 - (dispositions de mise en oeuvre c.p.c.), les opérations successives ne devront pas se prolonger au delà des 30 jours successifs, réservés pour deux tiers à la « copie » (de la part du greffe) et pour un tiers à la collation et à la signature. Par minute on entend aussi le jugement dépourvu d'épigraphe ou de conclusions.

Pour les opérations de copie des « conclusions » le greffe pourra se servir de disquettes (si elles sont fournies par les défenseurs) ou de scanner.

4. Usage de l'art. 175 c.p.c. et rédaction du procès-verbal

Le juge d'instruction se servira constamment des pouvoirs de direction du procès selon l'art. 175 c.p.c. Il veillera que le procès-verbal soit complet: nom des défenseurs présents, motifs de l'absence de tel ou tel défenseur, synthèse des demandes des parties (en évitant les longues verbalisations inhérentes aux « motivations » des demandes, qui ne devront se dérouler qu'oralement), heure d'ouverture et de clôture de l'audience.

On rappelle que le procès-verbal est un acte du juge et non pas des parties, indépendamment de la personne qui le rédige matériellement; on conseille de le rédiger sous la dictée du juge.

Dans la phase de définition des conclusions, le juge devra décourager la phrase « *on précise selon les actes* », en prétendant que le défenseur indique et produise l'acte évoqué et les conclusions encore actuelles (si elles sont répandues sur plusieurs actes, on prétendra l'indication de la date et de la page des actes évoqués).

5. Renvois

Les renvois « à vide » ne sont pas admis. Toute demande de renvoi doit être motivée par le requérant. La motivation devra brièvement être inscrite au procès-verbal par le juge et être accompagnée d'une « prise de position » du défendeur adversaire, indiqué par son nom (par exemple « *Maître XY s'oppose* », « *se rallie....n'a aucune observation à faire.....s'en remet* »).

Une verbalisation analytique devra être faite pour la demande de « *renvoi pour la suite de la preuve par témoins* » (et formules analogues). Le juge inscrira au procès-verbal les coordonnées de l'injonction au témoin non comparu et les

raisons de son absence, aussi aux fins des éventuelles sanctions (on évitera toutefois de pénaliser le témoin qui serait déjà comparu auparavant et qui n'aurait pas été entendu).

6. (suite) étendue du délai du renvoi, fréquence des audiences

Le renvoi devra être accordé en des limites tout à fait contenues (bien que sans adopter l'ancienne disposition de l'art. 81 - dispositions de mise en oeuvre c.p.c., relative aux 15 jours - son application étant difficile dans le contexte historique actuel); en principe le renvoi ne devra pas dépasser la limite de 40/50 jours.

Le juge doit assurer pour chaque affaire une moyenne « en puissance » de huit/dix audiences par année (pour les causes du groupe a,b,c, une audience par mois).

7. (suite) renvoi selon l'art. 309 c.p.c.

Le renvoi pour manque de comparution des parties (selon l'art. 309 c.p.c.) sera de 30/45 jours au maximum, pour permettre les communications du greffe.

Le juge devra décourager « l'usage impropre » de l'art. 309 c.p.c. (à audiences alternes, pour obtenir subrepticement des « renvois à vide »). La deuxième « non-comparution » s'il y a eu entre temps une audience de renvoi, devra comporter l'ajournement de l'audience d'une ou deux semaines; à l'audience successive le juge invitera les parties comparues à préciser les conclusions définitives. Dans ce cas, les communications du greffe devront être faites en priorité absolue et le juge autorisera des formes exceptionnelles de notification au sens de l'art. 151 c.p.c.

8. (suite) renvoi pour « négociations en cours »

La demande de renvoi pour « négociations en cours » doit être accompagnée de la spécification des raisons de ces négociations, en indiquant la phase en laquelle elles se trouvent

Cette demande, si elle est admise, comportera la fixation d'une audience à brève échéance réservée à la comparution personnelle des parties afin de vérifier l'issue de ces négociations ou bien à quel point elles en sont.

9. Plaidoirie orale

Le juge ordonnera, en principe, la plaidoirie orale de l'affaire (art. 180, alinéa 2, c.p.c.) en sollicitant toujours la présence du défenseur/*dominus* ou d'un substitut au procès qui soit au courant de l'affaire et en mesure d'exposer oralement les défenses.

Lesdites « affaires par correspondance » seront en principe fixées dans la deuxième partie de la matinée pour faciliter l'arrivée du défenseur de son siège.

L'échange des écrits de défense sera permis à titre exceptionnel, en fixant un délai intermédiaire pour la réplique, et un ajournement de l'audience n'excédant pas 45/60 jours.

Il y a lieu d'éviter la pratique des « notes écrites d'audience » préparées par le défenseur sans l'autorisation du juge. Ces notes pourront être lues et commentées oralement; elles ne pourront pas être annexées au procès verbal.

Concernant la rédaction des mémoires prévus par les articles 183 et 184 c.p.c. les délais devront être accordés, en principe, en mesure minimale.

10. Déduction et déroulement des preuves par témoins

Le juge recommandera aux défenseurs d'observer rigoureusement l'art. 244 c.p.c. a) déduction de la preuve moyennant des chapitres séparés (si possible, courts, concis et numérotés) sans expressions d'évaluation ni opinions; b) indication, en même temps, des noms des témoins au courant de chaque fait; c) possibilité de rédiger (ou de compléter) la liste des témoins dans un délai intermédiaire successif, qui devra être court, et toujours antérieur au prononcé de l'ordonnance d'admission.

Il faudra éviter la pratique d'indiquer les témoins après l'ordonnance d'admission ou même à l'audience de début de la preuve.

Le juge se servira de son pouvoir de réduire les listes surabondantes au sens de l'art. 245, alinéa 1, c.p.c.

En cas de preuves déléguées, le juge veillera sur le respect du délai prévu pour leur déroulement; il s'assurera qu'entre-temps les autres activités d'instruction se déroulent à son céans (examen de témoins résidant sur place, interrogatoire formel, requête d'informations à l'Administration publique).

En cas de preuves par témoins requises pour la confirmation de factures, notes, reçus, exposés, rapports d'officiers publics, devis, certificats - le juge, avant de pourvoir à l'admission, invitera la partie adverse à prendre position de façon explicite sur la question de l'« authenticité » ou de la « provenance » du document en évitant la preuve par témoins si ces caractéristiques ne sont pas contestées (moyennant la formule: « *Maître YZ ne conteste pas la provenance et l'authenticité du document* »); si elles sont déjà admises, le juge invitera les parties à y renoncer.

11. Interrogatoire formel des parties

En effectuant l'interrogatoire formel, le juge signalera aux parties que ce moyen de preuve vise en substance à provoquer des aveux sur des faits défavorables pour le sujet interrogé; il évitera de verbaliser des circonstances superflues (par exemple celles favorables au sujet interrogé, si elles sont niées ou contestées par l'autre partie).

Les réponses à chaque chapitre (tous les chapitres devant être numérotés) doivent contenir explicitement l'expression « la circonstance est vraie (ou bien « elle n'est pas vraie ») Il faut éviter de verbaliser des réponses articulées où la partie interrogée, après la phrase « *la circonstance n'est pas vraie* » essaie d'expliquer une thèse ou des arguments qui ressortent déjà des écrits du défenseur.

12. Réserves d'instruction

En instance de réserve d'instruction, quand les instances sont complexes ou qu'elles résultent formulées moyennant une référence générale aux écrits de la défense, le juge ordonnera la discussion orale, en inscrivant au procès-verbal un résumé des demandes de chaque partie (en omettant d'inclure les motivations dans le procès verbal) avec une référence précise à l'éventuel mémoire descriptif versé au dossier.

En principe la réserve est levée dans un délai de cinq jours (hormis les cas de difficultés particulières) et l'ordonnance relative est communiquée aux parties en priorité absolue.

Le juge évitera, pour autant que possible, l'ajournement « *en instance d'examen du fond* » (avec un renvoi au collège ou à l'audience de définition des conclusions) en ce qui concerne la décision sur les instances d'instruction, mais il tâchera d'adopter immédiatement cette décision, avec une ordonnance explicite d'admission ou de rejet.

13. Questions préliminaires ou préjudicielles

En présence d'exceptions ou de questions préliminaires ou préjudicielles aptes *in abstracto* à définir le différend (par ex. prescription ou déchéance, défaut de compétence ou de juridiction) le juge fera un usage prudent et pondéré du pouvoir de décision séparée selon l'art. 187, alinéas 2,3 c.p.c., aussi pour les affaires de procédure monocratique. Il évitera d'utiliser la disposition dans les cas de manque de fondement manifeste des exceptions, qui seront plus opportunément tranchées « avec le *fond* » au sens de l'art. 187, alinéa 3 (dernière partie) c.p.c.

14. Expertises techniques

Le juge contrôlera systématiquement toutes les expertises techniques d'office en cours, dont le terme est échu.

A cette fin: il invitera l'expert technique d'office, aussi par une mesure en dehors de l'audience, à déposer son rapport écrit d'ici 40/50 jours ou, en cas d'impossibilité ou de difficulté de rédaction, à rendre les dossiers de la partie dans les meilleurs délais; il remplacera immédiatement l'expert technique d'office défaillant et il signalera le cas à la Présidence.

Le juge évitera, pour autant que possible, d'accorder à l'expert technique d'office une prorogation du délai pour le dépôt du rapport (sauf en des cas exceptionnels; il prétendra en tout cas que la demande soit motivée de façon spécifique et il communiquera dès le début cette pratique restrictive à l'expert technique d'office.

Le juge devra anticiper les demandes des défenseurs de renvoi « pour examiner l'expertise » en fixant l'audience de tractation après la date prévue pour le dépôt du rapport, en permettant aux défenseurs de déposer entre-temps des mémoires critiques.

Le juge évitera, pour autant que possible, les « suppléments d'expertise », en privilégiant la comparution personnelle de l'expert technique d'office en contradictoire avec les experts techniques privés.

En soulevant la question qui fait l'objet de l'expertise, le juge énoncera de façon explicite le mandat, comme suit: « *L'expert technique d'office devra rendre compte dans son rapport des observations des experts de partie, en commentant brièvement les mémoires techniques déposés devant lui en bonne date; il devra annexer à son rapport le procès-verbal de toutes les opérations effectuées* ».

En principe le juge devra veiller à soulever le point en question, à l'avance par rapport à l'audience du serment, en s'assurant de pouvoir y apporter des modifications successives à la demande des parties ou de l'expert technique d'office lui-même; il prendra contact avec l'expert technique d'office à l'avance (aussi par l'entremise du greffe) pour s'assurer de sa présence à l'audience et de sa disponibilité à accepter le mandat.

15. Informations à l'Administration publique

Le juge fera preuve d'une rigueur spéciale en sollicitant l'Administration publique à répondre immédiatement (aussi de manière interlocutoire) à l'ordonnance selon l'article 213 c.p.c., en signalant à la Présidence toutes défaillances ou retards importants.

En exerçant son pouvoir selon l'art. 213 c.p.c. le juge soulignera, dans l'ordonnance relative, qu'il s'agit d'informations relatives à « *des actes et des documents de l'administration* ».

16. Ordre d'exhibition à la partie ou à tiers

Le juge utilisera avec rigueur son pouvoir selon l'article 210 c.p.c. en prétendant le respect de l'art. 94 - dispositions de mise en oeuvre c.p.c. (indication spécifique du document à exhiber et le cas échéant, offre de la preuve détenue par la partie ou par tiers).

Si l'exhibition concerne la partie constituée, avant de pourvoir, le juge interpellera le défenseur intéressé par rapport à la possibilité d'une exhibition spontanée et à la raison du refus.

Dans l'ordonnance relative, le juge appliquera avec rigueur les normes de l'art. 210, 2ème alinéa c.p.c., en adoptant des formules claires et en fixant des délais précis (par exemple: « *ordonne l'exhibition des documents suivants, dénommés *** moyennant le dépôt au Greffe des originaux d'ici le **, avec la possibilité pour l'autre partie d'en tirer des copies dans les 15 jours successifs; avec restitution à l'intéressé d'ici le ***; ordonne que le greffe certifie tous les accomplissements* »).

Si la demande est formulée de façon générale, (par exemple: « *exhibition des registres comptables de l'autre partie* ») le juge prétendra l'indication exacte des types de documents requis et des années de référence (par exemple « *registre des factures selon l'art. 23 DPR 633/72 relatif à l'année* »***).

En cas de livres et d'écritures de comptabilité, le Juge se prévaut de l'art.212 c.p.c.

17. Interruption de l'affaire

En prononçant l'ordonnance d'interruption selon les articles 299, 300, 301 c.p.c. le juge indiquera avec exactitude les raisons (mort, faillite, interdiction de la partie; mort du défenseur) et, surtout, la date du fait interruptif.

18. Suspension de l'affaire

Le juge appliquera avec rigueur l'art. 295 en matière de suspension nécessaire, en évitant des interprétations extensives (par exemple, l'attente de l'issue du procès *inter alios*). Il indiquera toujours dans l'ordonnance les coordonnées du différend préjudiciel, l'autorité devant laquelle ce dernier est pendante, le nom des parties qui y sont impliquées (compte tenu de la nouvelle discipline de la préjudicielle pénale, différente par rapport au passé).

Si le juge estime opportun d'attendre un « événement » étranger au procès (dans la mesure où ce dernier ait de l'importance) on conseille de recourir, avec l'accord des parties, à une suspension facultative selon l'art. 296 c.p.c. (et non pas au simple renvoi); dans ce cas la suspension aura une durée de plus de 4 mois, et l'ordonnance relative devra contenir l'ordonnance de continuation.

En appliquant l'art. 152, dernier alinéa, c.p.c. (suspension en cas de récusation), on tiendra compte de l'avis des Chambres réunies de la Cour de cassation et de la Cour constitutionnelle concernant le caractère non automatique de la suspension.

19. Renonciation ou dessaisissement du mandat

Le dessaisissement du mandat, s'il est communiqué en audience moyennant une verbalisation, ne comporte en principe aucune pause importante du procès, sauf pour le temps strictement nécessaire pour la constitution d'un nouveau défenseur; on conseille un renvoi de 15/30 jours au maximum.

En cas de constitution d'un nouveau défenseur, la couverture du dossier sera immédiatement mise à jour.

20. Tentative de conciliation

Le juge se prévaut fréquemment, surtout dans les causes caractérisées par une considérable personnalisation du rapport contentieux entre particuliers, du pouvoir de disposer la comparution personnelle des parties (en prétendant une justification en cas d'absence) soit pour la tentative de conciliation selon l'art. 117 c.p.c., soit pour la verbalisation synthétique des respectives propositions de transaction (avec la technique suivante, pour les cas plus simples: « *Le requérant déclare: je définirais la cause si on me payait immédiatement la somme de € 100, tous frais compensés* ». *Le défendeur déclare: je définirais la cause si on me permettait de payer la somme de € 30, tous frais compensés et ainsi de suite, pour un montant respectivement de 80 et 40*) et, le cas échéant, de leur refus ou de leur acceptation avec réserve.

En dehors des causes relatives à des droits disponibles entre particuliers, le juge évitera l'utilisation généralisée du pouvoir selon l'art. 117 c.p.c.; il l'utilisera prudemment dans les affaires où des organismes publics seraient impliqués.

AUTORISE

La diffusion de la présente circulaire (sans le Rapport de transmission) aussi moyennant affichage dans les bureaux du Greffe et par son inclusion dans les dossiers individuels.

Cette circulaire remplace celle en date du 4 décembre 2001, ayant le même contenu.

Turin, le 10 mai 2006
Le Président du Tribunal
Mario Barbuto