



European judicial systems

**Edition 2010 (data 2008):
Efficiency and quality of justice**

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

French edition:

Les systèmes européens judiciaires – Edition 2010

ISBN 978-92-6986-0

The opinions expressed in this work are the responsibility of the authors and do not necessarily reflect the official policy of the Council of Europe.

All rights reserved. No part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc.) or mechanical, including photocopying, recording or any information storage or retrieval system, without prior permission in writing from the Public Information and Publications Division, Directorate of Communication (F-67075 Strasbourg Cedex or publishing@coe.int).

Council of Europe Publishing
F-67075 Strasbourg Cedex
<http://book.coe.int>

ISBN 978-92-871-6987-7
© Council of Europe, October 2010
Printed in France

Contents

Chapter 1. The evaluation process of the CEPEJ	5
1.1 The European Commission for the Efficiency of Justice	5
1.2 The Scheme for evaluating judicial systems	5
1.3 Data collection, validation and analysis.....	6
1.4 General methodological issues	7
1.5 General economic and demographic figures.....	11
1.6 Analysing the findings of the report	12
Chapter 2. Public Expenditures: courts, prosecution system and legal aid	15
2.1 Public expenditure on the operation of judicial system: overview	15
2.2 Public budget allocated to the courts.....	21
2.3 Public budget allocated to the public prosecution services	29
2.4 Public budget allocated to the legal aid system	31
2.5 Public budget allocated to all courts and public prosecution (without legal aid)	34
2.6 Public budget allocated to all courts and legal aid (excluding prosecution services).....	37
2.7 Public budget allocated to all courts, public prosecution services and legal aid	39
2.8 The effects of the 2009 / 2010 financial and economic crisis.....	46
2.9 Trends and conclusions.....	47
Chapter 3. Access to justice	49
3.1 Various types of legal aid	49
3.2 The budget for legal aid	52
3.3 Conditions for granting legal aid	56
3.4 Court fees, taxes and reimbursement	58
3.5 The revenues of the judicial system	61
3.6 Trends and conclusions.....	64
Chapter 4. Users of the courts: rights and public confidence	67
4.1 Provisions regarding the supply of information to the court users	67
4.2 Protection of vulnerable persons	69
4.3 Role of the public prosecutor in protecting the rights or assisting the victims of crimes	72
4.4 Compensation procedures	74
4.5 Compensation of the users for dysfunction and complaints.....	74
4.6 Assessment of the satisfaction of users	79
4.7 Trends and conclusions.....	81
Chapter 5. Courts	83
5.1 Court organisation	83
5.2 Budgetary powers within courts.....	91
5.3 Information and communication technology (ICT) in the courts (e-justice and e-courts).....	92
5.4 Quality and performance of the courts – Evaluation	97
5.5 Trends and conclusions.....	105
Chapter 6. Alternative Dispute Resolution (ADR)	107
6.1 Different forms of ADR.....	107
6.2 Mediation	109
6.3 Arbitration, conciliation and other forms of ADR	116
6.4 Trends and conclusions.....	116
Chapter 7. Judges	117
7.1 Professional judges	118
7.2 Professional judges sitting occasionally	121
7.3 Non professional judges	122
7.4 Trial by jury and participation of citizens.....	124
7.5 Trends and conclusions.....	126
Chapter 8. Non-judge staff	127
8.1 Non-judge staff: number and distribution	127
8.2 Rechtspfleger.....	132
8.3 Trends and conclusions.....	134
Chapter 9. Fair trial and court activity	135
9.1 Legal representation in court.....	136
9.2 Possibility to challenge a judge	137
9.3 Cases related to Article 6 of the European Convention on Human Rights	138

9.4	Civil (and commercial) litigious and non-litigious cases at first instance courts	142
9.5	Land register cases	150
9.6	Business register cases	152
9.7	Enforcement cases (non-criminal litigious cases)	153
9.8	Administrative law cases	155
9.9	Clearance rate for the total number of non-criminal cases.....	158
9.10	Criminal law cases (severe criminal offences) and misdemeanour cases (minor offences) at 1 st instance courts.....	160
9.11	Comparing case categories: procedure and length.....	166
9.12	Measures to increase the efficiency of judicial proceedings	176
9.13	Trends and conclusions.....	179
Chapter 10.	Prosecutors.....	181
10.1	Number of public prosecutors, persons with similar duties and staff.....	181
10.2	Role and powers of public prosecutors.....	187
10.3	Case proceedings managed by public prosecutors.....	189
10.4	Trends and conclusions.....	194
Chapter 11.	Status and career of judges and prosecutors	195
11.1	Recruitment and nomination.....	195
11.2	Training.....	199
11.3	Salaries of judges and prosecutors	204
11.4	Bonuses and other profits for judges and prosecutors	216
11.5	Career of judges and prosecutors	219
11.6	Responsibility: disciplinary proceedings and sanctions.....	222
11.7	Trends and conclusions.....	234
Chapter 12.	Lawyers	237
12.1	Number of lawyers.....	237
12.2	Organisation of the profession and training.....	241
12.3	Practising the profession	244
12.4	Trends and conclusions.....	252
Chapter 13.	Execution of court decisions	253
13.1	Execution of court decisions in civil, commercial and administrative law.....	253
13.2	Execution of court decisions in criminal matters	266
13.3	Trends and conclusions.....	268
Chapter 14.	Notaries	269
14.1	Status, number and functions.....	269
14.2	Supervision of the profession of notary	273
Chapter 15.	Court interpreters	275
15.1	Number of court interpreters.....	275
15.2	Title, function and quality of court interpreters	276
15.3	Selection of court interpreters by the courts.....	278
15.4	Trends and conclusions.....	278
Chapter 16.	Judicial Reforms.....	279
Chapter 17.	Towards more efficiency and quality in the European judicial systems	289
17.1	Access to justice	289
17.2	Effective functioning of the judicial systems	291
17.3	Quality of the public service of justice delivered to the users.....	292
17.4	Protection of the independence of the judiciary and the statute of judges and prosecutors..	294
Appendices	295	
Additional tables.....	295	
Scheme for evaluating judicial systems	339	
Explanatory note.....	369	

Chapter 1. The evaluation process of the CEPEJ

This first chapter describes the evaluation process carried out by the CEPEJ to prepare this report. It lays out the working principles and methodological choices used in this exercise, and introduces the general demographic and economic data.

1.1 The European Commission for the Efficiency of Justice

The European Commission for the Efficiency of Justice (CEPEJ) was set up by the Committee of Ministers of the Council of Europe in September 2002, and is entrusted primarily with proposing concrete solutions, suitable for use by Council of Europe member states for:

- promoting the effective implementation of existing Council of Europe instruments used for the organisation of justice (normative "after sale customer service");
- ensuring that public policies concerning the courts take account of the needs of users of the justice system; and
- helping to reduce congestion in the European Court of Human Rights by offering states effective solutions prior to application to the Court and preventing violations of Article 6 of the European Convention on Human Rights.

The CEPEJ is today a unique body for all European States, made up of qualified experts from the 47 Council of Europe member states, to assess the efficiency of judicial systems and propose practical tools and measures for working towards an increasingly efficient service to the citizens.

According to its Statute, the CEPEJ must "(a) examine the results achieved by the different judicial systems (...) by using, amongst other things, common statistical criteria and means of evaluation, (b) define problems and areas for possible improvements and exchange views on the functioning of the judicial systems, (c) identify concrete ways to improve the measuring and functioning of the judicial systems of the member states, having regard to their specific needs". The CEPEJ shall fulfil these tasks, for instance, by "(a) identifying and developing indicators, collecting and analysing quantitative and qualitative figures, and defining measures and means of evaluation, and (b) drawing up reports, statistics, best practice surveys, guidelines, action plans, opinions and general comments".

The statute thus emphasizes the comparison of judicial systems and the exchange of knowledge on how they function. The scope of this comparison is broader than 'just' efficiency in a narrow sense: it also emphasizes the quality and the effectiveness of justice.

In order to fulfil these tasks, the CEPEJ has undertaken a regular process for evaluating judicial systems of the Council of Europe's member states.

1.2 The Scheme for evaluating judicial systems

In comparison with the previous exercise (2008 Edition of the Rapport, based on the 2006 data), the CEPEJ wished to settle the scheme meant to gather, from the member states, qualitative and quantitative information on the daily functioning of judicial systems. The main goal in keeping such consistency was to ensure the collection of homogeneous data from one exercise to another, thus allowing for comparisons over time, on the basis of the compilation and analysis of initial statistical series (see below). Hence, the evaluation scheme used for this current cycle¹ remains very similar to the one used for the 2006-2008 cycle. Only a few questions were clarified and more room was given to the national correspondents to comment on the information provided. In addition, the explanatory note² was completed to minimize as far as possible the difficulties of interpretation and to facilitate a common understanding of the questions by all national correspondents, allowing therefore to guarantee uniformity of the data collected and processed. To answer each question, a careful reading of the explanatory note has been recommended to all national correspondents.

¹ See Appendix.

² See Appendix.

The Scheme for understanding a judicial system was designed and used by the CEPEJ on the basis of the principles identified in the Resolution Res(2002)12 which establishes the CEPEJ, and relevant Resolutions and Recommendations by the Council of Europe in the field of efficiency and fairness of justice.

The Evaluation Scheme was prepared by the CEPEJ at its 13th plenary meeting (June 2009) and approved by the Ministers' Deputies at their 1067th meeting (September 2009). The scheme and the explanatory note were submitted to the member states in September 2009, in order to receive new data at the beginning of 2010, using the electronic version of this scheme, allowing each national correspondent to access a secure website to transfer its responses to the Secretariat of the CEPEJ.

1.3 Data collection, validation and analysis

This report is based on figures from 2008. As the majority of the states and entities were only able to issue judicial figures for 2008 in the autumn of 2009, the CEPEJ was not able to gather figures before the beginning of 2010. This left only three months for member states to collect and consolidate their individual replies to the Evaluation Scheme and less than four effective working months for the experts to process them and prepare the report.

Methodologically, the collection of figures is based on reports by member states and entities, which were invited to appoint national correspondents, entrusted with the coordination of the replies to the Scheme for their respective states or entities.

The CEPEJ instructed its Working Group, under the chairmanship of Mr Jean-Paul JEAN (France), with the preparation of the report³. The Secretariat of the Council of Europe appointed Ms Natalia DELGRANDE (Moldova, Researcher at the University of Lausanne in Switzerland⁴), as scientific expert in charge of analysing the national figures submitted by member states and preparing the preliminary draft report, together with the Secretariat of the CEPEJ⁵.

The national correspondents were considered to be the main interlocutors of the Secretariat and the experts when collecting new figures, and the first to be held liable for the quality of figures used in the survey. All individual replies were recorded in a database by the scientific expert.

The scientific expert has done extensive work to verify the quality of data submitted by the states. Therefore, she was frequently in contact with national correspondents to validate or clarify the figures (see box below) and their adjustment continued until shortly before the final version of the report. The CEPEJ experts agreed that the figures would not be changed *ex officio*, unless the correspondents explicitly agreed to such changes. Thus, all data changes have been approved by the relevant national correspondents. Yet, following discussions with the national correspondents, the experts have decided to exclude some data that seemed insufficiently accountable to be worthy of publishing.

The meeting between the scientific experts, the CEPEJ-GT-EVAL and the network of national correspondents (Strasbourg, May 2010) was an essential step of the process, aimed at validating figures,

³ The Working Group of the CEPEJ on the evaluation of judicial systems (CEPEJ-GT-EVAL) was composed of:

Mr Fausto de SANTIS, Director General, Ministry of Justice, Italy (President of the CEPEJ)

Ms Elsa GARCIA-MALTRAS DE BLAS, Public Prosecutor, Legal Advisor at the Directorate General of International Legal Cooperation, Ministry of Justice, Spain

Ms Beata Z. GRUSZCZYŃSKA, Institute of Justice, Ministry of Justice, Poland

Mr Adis HODZIC, Head of the Budget and Statistics Department, Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina

Mr Jean-Paul JEAN, Public Prosecutor, Court of Appeal of Paris, Associated Professor at the University of Poitiers, France (President of the CEPEJ-GT-EVAL)

Mr Georg STAWA, Public Prosecutor, Directorate for Central Administration and Coordination, Federal Ministry of Justice, Austria

Mr Frans van der DOELEN, Programme Manager of the Department of the Justice System, Ministry of Justice, The Netherlands.

⁴ The CEPEJ thanks the *Ecole des Sciences Criminelles (ESC)* of the University of Lausanne for having given to the scientific expert the necessary technical tools for making the national data analyses within the framework of this work.

⁵ The Swiss authorities have made available to the Secretariat of the CEPEJ Ms Barbara SCHERER to work as Special Adviser.

explaining or amending, on the same questions, significant variations between 2004, 2006 and 2008 data, discussing decisions of the experts and improving the quality of the figures provided.

Responding states

By May 2010, 45 member states had participated in the process: **Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus⁶, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova⁷, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia⁸, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia"⁹, Turkey, Ukraine and the United Kingdom¹⁰**. It should be noted that **Ukraine** has only been able to provide few answers to the scheme, which explains why information on this country is missing in some parts of this report.

Only **Germany** and **Liechtenstein** have not been able to provide data for this report. **Germany** has in fact pointed out, before the start of the cycle that, given the workload multiplied by the federal-based organization of the country (each state is responsible for collecting legal data), it could not register in the process established on a biennial time-limit. Hopefully they will be included in the next exercise, as they did for the previous cycle. **San Marino**, which was not able to participate in the previous cycle, has been able to provide their data this time.

It should be noted that in federal states or states with a decentralised system of judicial administration, the data collection has different characteristics compared to those of centralised states. The situation is frequently more complex in those cases. In these states, data collection at a central level is limited, while at the level of the federated entities, both the type and the quantity of figures collected may vary. In practice, several federations have sent the questionnaire to each of their entities. Some states have conceived their answers for the whole country from the figures made available from the entities, taking into account the number of inhabitants for each component. To facilitate the data collection process, a modified version of the electronic scheme has been developed, at the initiative of **Switzerland**.

All the figures provided by individual member states have been made available on the CEPEJ website: www.coe.int/cepej. National replies also contain descriptions of the legal systems and comments that contribute greatly to the understanding of the figures provided. They are therefore a useful complement to the report although not all of this information has been included in it, in the interest of conciseness and consistency. Thus, a genuine data base on the judicial systems of the Council of Europe member states is easily accessible to all citizens, policy makers, law practitioners, academicians and researchers.

1.4 General methodological issues

Objectives of the CEPEJ

This report does not claim to have exploited exhaustively all the relevant information that has been put forward by member states, given the large amount of data submitted. As for the previous editions of this report, the CEPEJ tried to address the analytical topics bearing in mind, above all, the priorities and the fundamental principles of the Council of Europe. Beyond the figures, the interest of the CEPEJ report lies in the display of the main trends, evolutions and common issues for European states.

⁶ The data provided by Cyprus does not include data of the territory which is not under the effective control of the Government of the Republic of Cyprus.

⁷ The data provided by Moldova does not include data of the territory of Transnistria which is not under the effective control of the Government of Moldova.

⁸ The data provided by Serbia does not include data of the territory of Kosovo.

⁹ Mentioned as "FYROMacedonia" in the tables and graphs below.

¹⁰ The results for the United Kingdom are presented separately for England and Wales, Scotland and Northern Ireland, as the three judicial systems are organized on different basis and operate independently from each other. Due to circumstance beyond the control UK-Northern Ireland, officials have not had an opportunity to verify the data relating to that jurisdiction in the last version of the draft.

This report is part of an ongoing and dynamic process carried out by the CEPEJ. Throughout the elaboration of the report, experts and national correspondents were encouraged to bear in mind the long term objective of the evaluation process: defining a set of key quantitative and qualitative data to be regularly collected and equally processed in all member states, bringing out shared indicators of the quality and efficiency of court activities in the member states of the Council of Europe and highlighting organisational reforms, practices and innovations, which enable improvement of the service provided to court users.

The quality of data

The quality of the figures in this report depends very much on the type of questions asked in the data collection instrument, the definitions used by the countries, the system of registration in the countries, the efforts supplied by national correspondents, the national figures available to them and the manner in which the figures have been processed and analysed. In spite of the improvements resulting from previous experiences, it is reasonable to assume that some variations occurred when national correspondents interpreted the questions for their country and tried to match the questions to the information available to them. The reader should bear this in mind and always interpret the statistical figures given in the light of their attached narrative comments and the more detailed explanations given in the individual national replies.

The CEPEJ has chosen to process and present only the figures which offered a high level of quality and accountability. It decided to disregard the figures which were too disparate from one country to another, or from one evaluation exercise to another, or did not present sufficient guarantee of reliability. The information that was not included in this report has been collected and is available on the CEPEJ website (www.coe.int/cepej).

The control and the coherence of data

A specific effort of validation has been committed to ensure the coherence and accountability of data and allow to compose and analyse, for the first time within this process, a few statistical series. These series are designed to measure evolutions, if at all possible between 2004 and 2008, and, more often, between 2006 and 2008, depending on the homogeneity of the data available. As regards the accuracy of figures, statistical rules (see below) have been applied to compare the 2006 and 2008 data, which has enabled us to identify the answers showing large or small variations which can hardly be explained. Through these comparisons, methodological problems have been identified and corrected. On the other hand, in some cases, strong variations have been explained by the evolution of economic situations - for instance, strong economic growth in **Azerbaijan** thanks to the price of oil, or **Montenegro** which has benefited from great external financial support - structural and organisational reforms, political decisions or the implementation of new mechanisms, procedures or measures.

Methodology and procedure for validating data

Before any steps could be taken to validate data, it has been necessary to re-build the intervention framework for the three evaluation cycles (2004, 2006 and 2008 data). To do so, a data base has been set up, which brings together all information available from the first to the last cycle. As the questionnaire was slightly modified and/or adjusted from one cycle to another one, the scientific expert recoded several variables and used some data mapping methods on the figures provided for the three exercises.

All data (some 2 million entries, without counting comments) have been submitted to the validation procedure. The methodology chosen, which is specially adapted for this exercise is the "method of time-series mapping on three levels". This methodology brings together three validation procedures for quantitative data. First of all, significant differences (of more than 20%) between the entries for the same item and for the three exercises have been identified. In order to guarantee the validity of this procedure, data have also been examined according to the *Grubbs' test*. This has enabled to isolate the true "outliers" (extreme values which, in addition to being different from previous entries, [differences of more than 20%] were difficult to be compared with, or were not comparable at all with the entries for the year 2008 for the other states). If some values presenting differences of more than 20% from one year to another one could be explained by the national correspondents, all other "outliers" have been corrected, without exception. The third validating element through the "time-series mapping on three levels" is the check of the internal validity. This procedure has mainly been applied to complex items, namely those made of several entries. Among the variables submitted to this procedure appear budgetary items and the cases addressed by the courts. For this purpose, a specific validation scheme has been set up by the scientific expert. The elements which are part of the complex variables have been horizontally verified (correspondence between the sum of the elements

with the entry corresponding to the total) and sometimes also vertically verified (inclusion or exclusion of the elements within the total).

The validation has been made according to very rigorous methodology. However, it is not possible to guarantee the full reliability of all data. One must take into account the fact that the exactitude of some entries was confirmed by national correspondents without specific explanation as regards the difference which had been noted. Generally, such entries have been either excluded from the analyses, or kept with disclaimers in the text as regards the interpretation of the results of the analyses taking these elements into account.

The CEPEJ has set up in 2008 a peer evaluation process concerning the systems for collecting and processing judicial data in the member states. This process aims at supporting the states in the improvement of the quality of their judicial statistics and the development of their statistical system so that such statistics are in line with common indicators defined through the CEPEJ's Evaluation Scheme. It also allows to facilitate the exchange of experiences between national systems, share good practices, identify benchmarks and facilitate the transfer of knowledge. Thus it contributes to ensuring the transparency and accountability of the CEPEJ process for evaluating European judicial systems.

To date, the systems have been examined by the peers for ten volunteer member states in order to analyze the organisation of CEPEJ's data collection and communication to the Secretariat of the Council of Europe: **Bosnia and Herzegovina, France, Malta, Poland, and the Russian Federation**. Furthermore, a visit was organized in **Norway**, bringing together as well experts from **Denmark, Finland, Iceland, and Sweden**. During these visits, the experts appointed by the CEPEJ-GT-EVAL precisely analyzed the practical way of responding to selected questions of the Evaluation Scheme and on the content of these answers, namely questions related to budgetary issues, types and number of judges, litigious civil cases and methods of calculating the length of proceedings.

Moreover, the CEPEJ gave its assent to the guidelines on judicial statistics for the services in member states which collect and process statistics in the justice field.¹¹ These guidelines aim at ensuring the quality of the judicial statistics collected and processed by the member states, as a tool for public policy. They should also facilitate comparison of data between European countries by ensuring adequate homogeneity despite the substantial differences between countries (as regards judicial organisation, economic situation, demography, etc.).

Comparing data and rules

Indeed the comparison of quantitative figures from different countries revealing varied geographical, economic and legal situations is a delicate job. It should be approached with great caution by the experts writing the report and by the readers consulting it and, above all, by those who are interpreting and analysing the information it contains.

In order to compare the various states and their various systems, the particularities of the systems, which might explain differences from one country to another one (different judicial structures, organisation of courts and the use of statistical tools to evaluate the systems, etc.), must be borne in mind. Special efforts have been committed to define words and ensure that concepts had been addressed according to a common understanding. For instance, several questions have been included in the Scheme, with clear definitions in the explanatory note, to address the number of courts (both through an institutional and a geographical perspective) or the number of judges (different categories have been specified). Particular attention has been paid to the definition of the budget allocated to courts, so that the figures provided by member states correspond to similar expenditures. However, the particularities of some systems might prevent achieving shared concepts. In these cases, specific comments have been included with the figures. Therefore only an active reading of this report can allow analyses and conclusions to be drawn; figures cannot be passively taken one after the other, but must be interpreted in the light of the subsequent comments.

The report aims to give an overview of the situation of the European judicial systems, not to rank the best judicial systems in Europe, which would be scientifically inaccurate and would not be a useful tool

¹¹ Document CEPEJ(2008)11.

for the public policies of justice. Indeed, comparing does not mean ranking. However, this report gives the reader tools for an in-depth study which would then have to be carried out by choosing relevant clusters of countries: according to the characteristics of the judicial systems (for instance civil law and common law countries; countries in transition or with old judicial traditions), geographical criteria (size, population) or economic criteria (for instance within or outside the Euro zone). Secondly, the CEPEJ will carry out, as for the previous cycle, its own analysis on the basis of this report.

The CEPEJ scheme was completed by small states. **Andorra, Monaco and San Marino** are territories which are not operating at a scale comparable to the other states surveyed in the report. Consequently the figures of these states must be interpreted cautiously, taking into account the specificities of the national structural indicators.

Monetary values are reported in Euros. Because of this, some problems have occurred while using exchange rates for states outside the eurozone. Exchange rates vary from year to year. Since the report focuses mainly on 2008, the exchange rates of 1 January 2009 were used. For states experiencing high inflation rates, this choice may generate very high figures which must be interpreted within their specific context. The high variation of the exchange rate might have a considerable effect on the figures for the countries outside the eurozone. For some of them, a more favourable exchange rate than in 2007 has strengthened the growth of budgetary or monetary increase once expressed in Euros. Therefore, it is necessary to pay attention to this issue while comparing monetary figures of the 2008 and 2010 editions.

The evolution of judicial systems

Since 2008, a few member states of the Council of Europe have implemented fundamental institutional and legislative reforms of their legal systems. For these states, the situation described in this report may be completely different from today's situation when reading the report. Therefore the states were invited to indicate whether reforms had been implemented since 2008 or whether other reforms are under way. This enables us to identify main trends related to prioritised reforms in the various justice systems.

Displaying the data

In the 2008–2010 evaluation cycle, the CEPEJ has tried to take a global approach of 47 states and entities' judicial systems. In order to highlight some particularities of European judicial systems, several indicators have been developed or calculated: ratios, rates, averages and/or medians, indexes, etc. Several tables include replies as provided by the countries. Other tables show the replies processed together or presented according to aggregated figures. Graphs show, more often than not, global answers at a European level. Some indicators are shown using maps.

In order to propose some references for reading the results of the analyses at a European level, the CEPEJ has used the following indicators of central tendency:

- **Average:** represents the arithmetic mean which is the outcome of dividing the sum of the observations of a distribution (data supplied) by the total number of countries which have indicated the information included into the distribution. The average is sensitive to extreme values (too high or too low).
- **Median:** represents the middle point of a set of ordered observations (ranked according to an increasing or decreasing order). The median is the value that divides the data supplied by the countries concerned into two equal groups so that 50% of the countries are above this value and 50% are below it. When there is an odd number of observations, the median is the value that is just in the middle of these two groups. The median is sometimes better to use than the average, as it is less sensitive to extreme values. The effect of the extreme values is then neutralised.

In addition to the average and the median, the minimum and maximum have been included in several tables:

- **Minimum:** the lowest recorded value in the given column of the Table.
- **Maximum:** the highest recorded value in the given column of the Table.

Often in this report is presented the indicator of *average annual variation*

- **Average annual variation:** represents the result of the calculation (in %) of the variation observed between several given years. This value enables to establish the trend of the general evolution on the period examined. Then, a country which shows a great decrease between 2004 and 2006 and a slight increase between 2006 and 2008 will have, however, a negative indicator of the average annual variation. This indicator takes into account the values of each year and not only the values of the first and the last year, which allows a more accurate reading of the given phenomenon on several years.

On several graphs, the reader will also find the coefficient of determination (R^2).

- **Coefficient of determination:** can have values between 0 (0%) and 1 (100%). The stronger is the explanation link between two variables, the closer to 1 the coefficient of determination will be. If, for instance, the R^2 between two variables is equal to 0.7, this can be interpreted as follows: the variable Y explains 70% of the variability of the variable X.

The CEPEJ has also attempted to include a more complex analysis: factorial analysis followed by classifications. Such analysis, often used in social sciences, enables us to consider a greater number of data and highlight trends, similarities or differences. Therefore the models which result from such a presentation are obviously approximations. The advantage of this method lies in its capacity to present a synthesis of the information on a unique graph or table and to avoid presenting selected raw data one by one. This allows for the creation of clusters. In this report, groups of countries have been created around main elements.

1.5 General economic and demographic figures

These figures, which almost every state was able to provide, give comprehensive information on the general context in which this study was conducted. In particular, they enable, as it was the case in the previous exercise, to relativize the other figures and put them in context, particularly budgetary figures and figures relating to court activity.

The figures also enable the reader to measure the variations in the population and the size of the countries concerned, from **Monaco**, with less than 32.000 inhabitants, to the **Russian Federation** with more than 142 million. This demographic variable must always be borne in mind. The population concerned by this study is roughly 730 million people, most of the people being involved, since only **Germany** and **Liechtenstein** are absent from the 2010 Edition.

The data also demonstrate the large differences regarding wealth and living standards in the various countries through per capita GDP and partially by the amount of the global public expenditure (national and regional). The average annual gross salary gives an interesting overview of the wealth and living standards as it involves economic, social (welfare system) and demographic figures. Though this indicator is not perfect, it nevertheless highlights, again, substantial disparities between the citizens of the member states.

Finally, the influence of the monetary exchange rate between the "Euro zone" countries and the "others" must be taken into account, as it strongly modifies what salaries represent vis-à-vis the quality of life for the inhabitants of each country.

Therefore comparisons must always be limited to what can be compared. The results that each member state would want to measure against other states that appear comparable to it must be balanced, taking into account the specific context. There are obviously threshold effects according to the level of population or level of living standards which are measured through ratios regarding the number of inhabitants and the per capita GDP.

The data regarding public expenditure (Q2) seem to be tied to various public accounting techniques, both as regards defined perimeters and, for instance, the presentation of deficits. The problematic effects of national and regional budgets on public competences as a whole also gives rise to further methodological problems. Therefore, these figures are only given as information in the table of general economic and demographic figures.

It was decided, mainly for budgetary comparisons with graphs, to use only two ratios usually used in such surveys for comparisons: the number of inhabitants and the per capita GDP.

The figures on population were provided by all member states. They will be used in all ratios which measure an impact per inhabitant (most of the time per 100 000 inhabitants).

Figures related to the GDP per inhabitant were provided by all the participating states. Here again, very large disparities in the per capita GDP can be noted and must always be kept in mind when considering the subsequent results. For instance, two extremes can be noted: on the one hand the countries with a per capita GDP below 2.000 € (**Georgia**, **Moldova** and **Ukraine**), and on the other hand, **Luxembourg** with a reported per capita GDP at least 40 times higher.

The national annual gross salary has also been used several times for comparing the salaries of judges and prosecutors. This was made so as to guarantee an internal comparability with the standards of living conditions in each country.

Table 1.1 Economic and demographic data (Q1 to Q4) in 2008, in absolute values

Country	Population	Total annual state public expenditure including regional and federal entity levels	Total annual public expenditure at regional or federal entity levels	Per capita GDP	Average gross annual salary
Albania	3 170 048	2 852 606 €		2 785 €	5 180 €
Andorra	84 484	416 132 760 €		30 560 €	23 371 €
Armenia	3 200 000	1 863 389 710 €	110 000 000 €	2 592 €	2 411 €
Austria	8 336 549	147 682 000 000 €		33 810 €	43 200 €
Azerbaijan	8 629 900	8 884 016 064 €		3 566 €	2 856 €
Belgium	10 666 866	172 426 400 000 €	50 143 000 000 €	32 123 €	37 330 €
Bosnia and Herzegovina	3 842 265	5 395 816 610 €		3 287 €	6 828 €
Bulgaria	7 640 238	12 947 643 000 €		4 454 €	3 343 €
Croatia	4 434 508	18 977 025 434 €	2 436 048 306 €	10 683 €	12 533 €
Cyprus	796 900	7 454 200 000 €		21 747 €	24 768 €
Czech Republic	10 429 692	59 015 281 401 €	14 231 666 045 €	13 187 €	10 524 €
Denmark	5 475 797	119 870 000 000 €		42 577 €	47 769 €
Estonia	1 340 935	7 680 626 639 €		11 987 €	9 903 €
Finland	5 300 484	45 782 727 000 €		34 769 €	34 512 €
France	63 937 000	387 200 000 000 €	220 600 000 000 €	32 500 €	31 837 €
Georgia	4 382 103	2 755 598 290 €	569 017 094 €	1 854 €	NA
Greece	11 213 785	139 094 000 000 €		21 281 €	24 491 €
Hungary	10 045 401	39 359 114 548 €		10 555 €	9 392 €
Iceland	319 368	2 554 302 941 €		8 692 €	27 216 €
Ireland	4 422 100	73 086 000 000 €		41 115 €	33 209 €
Italy	59 619 290	536 736 702 010 €		27 423 €	22 746 €
Latvia	2 270 894	5 764 810 980 €		10 219 €	8 186 €
Lithuania	3 361 500	7 696 032 000 €	1 873 322 000 €	9 590 €	7 476 €
Luxembourg	492 000	13 550 000 000 €		80 600 €	42 000 €
Malta	413 609	2 498 463 000 €		13 231 €	12 874 €
Moldova	3 572 703	1 709 894 753 €		1 151 €	1 985 €
Monaco	31 103	892 638 284 €		60 332 €	NA
Montenegro	620 145	680 351 924 €		4 908 €	7 308 €
Netherlands	16 405 399	455 299 000 000 €		36 322 €	49 200 €
Norway	4 737 171	87 927 461 139 €		64 900 €	42 331 €
Poland	38 136 000	66 066 309 500 €		7 910 €	8 375 €
Portugal	10 617 575	76 557 000 000 €		15 668 €	19 900 €
Romania	21 528 627	38 496 005 435 €		6 364 €	5 743 €
Russian Federation	142 008 800	182 783 170 545 €	150 940 800 193 €	7 085 €	5 004 €
San Marino	31 269	626 405 471 €		22 400 €	20 748 €
Serbia	7 350 222	13 700 000 000 €		4 597 €	4 056 €
Slovakia	5 400 998	12 056 595 000 €		12 466 €	8 676 €
Slovenia	2 025 866	8 470 049 312 €		18 637 €	16 692 €
Spain	45 283 259	407 849 000 000 €		24 038 €	29 364 €
Sweden	9 182 927	146 042 000 000 €		31 713 €	29 999 €
Switzerland	7 701 900	36 287 000 000 €	61 505 000 000 €	47 082 €	46 058 €
FYROMacedonia	2 045 177	1 214 153 094 €		3 180 €	5 126 €
Turkey	71 517 100	83 547 878 000 €		7 050 €	NA
Ukraine	46 337 340	25 267 874 720 €		1 889 €	1 971 €
UK-England and Wales	54 439 700		643 786 033 927 €	22 583 €	26 121 €
UK-Northern Ireland	1 759 148		18 545 031 930 €	16 826 €	23 069 €
UK-Scotland	5 168 500		559 650 000 €	20 109 €	25 121 €

1.6 Analysing the findings of the report

The ultimate aim of the regular evaluation exercise is to develop recommendations and set up concrete tools to improve the quality, equity and efficiency of judicial systems. Some qualitative indications and main trends are highlighted in the report. They appear in the conclusion. However it is only during a second stage that the CEPEJ will be able to make a more in-depth analysis, on the basis of the entire data brought into perspective.

Keys

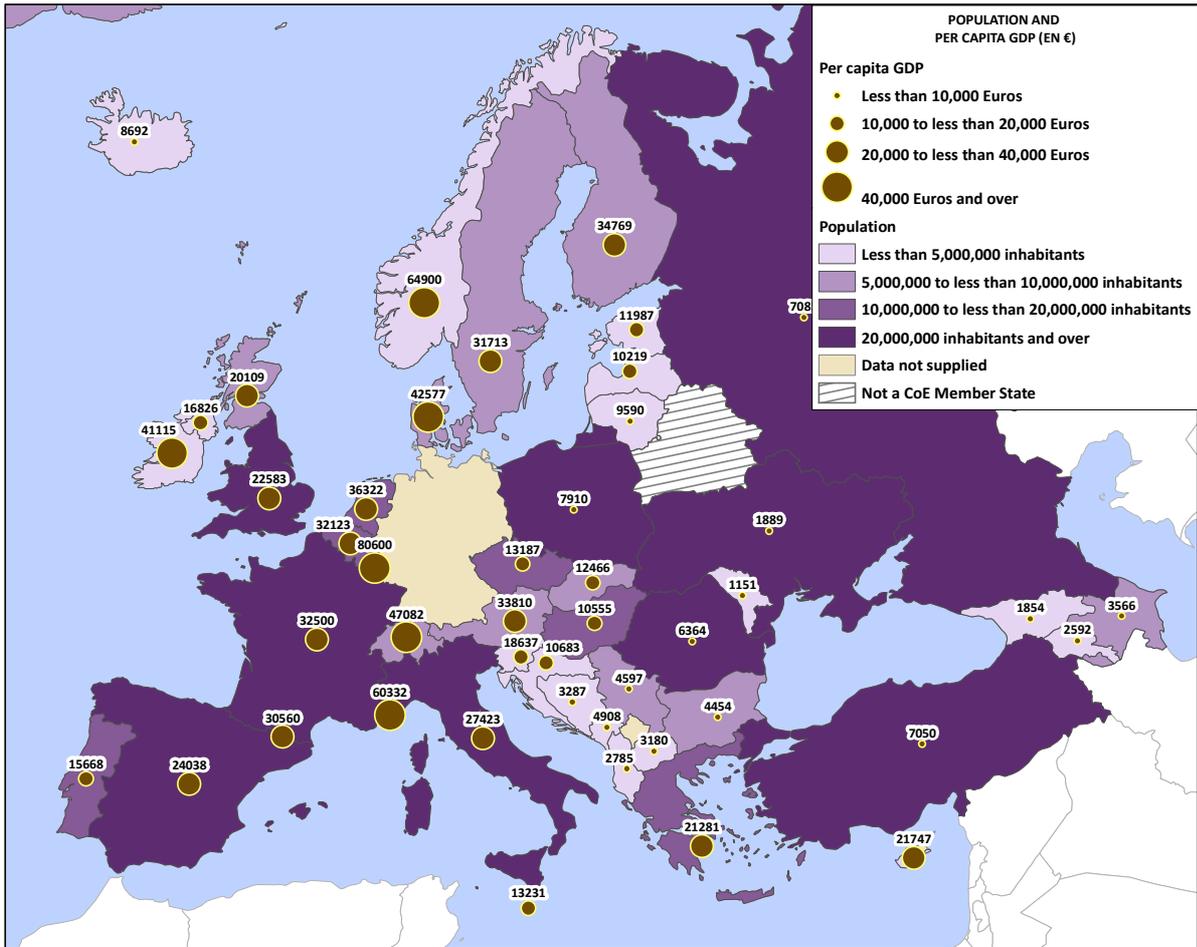
In order to have a complete and easy view of the complex maps and graphs, codes have been used at several occasions instead of the names of the member states. These codes correspond to the official classification (ISO 3166-1 alpha-3 codes with three letters) published by the *International Organisation of Normalisation*. As the ISO codes do not exist for the entities of the United Kingdom, the official FIFA (*Fédération Internationale de Football Association*) codes were used. These codes are ENG, WAL, NIR et SCO respectively.

ALB	Albania	CZE	Czech Republic	IRL	Ireland	NLD	Netherlands	ESP	Spain
AND	Andorra	DNK	Denmark	ITA	Italy	NOR	Norway	SWE	Sweden
ARM	Armenia	EST	Estonia	LVA	Latvia	POL	Poland	CHE	Switzerland
AUT	Austria	FIN	Finland	LIE	Liechtenstein	PRT	Portugal	MKD	The FYRO Macedonia
AZE	Azerbaijan	FRA	France	LTU	Lithuania	ROU	Romania	TUR	Turkey
BEL	Belgium	GEO	Georgia	LUX	Luxembourg	RUS	Russian Federation	UKR	Ukraine
BIH	Bosnia and Herzegovina	DEU	Germany	MLT	Malta	SMR	San Marino	UK: ENG&WAL	UK: England and Wales
BGR	Bulgaria	GRC	Greece	MDA	Moldova	SRB	Serbia	UK: NIR	UK: Northern Ireland
HRV	Croatia	HUN	Hungary	MCO	Monaco	SVK	Slovakia	UK: SCO	UK: Scotland
CYP	Cyprus	ISL	Iceland	MNE	Montenegro	SVN	Slovenia	BLR	Belarus (Not CoE member)

In the report – especially in the tables presented – a number of abbreviations have been used:

- (Qx) refers to the (number of the) question in the Scheme which appears in the appendix, thanks to which the information has been collected.
- If there was no (valid) information, this is shown by writing “NA” (not available).
- In some cases, a question could not be answered, for it referred to a situation that does not exist in the responding country. These cases, and cases in which an answer was given but clearly did not match the question, are shown as “NAP” (not applicable).
- FTE = full time equivalent; number of staff (judges, prosecutors, etc.) are given in full time equivalent so as to enable comparisons (where possible).

Figure 1.2 Level of population and per capita GDP in Europe in 2008 (Q1, Q3)



Note to the reader: the maps used in this report indicate with colours the data given by the member states for the territories which are effectively concerned (except the territories of member states which are located beyond the European continent – often islands). Therefore the coloured zones do not correspond necessarily to the geographical borders of the member states. Thus, information for Serbia does not concern Kosovo, as the Serbian authorities have not been able to provide data for this territory. Furthermore, the information provided does not concern the part of the territory of Cyprus which is not under the effective control of the Government of the Republic of Cyprus. The same applies to Moldova as regards Transnistria.

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

2.1 Public expenditure on the operation of judicial system: overview

This chapter focuses on the financial means related to the operation of courts, public prosecution services and legal aid.

The methodology used to present the figures remains close to the one followed in the 2008 Edition of this evaluation report. According to the states, there are common and distinct ways of financing courts, public prosecution services and legal aid.

Consequently, it is for example impossible, for some states, to provide separate data for courts and public prosecution services, since they are included in a single budget (**Austria, Belgium, France, Greece, Luxembourg, Spain**¹, and **Turkey**).

Denmark (the public prosecution service's budget partially depends on the police budget), **Portugal, San Marino** and **UK-Northern Ireland** have not been able to provide any data on the budget allocated to the prosecution system, hence restricting them from a significant number of tables and figures within this chapter.

Regarding legal aid, the budgetary data could be isolated for 42 states or entities, even if, for some states, these sums are included in the court budget or are funded out of the state budget: in the **Czech Republic**, legal aid is funded both by the state budget and the budget of the Czech Bar Association; in **Croatia** several types of legal aid are available depending on the proceedings (if the court allocates legal aid, the funds are drawn from the court budget; if the legal aid is allocated by the Croatian Bar Association, its own budget is bound, and other institutions may equally intervene in such legal aid matters). It was impossible to isolate the budget allocated to legal aid in **Croatia, Cyprus** and **Serbia**.

Of the 47 states or entities concerned, only 5 have not been able to give the total of the three budgets (courts + prosecution service + legal aid): **Andorra** (legal aid budget not available), **Denmark, Portugal, San Marino** and **UK – Northern Ireland** (public prosecution budget not available).

Bearing such differences in mind and regarding the complexity of these questions, the CEPEJ has chosen to break down as much as possible the various elements of the budgets in order to allow a progressive approach. Therefore, three budgets were taken into account:

- the budget allocated to the courts, which will be related to the part of the report on the activities of the courts (chapter 5),
- the budget allocated to the public prosecution, which will be related to the part of the report on the activities of public prosecutors (chapter 10),
- the budget allocated to legal aid which constitutes an indicator of the efforts devoted by a state or entity to making its judicial system accessible, and which will be related to the part of the report on access to justice (chapter 3).

Table 2.1 presents the background information which enables comparisons for each of these three budgets: the courts (C) (first column), the legal aid system (LA) (second column), the public prosecution (PP) (third column).

The table also makes it possible to provide a study of the budgets on comparable basis:

- 4th column: budget allocated to access to justice and the courts (LA + C): total budget allocated to the courts and to legal aid in 2008;
- 5th column: budget allocated to all bodies dealing with prosecution and judgment (PP + C): total budget allocated to the courts and to the public prosecution in 2008 (without legal aid);
- 6th column: budget allocated to all three budgets (C + LA + PP): total budget allocated to the courts, legal aid and the public prosecution in 2008.

¹ An autonomous budget for public prosecution services has been established from 2010 in Spain.

As a result, any state or entity will be able to compare itself to other states or entities deemed as similar. It will then, in the same way, be able to refer to the results on activity.

In order to contribute to a better understanding of these reasoned comparisons, all the reported and studied figures have been made available. Ratios have been highlighted, in order to allow comparisons between comparable categories, by connecting the budgetary figures to the number of inhabitant and the GDP per capita, in the form of figures.

Following the main table, figures are presented with the ratio of the budget per inhabitant and the ratio as a percentage of the GDP per capita, to compare realistically comparable categories.

For the first time, the CEPEJ report aims at highlighting a few statistical series, showing the evolution of indicators over the years, by referring to the data of previous evaluation cycles (see Figure 3).

Note for the reader: The budgets indicated correspond in principle (unless specifically mentioned otherwise) to the amounts as voted and not as effectively spent.

All the amounts are given in Euros. For the countries which are not part of the Euro zone, the CEPEJ was very attentive to variations in exchange rates between the national currency and the Euro (unless stated otherwise, the value is taken on 1 January 2008). The rapid development of some national economies (for instance revenues coming from oil exploitation in **Azerbaijan**), or the inflation, may also explain a few significant budgetary evolutions. This fact must fully be taken into account while interpreting variations in states or entities outside the Euro zone.

For a more in-depth analysis of the specificities in the budgets of the various member states or entities, the reader is invited to examine the detailed answers given by each state or entity which appear on the CEPEJ's website: www.coe.int/cepej.

Table 2.1 Public budget allocated to courts, legal aid and public prosecution in 2008, in €(Q6, Q13, Q16)

Country	Total annual approved public budget allocated to all courts with neither prosecution nor legal aid	Total annual approved public budget allocated to legal aid	Total annual approved public budget allocated to the public prosecution system	Total annual approved budget allocated to all courts and legal aid	Total annual approved budget allocated to all courts and public prosecution	Total annual approved public budget allocated to all courts, public prosecution and legal aid
Albania	10 615 948	111 927	8 176 518	10 727 875	18 792 466	18 904 393
Andorra	6 312 517	NA	758 437	NA	7 070 954	NA
Armenia	10 546 291	350 420	5 687 641	10 896 711	16 233 932	16 584 352
Austria	NA	18 400 000	NA	NA	649 530 000	667 930 000
Azerbaijan	30 114 000	249 600	30 191 580	30 363 600	60 305 580	60 555 180
Belgium	NA	60 277 000	NA	NA	789 953 000	850 230 000
Bosnia and Herzegovina	74 439 254	5 150 716	22 323 841	79 589 970	96 763 095	101 913 811
Bulgaria	128 186 163	4 850 000	60 184 382	133 036 163	188 370 545	193 220 545
Croatia	NA	NA	40 702 227	NA	NA	266 657 951
Cyprus	NA	NA	14 046 407	NA	NA	39 970 961
Czech Republic	277 762 896	25 995 515	86 410 548	303 758 411	364 173 444	390 168 959
Denmark	228 761 776	76 433 980	34 000 000	305 195 756	186 327 796	339 195 756
Estonia	34 249 751	2 934 624	11 024 913	37 184 375	45 274 664	48 209 288
Finland	256 277 000	56 600 000	38 906 310	312 877 000	295 183 310	351 783 310
France	NA	314 445 526	NA	NA	3 377 700 000	3 692 145 526
Georgia	14 929 371	1 192 758	8 817 891	16 122 129	23 747 262	24 940 020
Greece	NA	2 000 000	NA	NA	357 487 000	359 487 000
Hungary	285 674 860	319 765	120 500 000	285 994 625	406 174 860	406 494 625
Iceland	6 832 940	3 183 529	712 941	10 016 469	7 545 881	10 729 410
Ireland	136 195 000	89 900 000	44 522 000	226 095 000	180 717 000	270 617 000
Italy	3 008 735 392	115 938 469	1 157 955 737	3 124 673 861	4 166 691 129	4 282 629 598
Latvia	47 510 897	1 087 491	23 656 019	48 598 388	71 166 916	72 254 407
Lithuania	60 629 000	4 129 000	42 955 283	64 758 000	103 584 283	107 713 283
Luxembourg	NA	2 600 000		NA	61 700 000	64 300 000
Malta	9 073 000	35 000	2 569 000	9 108 000	11 642 000	11 677 000
Moldova	7 521 012	251 118	5 256 788	7 772 130	12 777 800	13 028 918

Country	Total annual approved public budget allocated to all courts with neither prosecution nor legal aid	Total annual approved public budget allocated to legal aid	Total annual approved public budget allocated to the public prosecution system	Total annual approved budget allocated to all courts and legal aid	Total annual approved budget allocated to all courts and public prosecution	Total annual approved public budget allocated to all courts, public prosecution and legal aid
Monaco	4 786 100	220 000	1 330 900	5 006 100	6 117 000	6 337 000
Montenegro	19 625 944	153 427	4 998 279	19 779 371	24 624 223	24 777 650
Netherlands	889 208 000	419 248 000	570 903 000	1 308 456 000	1 460 111 000	1 879 359 000
Norway	161 163 043	153 230 000	13 364 000	314 393 043	174 527 043	327 757 043
Poland	1 204 202 000	22 403 000	333 489 000	1 226 605 000	1 537 691 000	1 560 094 000
Portugal	513 513 518	36 432 072	NA	549 945 590	NA	NA
Romania	380 932 306	4 376 694	160 389 216	385 309 000	541 321 522	545 698 216
Russian Federation	2 406 286 197	53 543 496	846 018 639	2 459 829 693	3 252 304 836	3 305 848 332
San Marino	4 573 250					
Serbia	NA	NA	26 845 371	195 863 391	NA	222 708 762
Slovakia	144 682 786	901 547	59 017 760	145 584 333	203 700 546	204 602 093
Slovenia	159 461 409	2 821 428	17 811 140	162 282 837	177 272 549	180 093 977
Spain	NA	219 707 018	NA	NA	3 686 381 622	3 906 088 640
Sweden	399 825 654	142 633 089	128 301 090	542 458 743	528 126 744	670 759 833
Switzerland	800 725 712	61 524 211	220 168 990	862 249 923	1 020 894 702	1 082 418 913
FYROMacedonia	25 287 606	1 772 655	4 899 022	27 060 261	30 186 628	31 959 283
Turkey	736 932 152	49 570 981	NA	NA	736 932 152	786 503 133
Ukraine	144 954 555	178 264	103 562 627	145 132 819	248 517 182	248 695 446
UK-England and Wales	1 437 326 465	1 878 704 340	771 190 551	3 316 030 805	2 208 517 016	4 087 221 356
UK-Northern Ireland	74 600 000	87 000 000		161 600 000	NA	NA
UK-Scotland	151 940 889	150 000 000	129 300 000	301 940 889	281 240 889	431 240 889
Average	376 168 280	96 925 159	139 214 812	476 286 007	673 594 624	747 988 485
Median	140 438 893	5 000 358	34 000 000	161 941 419	188 370 545	266 657 951
Minimum	4 573 250	35 000	712 941	5 006 100	6 117 000	6 337 000
Maximum	3 008 735 392	1 878 704 340	1 157 955 737	3 316 030 805	4 166 691 129	4 282 629 598

Comments

Belgium: the budget for constructing new courts or maintaining existing buildings is excluded from the budget of the Federal Justice Public Service. Real property of the Belgium State is managed by the *Régie des Bâtiments* which does not hold separate a specific part for justice.

Bulgaria: public budgets allocated to legal aid and to investment in (new) court buildings are part of the budget of the Ministry of Justice.

Croatia: the budgets indicated include loans from the World Bank.

Denmark: the figure on the "prosecution budget" includes the *central* part of the public prosecution system. Therefore, the sums calculated should be interpreted with caution as the budget allocated to 12 police districts are not available, being part of the *local* prosecution system.

France: the total annual budget allocated to all courts amounts to € 3377,7 millions which break down into 3088,7 millions (2822,7 millions for judicial justice + 266 millions for administrative justice) + cost estimation for transportation of defendants under escort (117 millions) + cost evaluation of prosecuting officers (31 millions) + cost estimation of guarding courtrooms (81 millions) + the amount of the rental value of court buildings made available for free to the state by local authorities as part of the shift in costs following decentralisation (60 millions).

Hungary: the court budget includes the budget of the Council of Justice.

Moldova: does not include the budget allocated to military courts.

Netherlands: the given budgets do not include those of the Supreme Court. These budgets were calculated in a different manner than in the 2008 Edition of the report.

Norway: the specialised courts' budgets are not included. The annual public budget devoted to court fees was excluded from the courts' budget.

Portugal: the given budget excludes major investments such as the construction of new buildings.

Russian Federation: the budget of legal aid indicated covers only the participation of lawyers in criminal proceedings. The budget allocated to public prosecution does not include the budget of Investigation Committee under the Prosecution Service (this specialized body was introduced within the prosecution system on 7 September 2007, primarily for investigating certain types of crimes).

Spain: the given budgets correspond with the budgetary plan within the political programme for justice. There are other budgetary lines regarding the operation of justice, such as those on social security for personnel of the justice administration, included within other policies.

Total budget of the General Council of the Judiciary: € 72.863.890. Budget of the Ministry of Justice and other bodies: € 1.491.165.640. Budget of the Autonomous Communities: € 2.342.059.110.

Sweden: a new accounting pattern has emerged since the 2008 Edition of the report, which makes it difficult to compare budgetary data.

Switzerland: the given amounts do not include the budgets neither of the cantonal and federal departments of justice, nor the registries (criminal records, commercial and civil registries) and the office for enforcement (judicial proceedings and bankruptcies).

"the former Yugoslav Republic of Macedonia": the courts' budget includes the budget of the Court Council and Academy for training of judges and public prosecutors. In order to improve the funding of courts, the government drafted the law to set a minimum legal threshold in the state budget to devote to the judicial system (0.8 % of GDP).

2.1.1 Public expenditure on the operation of the overall justice system

The CEPEJ aims to identify, understand and analyse the operation of the judicial system (operation of the courts). Hence, the report focuses essentially on budgets for courts, prosecution services and legal aid. It is however interesting to study, before any further analysis on the budgets of the judicial system, the efforts committed by public authorities towards courts in comparison with the efforts carried out for the operation of the overall justice system which may include, for instance, the prison systems' budget, the operation of the Ministry of Justice or other institutions such as the Constitutional Court or the Council of Justice, the judicial protection of youth, etc.

Note for the reader: data below is indicated for information purposes only. Each member state or entity was invited to include all the budgets allocated to justice, but it is likely that the budgets indicated do not all represent the same reality, taking into account the various powers given to justice according to the states and entities.

Table 2.2 Total annual approved budget allocated to the overall justice system in 2008, in € Evolution of this budget between 2006 and 2008, in % (Q12)

Country	Total annual approved budget allocated to the whole justice system (in €)		Evolution between 2006 and 2008 (in %)
	2006	2008	
Albania		70 449 797	
Armenia	8 851 162	14 622 030	65.2 %
Austria	976 000 000	1 172 000 000	20.1 %
Azerbaijan	53 517 697	60 305 580	12.7 %
Belgium	1 460 600 000	1 610 500 000	10.3 %
Bosnia and Herzegovina	125 125 032	163 401 586	30.6 %
Bulgaria	161 308 750	217 141 452	34.6 %
Croatia	309 333 490	355 556 031	14.9 %
Cyprus	43 236 728	47 965 235	10.9 %
Czech Republic	438 828 034	514 118 167	17.2 %
Denmark	1 286 000	1 521 000	18.3 %
Estonia	68 795 556	118 251 762	71.9 %
Finland	308 395 000	748 428 000	
France	6 447 440 000	6 497 010 000	0.8 %
Georgia	19 813 558	24 940 020	25.9 %
Greece	332 875 000	356 915 000	7.2 %
Hungary	600 700 000	1 787 400 000	197.6 %
Iceland	24 400 000	19 008 821	-22.1 %
Ireland	2 134 000 000	2 604 000 000	22.0 %
Italy	7 819 041 068	7 278 169 362	-6.9 %
Latvia	130 101 946	170 263 394	30.9 %
Lithuania	78 018 000	105 584 000	35.3 %
Luxembourg	57 334 448	64 300 000	12.1 %
Malta	8 716 000	9 073 000	4.1 %
Moldova	20 390 097	35 686 050	
Monaco	7 666 500	8 547 100	11.5 %
Montenegro	18 670 104	37 358 769	100.1 %
Netherlands	5 411 049 000	5 825 626 000	7.7 %
Norway	1 981 751 000	2 160 796 000	9.0 %
Poland	1 507 679 000	2 428 891 000	61.1 %
Portugal	1 114 856 467	1 388 550 485	24.5 %
Romania	554 578 228	769 595 000	38.8 %
Russian Federation	2 401 660 110	2 406 286 197	0.19 %
Serbia	253 303 797	332 713 073	31.3 %
Slovakia	121 962 190	293 698 463	140.8 %
Slovenia	216 000 000	246 000 000	13.9 %
Spain	3 186 400 970	4 040 218 130	26.8 %
Sweden	3 083 500 000	3 033 863 752	-1.6 %

Country	Total annual approved budget allocated to the whole justice system (in €)		Evolution between 2006 and 2008 (in %)
	2006	2008	
Switzerland	NA	1 384 887 814	
FYROMacedonia	36 534 982	47 024 005	28.7 %
Turkey	1 255 196 514	1 288 654 751	2.7 %
UK-England and Wales	NA	4 032 116 766	
UK-Northern Ireland		161 600 000	
UK-Scotland	3 095 384 036	1 785 097 305	-42.3 %
Average			27.7 %
Median			17.7 %
Minimum			-42.3 %
Maximum			197.6 %

Comments

The variation of the budgets for **Finland** and **Moldova** is not presented in this Table, as the categories included in the calculation of the overall budget for 2006 and 2008 are not the same. Therefore comparisons are not possible.

Russian Federation: these values are the same as the total annual approved budget allocated to all courts, as the justice system in the Russian Federation, for the purposes of budget allocation, includes only the institutions covered under Question 6 of the Evaluation Scheme..

Strong disparities between the European states must be highlighted regarding the budgetary commitment of public authorities on the operation of justice. However, when analysing the data, one should keep in mind the non homogeneous levels of prosperity among the member states. Thus, it is important to restrict the comparisons to the states which are considered to be reasonably comparable regarding their standards of living.

A generally positive evolution of the budgets of the justice systems in Europe can be observed. The average evolution of budgets between 2006 and 2008 within the member states of the Council of Europe amounts to 33.7%. The median value is equivalent to 19.2%.

In most countries, a significant increase may be noticed between 2006 and 2008, especially in Central and Eastern European states which are currently undergoing fundamental reforms of their justice systems. Some of these states have been supported by significant European Union and International Organisation (especially the World Bank) funds. **Poland, Armenia, Estonia and Moldova** have increased the total budget for justice of 60 to 75%, in two years. Even more radically, **Montenegro, Slovakia and Hungary** have decided to commit more than double the initial budget.

The overall budget for justice has declined between 2006 and 2008 in **Italy**. The evolution of budgets in **UK-Scotland, Iceland and Sweden** should be understood in view of the evolution of exchange rates between their own currency and Euro (data is presented here in Euros). In **Sweden**, for instance, the depreciation of the Swedish Krona compared to Euro explains the negative evolution of the data whereas one may be observe that budgets expressed in the national currency have increased.

Similarly, in order to achieve a more detailed analysis of the commitments by public authorities for their justice, inflation should be taken into account to measure changes in real terms.

2.1.2 Evolution of the budgetary commitment to courts

Both budgets for justice and budgets allocated to the judicial system follow the same trend. In general, national budgets funding courts have been increased in recent years. Evidence is brought by the analysis of the results on question 9 (*Has the annual public budget of the courts changed – increased or decreased – over the last five years?*): most of the states or entities have responded that more funds were made available to courts over the past five years.

Over the past five years, the budgets allocated to the court systems, recorded in Euros, have increased drastically in several states with systems still in transition such as **Azerbaijan (+540%), Moldova (+369%), Armenia (+326%)** or currently implementing considerable reform plans such as the **Czech Republic (+126%), Turkey (+110%), Romania (+98.5%), Poland (+72%), Lithuania (+62.5%), Montenegro (+56%), Slovenia (+55%), "the former Yugoslav Republic of Macedonia" (+40%), Croatia (+37%)**. A significant increase in budgets must be highlighted for **Spain (+49,57%), Andorra (+45%), Ireland (+39%), Belgium (+28%)**. The evolution is noteworthy in **Monaco (+28%), Luxembourg and Norway (+16%), France and UK-Scotland (+15%), the Netherlands (+14.5%), Bosnia and Herzegovina, Greece and Slovakia (+13%)**

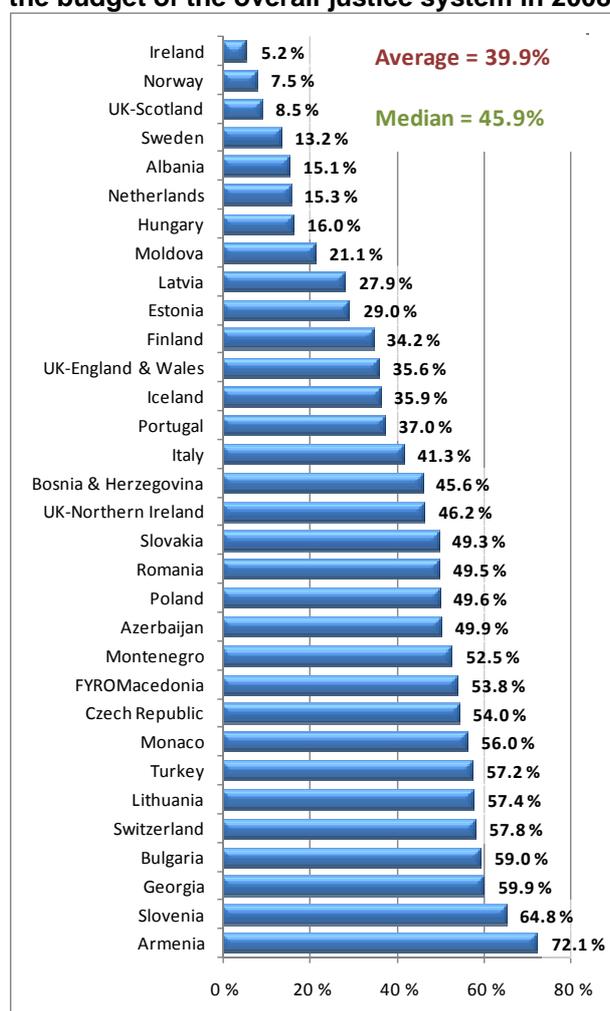
and **Finland** (+10%). Again, some of this information should be put into perspective by taking into account the development of exchange rates for countries outside the Euro zone.

However, some countries have experienced a decline in the budgets committed to the court systems over the past five years: **Cyprus, Estonia, Italy, UK–England and Wales**.

What about the part of the budget for justice devoted to the operation of courts? What are the priorities set by public authorities on budgetary commitments dedicated to justice?

In order to calculate the proportion taken by the budget for the judicial system within the overall budget for justice, the CEPEJ has chosen to restrict the scope of the public expenditure devoted to the operation of courts, *stricto sensu* (excluding the budgets for public prosecution services and legal aid), hence enabling a comparison of homogeneous data, despite the diversity of answers given to question 12. On a methodological point of view, comparing data is therefore scientifically relevant. States or entities whose answers to question 12 were not relevant were excluded from this study. As a result, only 32 member states or entities are considered here.

Figure 2.3 Part of the budget allocated to the courts (excluding prosecution services and legal aid) in the budget of the overall justice system in 2008, in % (Q6, Q12)



Even if the information provided does not cover all member states, one can notice that the situation in Europe is very uneven when identifying budget priorities for states in matters of justice. More than half of the European states or entities commit more budgetary resources in other areas of justice than for the operation of courts. In three states or entities (**Ireland, Norway** and **UK-Scotland**), courts represent less than 10% of the public budgetary commitment to justice. In opposition, four European states devote 60% or more of their budget for justice to the operation of courts (**Georgia, Slovenia, Armenia, Finland**). Of course, one has to bear in mind that the core tasks of courts may differ. In some countries courts perform tasks in land and business registers (for instance **Austria, Poland**), whereas in other countries these tasks are performed by separate, specialised organisations (the **Netherlands** for instance).

2.2 Public budget allocated to the courts

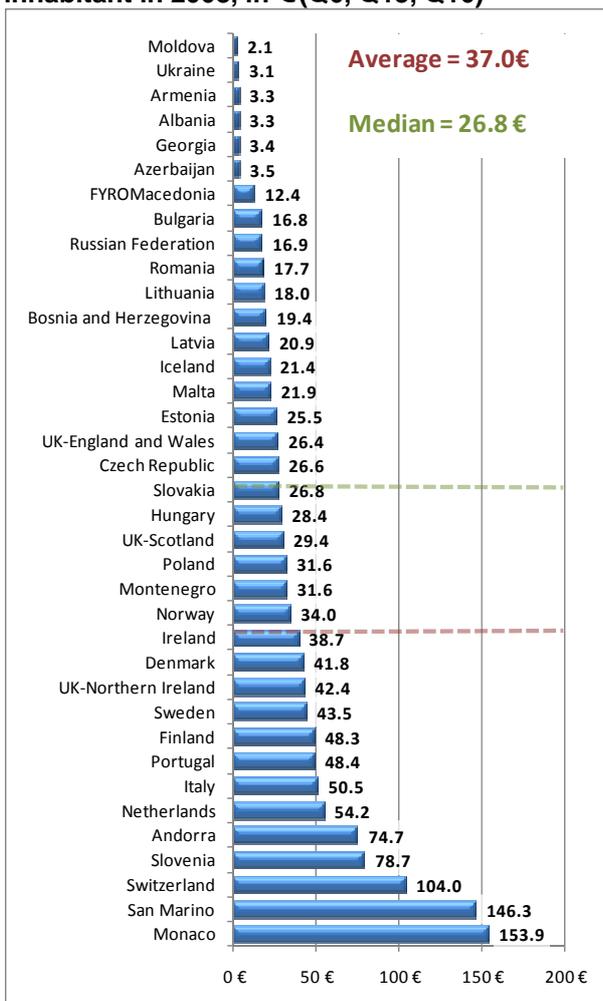
This section measures the efforts that each state or entity makes for the proper functioning of its courts.

Among 47 states or entities, 38 were included in this analysis. The figures take into consideration only those states providing distinct budgets allocated to courts and to the public prosecution service. This does not include the budget allocated to legal aid.

2.2.1 Public budget allocated to all courts

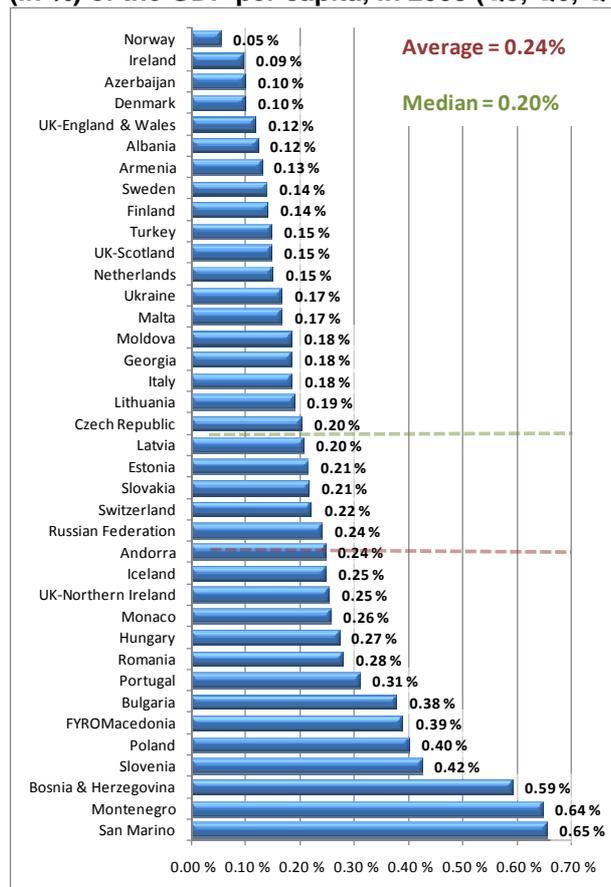
The data is considered per inhabitant and in relation to the GDP per capita (in %), so as to take into account respectively, within the analysis, the dimensions of states or entities and the levels of wealth of countries.

Figure 2.4 Annual public budget allocated to all courts (excluding prosecution and legal aid) per inhabitant in 2008, in €(Q6, Q13, Q16)



The data given by small states (**Monaco, San Marino**) must be reported to the small number of their inhabitants when comparing budgetary efforts per inhabitant. Therefore these states are not always considered in the following analysis.

Figure 2.5 Annual public budget allocated to all courts (excluding prosecution and legal aid) as part (in %) of the GDP per capita, in 2008 (Q3, Q6, Q13, Q16)



A different perspective is shown when analysing the budget allocated to the courts by comparing it to the states' prosperity in terms of the GDP per capita. States that benefit from large scale assistance to improve the Rule of Law, in particular from the European Union or other international organisations, automatically allocate relatively high proportions of their budget to their court system. This is the case for **Bosnia and Herzegovina, Montenegro** and "**the former Yugoslav Republic of Macedonia**".

Consequently, Western European states or entities, which have higher national levels of wealth such as **Denmark, Finland, Norway, the Netherlands, Switzerland, Sweden, UK-England and Wales**, seem to spend a smaller amount (GDP per capita) to finance courts. This distorting effect must be taken into consideration when making possible comparisons, in order not to make the wrong comment according to which a wealthy state or entity would not allocate a significant budget to the functioning of its courts.

2.2.2 Composition of the budget allocated to courts

In order to analyse more precisely the budgets allocated to courts, the CEPEJ studies the different components of these budgets, by singling out various parts: gross salaries of staff, Information Technologies – IT - (computers, software, investments and maintenance), court fees (such as the remuneration of interpreters or experts), costs for hiring and ensuring the operation of buildings, investments in buildings, training.

14 of the 47 states or entities concerned have been able to indicate figures regarding such details, and 18 others come very close to that objective. This positive evolution towards a more precise knowledge of court budgets is encouraging and allows to create a break-down of the main components of court budgets.

Note: for **Austria, Belgium, France, Greece, Luxembourg, Spain** and **Turkey** the amounts indicated below include both the courts and the prosecution system, as it has not been possible for these states to specify both budgets.

Table 2.6 Break-down by component of court budgets in 2008, in €(Q8)

Country	Annual public budget allocated to (gross) salaries	Annual public budget allocated to computerisation (equipment, investments, maintenance)	Annual public budget allocated to justice expenses	Annual public budget allocated to court buildings (maintenance, operation costs)	Annual public budget allocated to investment in new (court) buildings	Annual public budget allocated to training and education	Other
Albania	8 008 510	71 124	2 127 166	59 992		20 985	440 098
Andorra	5 951 017	17 500	1 079 876			22 561	
Armenia	7 033 543	228 138	NA	446 030		679 053	2 159 528
Austria	332 940 000	28 400 000	258 790 000	47 800 000			
Belgium	579 013 000	30 811 000	89 713 000	67 072 000	9 085 000	2 332 000	72 204 000
Bosnia & Herzegovina	55 058 835	1 173 770	5 597 961	7 338 704	309 603	1 144 385	8 966 713
Bulgaria	76 506 902	854 255	25 441 538	4 172 767	NA	78 222	21 132 479
Croatia	147 758 459	13 294 887	32 551 399	5 829 162	13 814 864	1 650 201	11 076 752
Cyprus	19 170 107	56 808	1 509 155	2 733 106	2 357 920	97 458	
Czech Republic	185 398 380	3 019 657	46 289 115	1 735 763		102 692	
Denmark	146 325 706	14 158 815	8 788 694	40 376 850		2 018 842	10 767 160
Estonia	26 264 172	331 382	959 308	4 835 697		456 543	1 402 650
Finland	183 400 000	8 944 000	6 299 000	29 350 000			28 284 000
France	1 860 379 400	52 050 000	405 000 000	335 300 000	118 000 000	52 000 000	555 000 000
Georgia	8 849 797	191 156	2 531 629	76 359	2 506 388	448 051	325 988
Greece	343 360 000	390 000	4 500 000	8 245 000	862 000	130 000	
Hungary	235 340 150	8 800 000	5 200 000	31 300 000	7 200 000	300 000	
Ireland	58 677 000	9 368 000	120 000	20 754 000	29 632 000	1 229 000	16 415 000
Italy	2 390 027 432	73 987 488	287 571 836	253 913 969		857 675	118 315 458
Latvia	34 710 887	1 395 620	320 668	6 663 457		304 950	2 587 042
Lithuania	41 573 000	721 067		1 989 900	7 314 585	144 810	579 240
Luxembourg	50 400 000	870 000	4 000 000	505 000	759 000	60 000	7 706 000
Malta	6 520 000	54 000	1 260 000	1 239 000	186 000	1 000	
Moldova	5 313 253	182 665	286 677	1 356 535	231 097	90 654	60 131
Monaco	3 569 700		890 000				546 400
Montenegro	14 895 845	144 000	3 646 500	220 000			873 026
Netherlands	620 748 000	69 185 000	4 987 000	104 933 000		20 149 000	40 535 000
Norway	99 347 826	6 326 087		34 021 739	1 630 435	2 010 870	17 826 086
Poland	624 811 000	15 163 000	145 365 000	86 661 000	69 107 000	4 050 000	307 671 000
Portugal	398 809 928	8 455 892		39 802 030			66 445 668
Romania	330 427 080	7 409 000	23 532 000	15 259 755	5 331 256	74 000	3 275 909
Russian Federation	1 445 608 805	41 507 668	120 455 439	145 313 583	216 541 512	2 825 805	449 122 600
San Marino	4 230 000	140 000	210 000				
Serbia	133 565 955		65 377 307		11 949 797		7 121 534
Slovakia	83 100 716	3 651 140	1 001 763	3 773 155	5 218 914	1 537 981	47 300 664
Slovenia	116 500 189	4 710 655	32 374 344	6 801 841	60 000	1 835 808	
Spain	2 489 442 790	59 530 490	2 944 000	56 252 870	33 051 440		1 264 867 050
Sweden	314 083 631	10 305 719		58 392 988		6 150 369	10 892 947
Switzerland	223 450 047	11 323 322	26 862 307	20 784 309	0	6 019 855	14 769 286
FYROMacedonia	20 682 085	108 583	1 772 655	1 665 065	695 000	523 322	1 613 551
Turkey	529 883 710	11 689 140	117 630 542	904 977	126 389 786	4 977	
Ukraine	136 091 227			5 503 109	1 818 182	3 540 627	
UK-England & Wales	881 587 203			274 915 184	95 431 366		177 961 286
UK-Northern Ireland	36 300 000	7 800 000	3 300 000	33 800 000	8 200 000	300 000	71 900 000
UK-Scotland	82 950 000	6 244 146	13 528 983	42 668 332	NAP	1 040 691	14 569 674

Comments

Belgium: the budget for constructing new courts or maintaining existing buildings is excluded from the budget of the Federal Justice Public Service. Real property of the Belgium State is managed by the *Régie des Bâtiments* which does not hold separate a specific part for justice.

France: the sum reported for the budget devoted to salaries includes € 475.206.175 for contributions allocated to a special "pensions" account aimed to fund retirements. The given salaries are those of all court staff, including members

of the judiciary and non members assigned to the public prosecution service. Budget for building and operation: the amount of funds allocated in 2008 includes all expenditure structure that are fluid, cleaning, caretaking, maintenance, rentals, property maintenance and other taxes. Are also included other expenses necessary for the functioning of courts, including: expenditure of activity (examples: costs of correspondence, telecommunications, office supplies, subscriptions and documentation) and capital expenditure (e.g. equipment rental, maintenance and vehicles repairing). In addition, the Secretariat General of the Ministry provides support services for the benefit of legal services, for 54.7 million Euros. The education of judges can not be differentiated from the education of prosecutors.

Netherlands: the annual budget allocated to computerisation concerns the central budget of the Council of the Judiciary concerning automatisisation.

Russian Federation: the difference between the sum of the categories and the total budget allocated to the courts is due to the exchange rates applied to each amount and to the rounding procedure applied.

The budget allocated to investment in new (court) buildings does not include the Supreme Court.

Slovenia: the data only refer to the operation and computerization of courts and include neither the investment and rental budget of the justice sector nor the budget for training judges and court staff, which is actually provided by the Ministry of Justice thanks to its Judicial Training Centre (€ 442.590).

Spain: to understand the budgetary system in justice administration it is useful to know that Spain has a decentralised political and administrative structure and is divided in Autonomous Regions, each of them with broad and variable political-administrative competences and their own Parliament, Government and Civil Service. Competences in Administration of Justice are gradually being transferred to the Autonomous Communities, namely the administration of material and personal means related to justice (with the exception of Judges, Prosecutors and Secretarios judiciales/Rechtspfleger, which are national bodies). In those Autonomous Communities where competences have not been transferred, powers in justice administration still correspond to the Ministry of Justice. The items specified under Q8 refer only to the amount granted within the Ministry of Justice's budget (therefore not comprising the budgets of the General Council of the Judiciary or that of Autonomous Communities with transferred competences)".

Switzerland: values are those of nine cantons (Aargau, Appenzell Inner Rhodes, Basel City, Geneva, Jura, Nidwalden, St. Gallen, Schaffhausen and Ticino) and three of the federal courts (Supreme Court, Federal Criminal Court and Federal Administrative Court) which provided complete data and together constitute a representative sample.

"the former Yugoslav Republic of Macedonia": additional fund resources (Ministry of Justice and international cooperation, in particular through USAID and the World Bank) are available for the computerisation of courts and investment in real estate.

UK-Scotland: there is no separate budget plan for the investment in and maintenance of premises, which is part of the overall budget for courts.

Figure 2.7 Distribution of the main budgetary posts of the courts by country, in % (Q6, Q8)

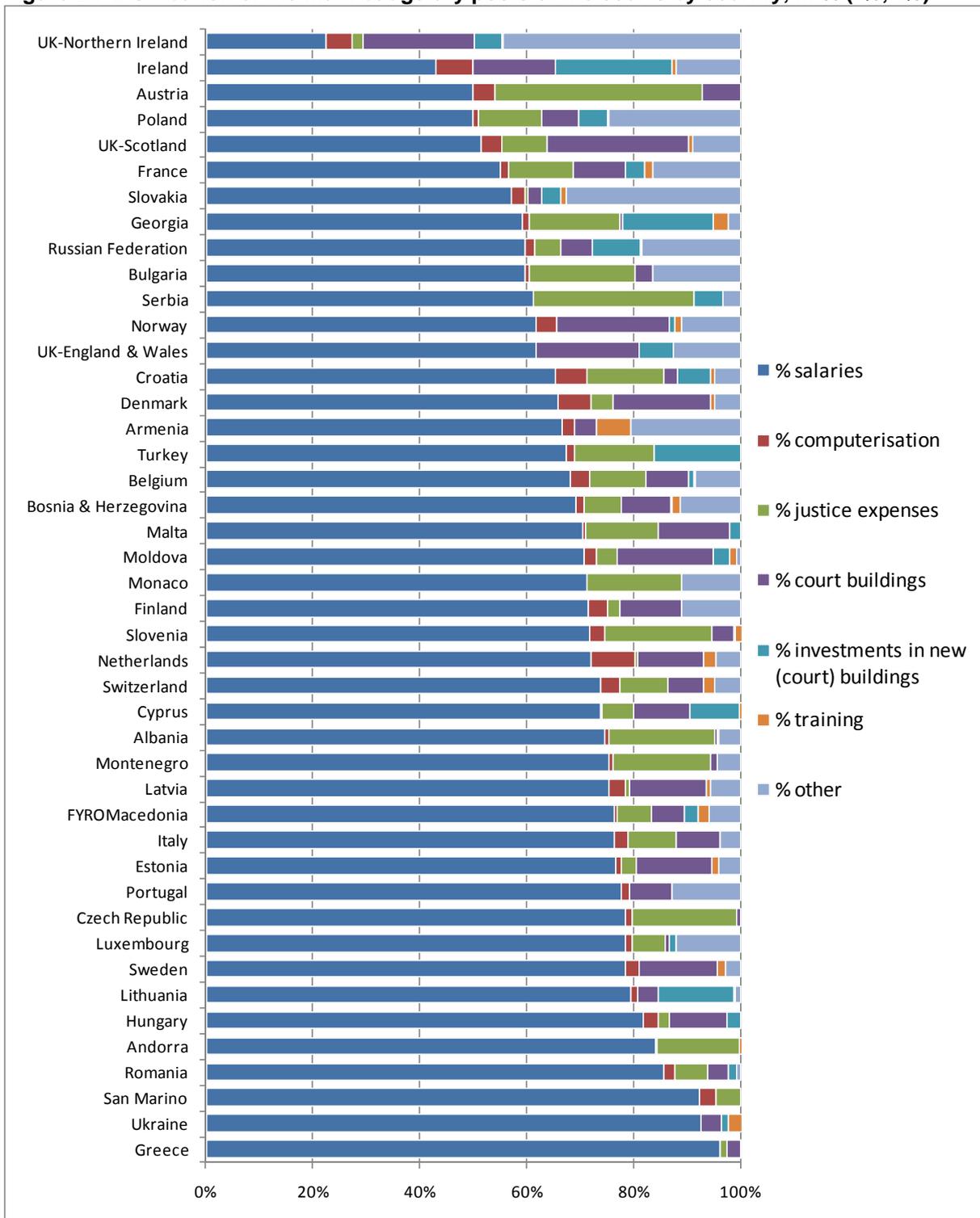
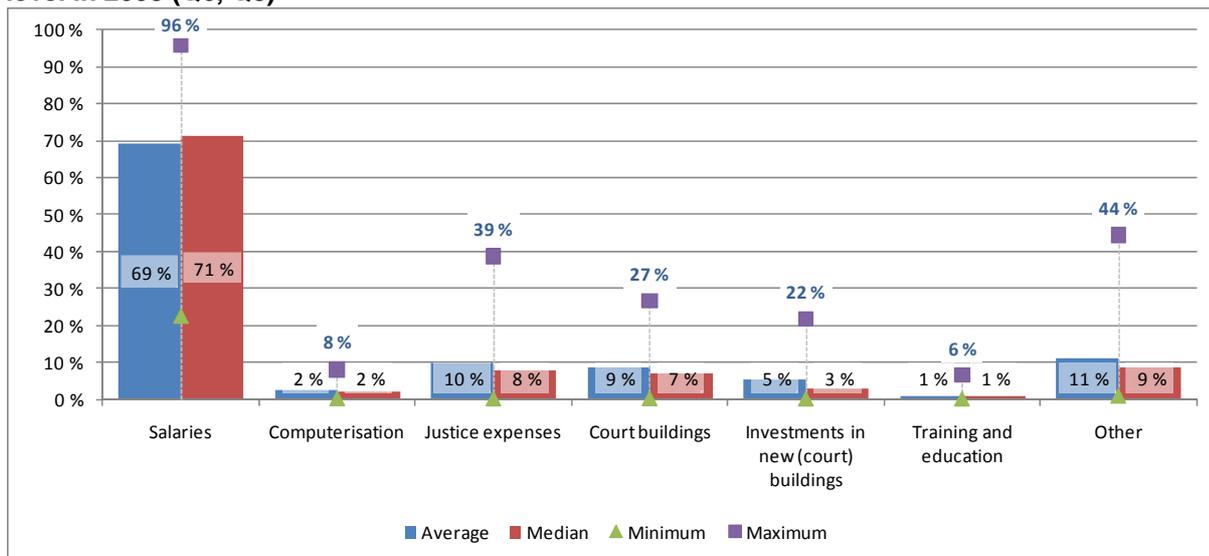


Figure 2.8 Central tendency indicators of the main components of the courts budget at European level in 2008 (Q6, Q8)



Knowing the obvious existence of significant differences between states, on average, at a European level, the highest expenditure for courts remains the overall salaries for judges and court staff (70%). Extreme differences vary from 96% of the courts budget allocated to salaries in **Greece** to 22.5% in **UK-Northern Ireland**. In general, *common law* countries, operating systems with a large number of lay judges (with the exception of **Ireland**), spend lower budgets on wages even though this must be put into perspective by the high amount of wages paid (see Chapter 7 below).

A considerable part of the budget (14%) is devoted to buildings (operating costs 9%) and investments (new courts and renovation of old courts 5%). **UK-Scotland** devotes the greatest budget to buildings (26,5%) whereas **Turkey** only devotes 0,1% of its budget for courts. While **Ireland** spends 28% of this budget on real estate investment, several states or entities have not invested at all in this sector.

Court fees account for 10% of the budgets for courts. The differences may range from 38,7% in **Austria** to 0,1% in **Ireland**.

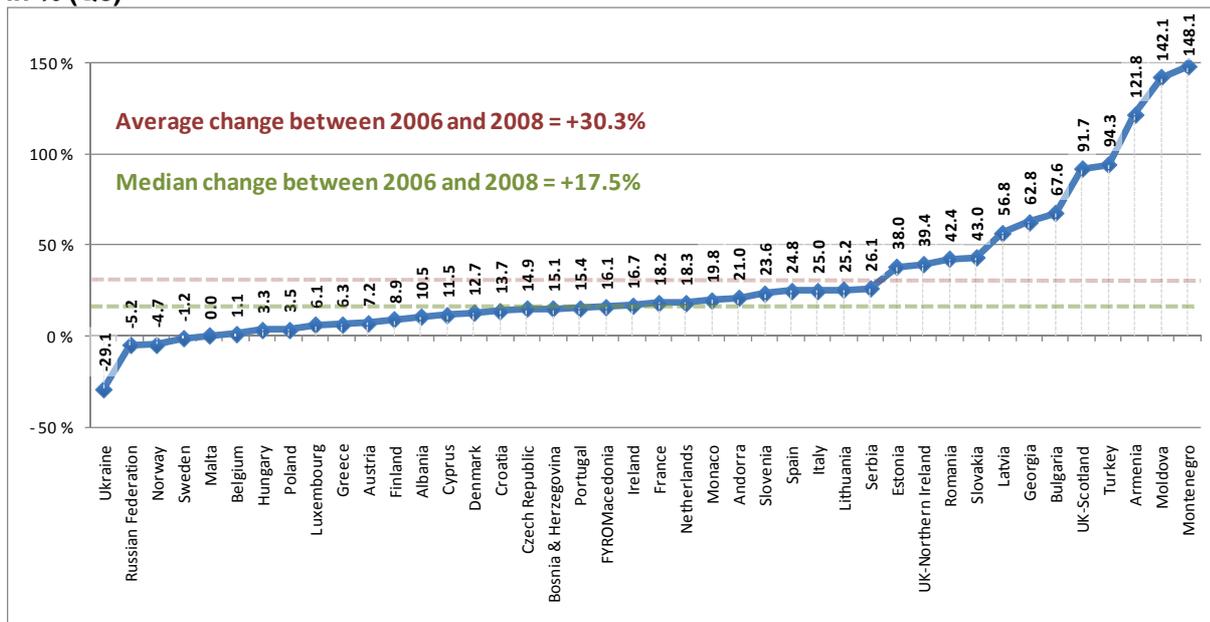
3% of the budget allocated to the courts is devoted to IT in Europe. One may notice a significant effort provided by the **Netherlands** (8% of the court budget) in this domain. In **Spain** the IT budget has increased of almost + 113 % between 2006 and 2008. A low level of investment in IT tools in **Greece** (0,1% of the court budget).

On average in Europe, 1% of the budget for courts is devoted to training. **Armenia** gives priority to this sector (6,4%) whereas the policy for the training of professionals falls short in **Malta** (0,1%)

Which evolutions ?

On average, this distribution remains quite stable when compared to the previous edition of the report (2006 data). Yet, it reflects key disparities for several states.

Figure 2.9 Evolution between 2006 and 2008 of the amount of salaries allocated in the courts budget, in % (Q8)



Salaries have increased an average of 30,3% between 2006 and 2008. Since 24 on 41 states or entities only have variations below 20%, it seems more meaningful to consider the median value (+ 17.5%) in order to analyse the situation. Substantial growths in several states should be highlighted; some reported having more than doubled the budget in two years (**Armenia, Moldova, Montenegro**). These states in transition display a priority, within the current reforms, to upgrade legal professions. On the contrary, a decrease in budgets allocated to salaries has been initiated in states having entered into a policy to reduce the number of courts (**Denmark, Norway, Sweden**). This may as well be partly explained by purely technical parameters related to changes in exchange rates, which also give a reason for the downward evolution in the data recorded in the **Russian Federation** or **Ukraine**.

Regarding budgets allocated to computerisation, it has been written earlier that “this budget will evidently grow in the years to come”. Nevertheless, at European level, it is clear that states have not yet entered into a major technological revolution for the operation of courts since this budget has remained on average stable since 2006. Yet, one should put this statement into perspective depending on states because significant variations may be observed on an individual case basis. The investment in hardware is not linear in time and finally, all systems are usually replaced at once hence sharply increasing the budgetary amounts for that year and resulting in a considerable decrease the following year (for instance, the **Netherlands**, in 2006: € 240 million and in 2008: €70 million; **France**, in 2006: €24.5 million and in 2008: €52 million). The same conclusion can be drawn in matters of real estate investment given that the construction of a single major building can result in significant changes in the data from one year to another.

Regarding the training of legal professionals, budgets have significantly risen in the past two years in countries having recently created or currently developing training centres, thanks to the regular support of European and international funds (**Slovakia**: budget multiplied by 13,5 from 2006 to 2008²; **Poland**: x7; **Armenia**: x4,5; **Bulgaria**: x2,5; **Bosnia and Herzegovina**: x2; **Croatia**: x2). A noteworthy increase can also be underlined in **Denmark** (+37%) and in **France** (+25%). On the other hand, downward evolutions in budgets allocated to training are noticeable in **Czech Republic** (budget divided by 5), in **Hungary** (budget divided by 2,5) or in **Italy** (budget cut in half).

² Due to the significant increase of the budget of the Judicial Academy, mainly with regard to the reconstruction and the operation of its new premises.

Budgetary process on court funding

Figure 2.10 Authorities responsible for the budget allocated to the courts in 43 states or entities (Q18)

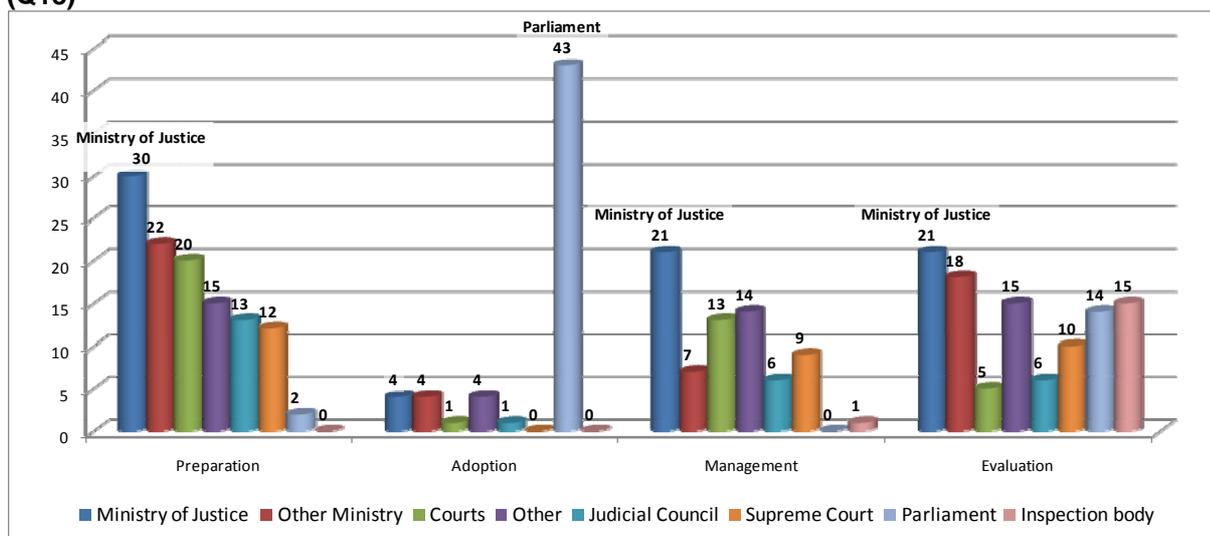
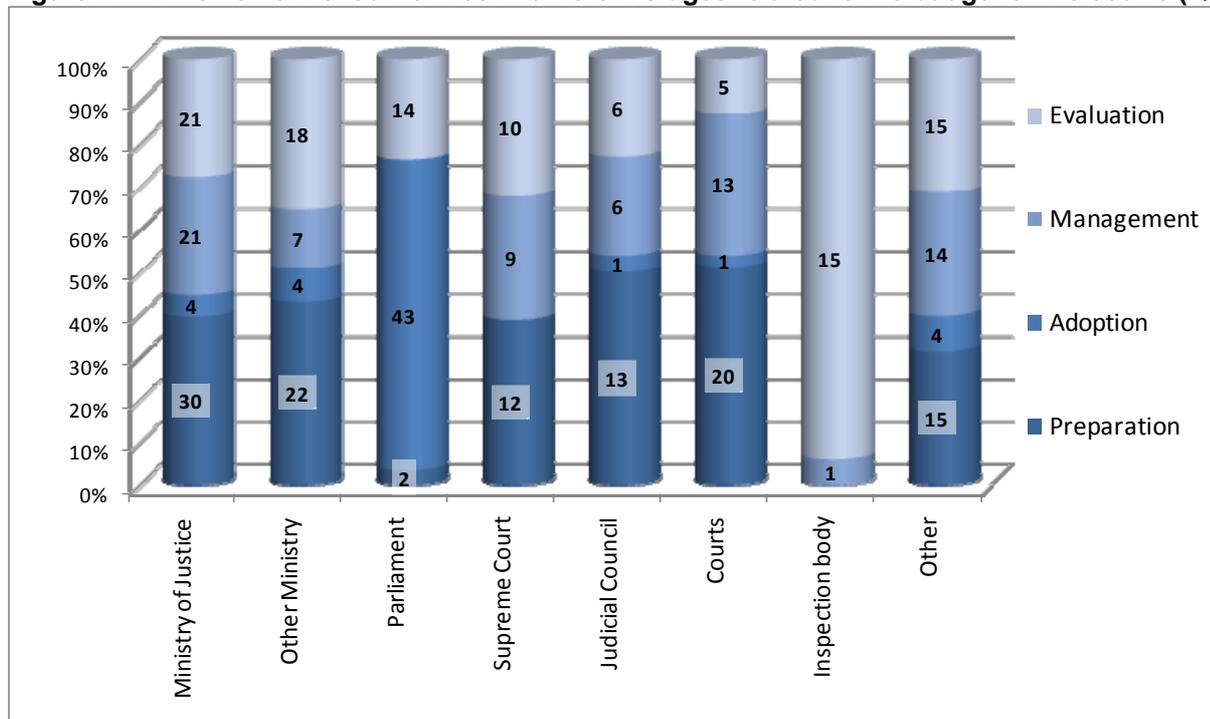


Figure 2.11 Involvement of authorities in different stages related to the budget of the courts (Q18)



The budgetary process (from the preparation to the adoption, the management and the evaluation of budgetary expenditures) is, in most member states, organised in a similar way.

The Ministry of Justice is usually responsible for preparing the budget (proposals). In some states or entities, other Ministries may take on that responsibility: this is especially true for states with specialised courts that do not depend on the Ministry of Justice, for example when a labour court is funded by the Ministry of Social Affairs. The Ministry of Finances is often involved in (part of) the budgetary process for courts. The courts themselves (20 states or entities), the Council of Justice (13 states or entities) or the Supreme Court (12 states or entities) play a central role in the stage of preparation. Specific bodies may also participate in 13 states or entities (for example the Office of the judicial budget administration in **Albania**, the Council of Court Presidents in **Armenia**, the National Audit Office of **Denmark**, the Office of Judicial Services in **Monaco**, the Court budget Council in "**the former Yugoslav Republic of Macedonia**", the Management Board of the Court Service of **UK-Scotland**). Only **Austria** lets the Parliament intervene when preparing the budget.

The responsibility of adopting budget proposals lies with Parliament allowing sometimes for other bodies to be involved. Some states or entities have reported that the Ministry of Justice or other Ministries may be involved in this field. However, it is possible that these answers reflect a misunderstanding of question Q18 regarding the formal adoption of the budget. One should be aware of the specific role of federal and autonomous entities in some federal or decentralised states (for instance **Spain**).

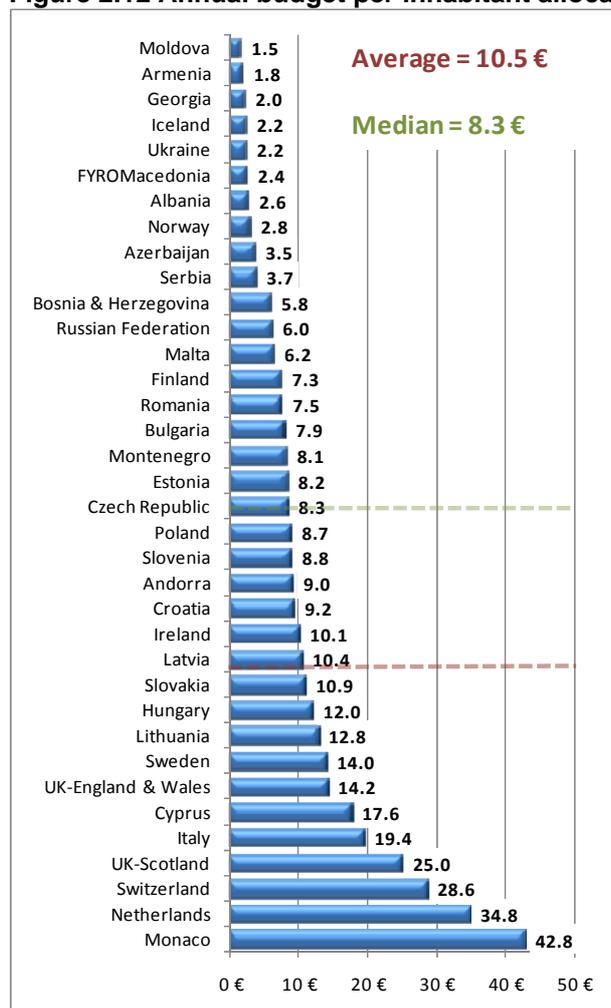
Either judicial bodies (courts and/or supreme courts and/or councils of justice) or the executive power (Ministry of Justice and/or Ministry of Finances) manage most often the overall budget of the judicial system, allowing for frequent participation of several actors combining the executive power and judicial entities (13 states or entities). In some states, ad hoc bodies may be involved in preparing the budget and often have a role to play in managing that budget (see above).

The evaluation of the proper implementation of the budget is widely operated in Europe by the executive power, divided between the Ministry of Justice and other Ministries (mostly Finances). Parliament (14 states or entities) or an independent inspection service (15 states or entities) such as an auditing body (**Luxembourg, Turkey, UK-Scotland**) may get involved, alone or combined with other executive or judicial powers' institutions.

2.3 Public budget allocated to the public prosecution services

The tables below refer only to the 36 states or entities that were able to identify a specific budget for public prosecution. In 11 states or entities, the budget for courts includes the budget allocated to public prosecution. Unlike the 2008 Edition, **France** was not able to give an estimation of the respective shares of budgets allocated to courts on the one hand and to prosecution services on the other hand, for the reason that both are combined. **Denmark** delegates part of the tasks, that lie generally under the responsibility of the public prosecution, to the police (and are therefore allocated to different budgets) and was not able to record rationally comparable data.

Figure 2.12 Annual budget per inhabitant allocated to the prosecution service in 2008, in €(Q16)



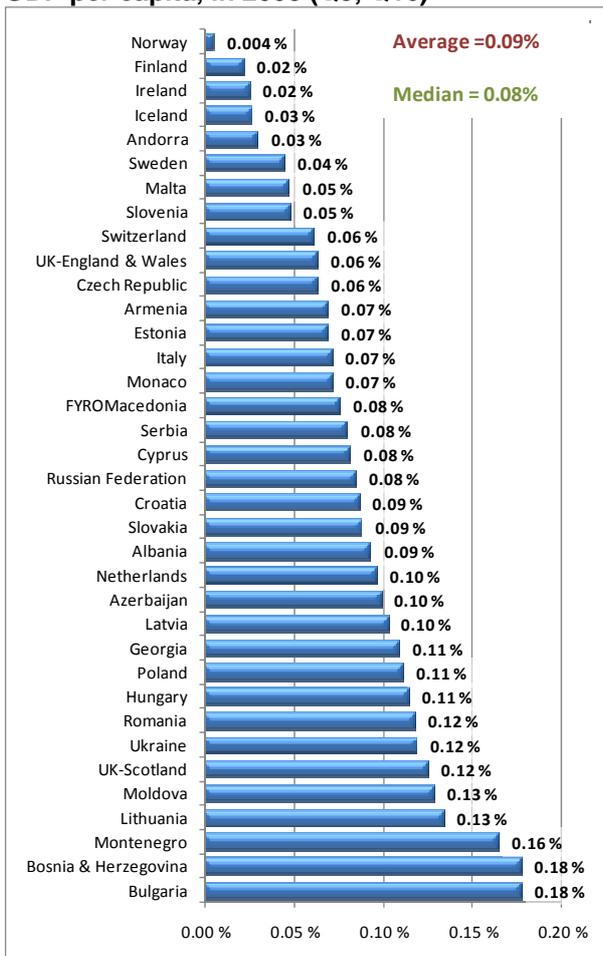
Comment

Spain: as from 2010 there has been a specific budgetary line for the Public Prosecution Service. However it only includes allocations susceptible of individualization (namely, those that refer to staff costs).

4 states or entities (**Monaco**³, the **Netherlands, UK-Scotland, Switzerland**) spend more than 20 € per inhabitant on prosecution services. 10 states spend less than 5 € per capita (**Moldova, Armenia, Georgia, Iceland, Ukraine, "the former Yugoslav Republic of Macedonia", Albania, Norway, Azerbaijan, Serbia**).

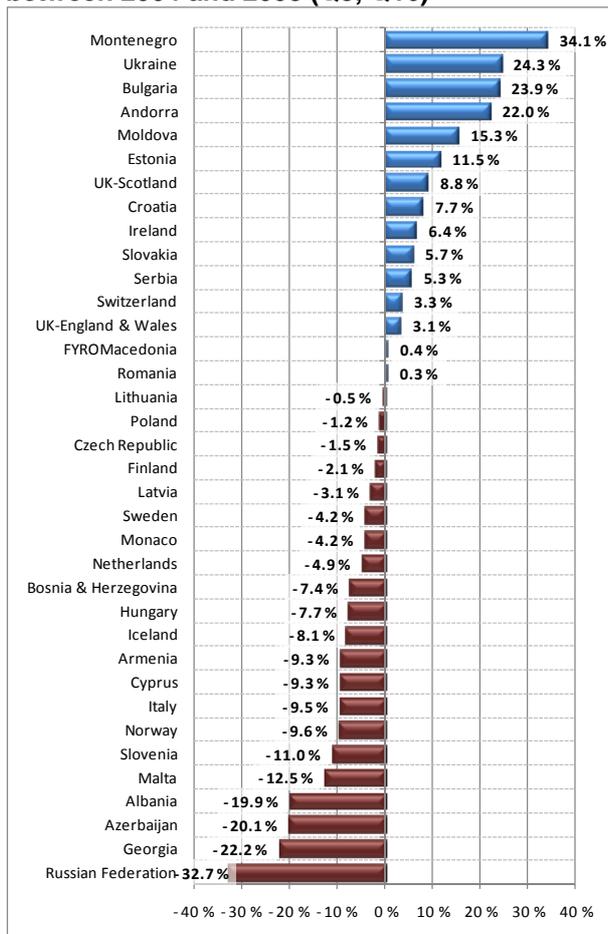
Keeping in mind the prosperity of each country allows a more precise evaluation of the public authorities' commitment towards prosecution services. Thus, one should read the analysis per capita by relating it to the GDP. Other realities appear when comparing the public prosecution budget to the level of wealth per capita in each state. As a result, one may notice that **Bulgaria, Bosnia and Herzegovina, Montenegro, Lithuania, Moldova**, allow a major budgetary priority for public prosecution services.

Figure 2.13 Annual public budget allocated to prosecution service per inhabitant, as part (in %) of the GDP per capita, in 2008 (Q3, Q16)



³ The data needs to be put into perspective by considering the low number of inhabitants.

Figure 2.14 Average annual variation of the prosecution budget, as part of the GDP per capita between 2004 and 2008 (Q3, Q16)



The annual average variation was calculated on the basis of data provided for 2004, 2006 and 2008. It was possible to analyse complete data series for 32 of the 36 states or entities reported in the above figure. Given that no data were available for 2004, **Armenia, Cyprus, Monaco and Switzerland** data series only cover the 2006-2008 periods.

Budgets allocated to prosecuting bodies between 2004 and 2008 have been relatively stable at a European level, even though the trend is slightly declining (average: -0,7%, median: -1,8%). Situations are nevertheless fairly uneven among member states. Public authorities in 4 states or entities (**Montenegro, Ukraine, Bulgaria, Andorra**) have committed large budgets to prosecution services between 2004 and 2008 (increase above 20%). On the contrary, the **Russian Federation, Georgia** and **Azerbaijan** have reduced this budget over 20%. Although, it is possible to use the variation in exchange rates (data provided in Euros) as an explanation for the downward evolution, it is equally interesting to highlight the fact that these countries are currently undergoing large-scale judicial reforms and rebalancing the role of judges, within the legal system, in relation to a traditionally powerful Prokuratura.

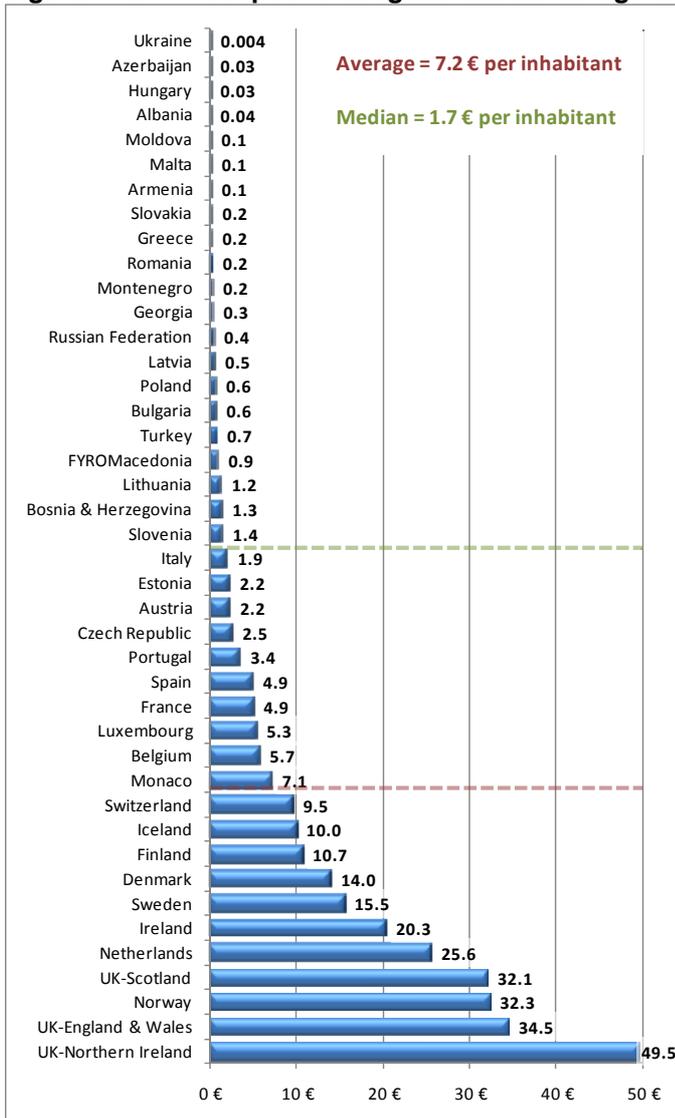
2.4 Public budget allocated to the legal aid system

7,2 € per inhabitant is spent on average by the public authorities to promote access to justice through the legal aid system. However, it seems more relevant to consider the median value in Europe: 1,7 € per inhabitant.

The Northern European states commit the largest budgets to the legal aid systems.

As it was the case in previous evaluation years, a relatively high budget (more than 30 € per inhabitant) for legal aid (gross data per inhabitant) is spent in the following countries or entities: **UK-Northern Ireland, UK-England and Wales, Norway** and **UK-Scotland**. A relatively high amount of the judicial system budget (more than 10 € per inhabitant) can also be seen in the **Netherlands, Ireland, Sweden, Denmark, Finland** and **Iceland**.

Figure 2.15 Annual public budget allocated to legal aid per inhabitant in 2008 (Q13)



Comments

Czech Republic: only the public budget for legal aid is indicated. The Czech Bar Association also contributes to legal aid.

France: since 2008, the annual public budget approved and allocated to legal aid is power-driven by funds authorised under the Finance Act and is complemented by legal aid expenditures recovered by the government against the party ordered to pay legal expenses and thus, non-beneficiary of legal aid.

Such amount of recovered expenditures is directly assigned to the Ministry of Justice through the restoration of credit process. In 2008, a € 8,9 million recovery was approved by the Ministry for the Budget which allows for higher expenditures than the credits set under the Finance Act.

Montenegro: the legal aid system is currently undergoing a reform process.

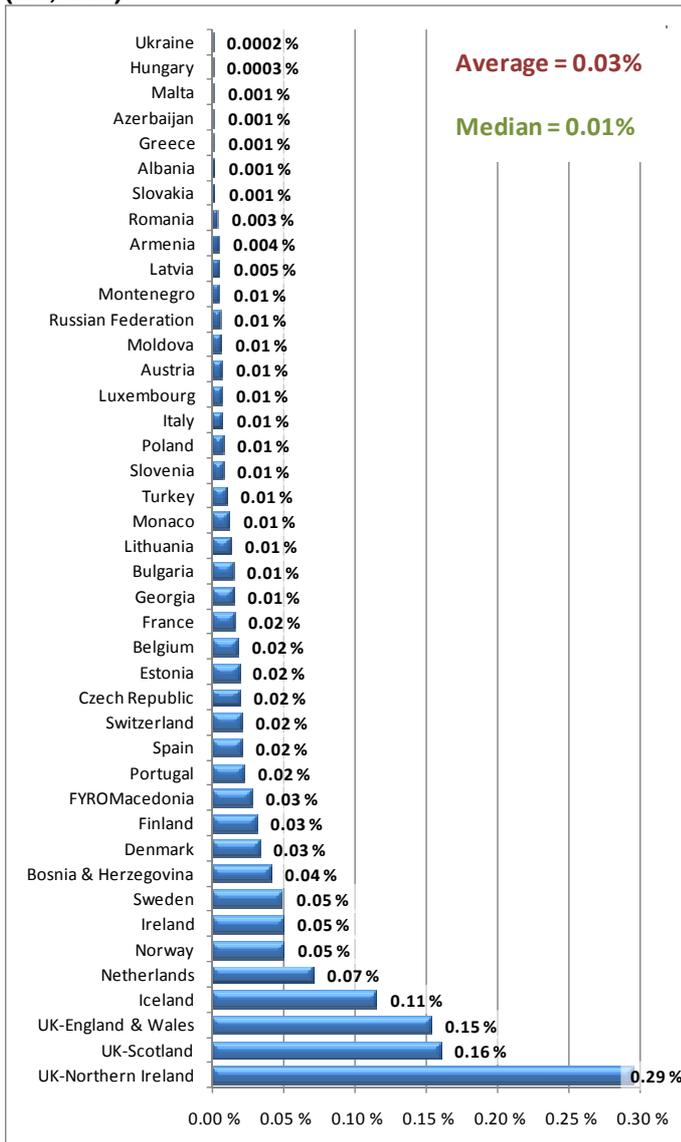
Slovakia: the amount indicated represents only the budget of the Legal Aid Centre. The costs of the lawyers appointed free of charge in civil proceedings or *ex officio* in criminal proceedings are included in the budget allocated to courts.

Switzerland: 3 cantons (out of 26) have not provided any amount regarding the legal aid budget. The calculated figure is based on the number of inhabitants without including the 3 cantons which did not answer the question.

"the former Yugoslav Republic of Macedonia": it is not possible to isolate the budget for legal aid in the court budget. Therefore, data presented include also, beyond legal aid, expenses for legal witnesses and other legal expenses of the courts related to court procedures.

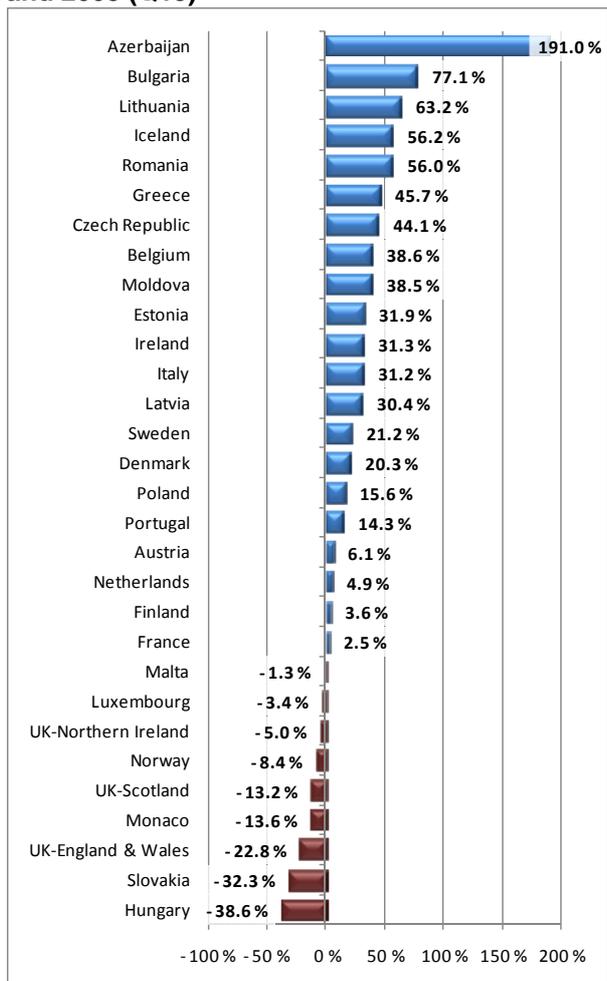
Similarly to previous analyses, introducing the reference to the GDP is useful to measure the impact of the budgetary amount allocated to legal aid, in relation to the states' prosperity, to help people who do not have sufficient means find access to justice.

Figure 2.16 Annual public budget allocated to legal aid as part (in %) of the GDP per capita, in 2008 (Q3, Q13)



When comparing the effort dedicated to the legal aid budget to the level of wealth of the states, the situation of the states that have a more generous system is not radically changed. It allows however to highlight the efforts, supported by European and international funds, of **Bosnia and Herzegovina** and "**the former Yugoslav Republic of Macedonia**" in access to justice.

Figure 2.17 Average annual variation of the budget allocated to legal aid per inhabitant between 2004 and 2008 (Q13)



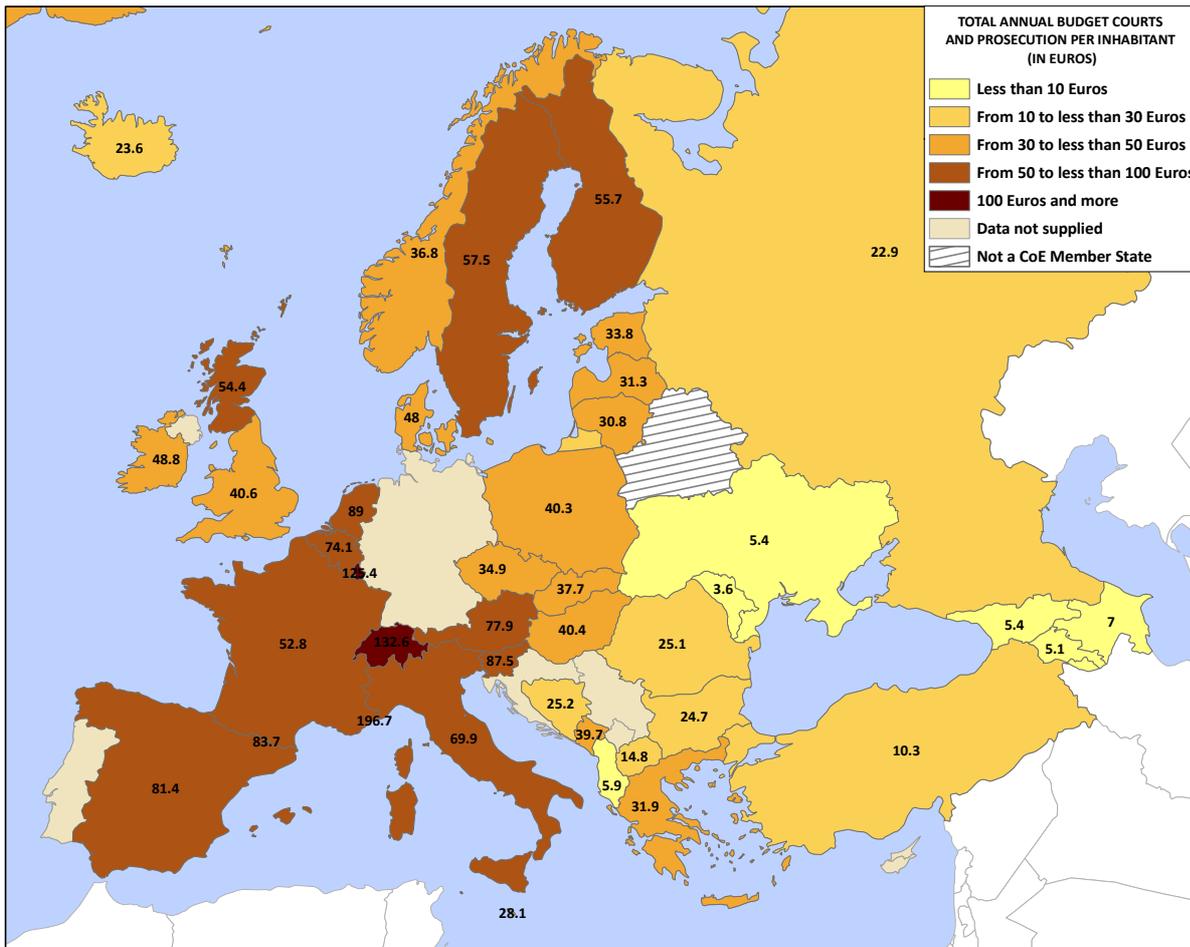
Given the quality of the data available, it was only possible to analyse the evolution, between 2004 and 2008, of budgets for legal aid in 30 states or entities. However, it enabled to highlight a positive European trend regarding the amounts allocated to legal aid; such trend being consistent with the requirements and spirit of the European Convention on Human Rights. A 23% average increase in four years can be underlined in Europe.

There are, however, major gaps between states or entities. Some states, previously very active in financing access to justice, have sustained such major efforts (**Belgium, Iceland, Ireland**). Other states having just recently implemented legal aid systems still hold, perhaps modest but often key, commitments and should be encouraged to follow such path (**Azerbaijan, Bulgaria, Moldova, Romania**). Some states or entities seem no longer able to uphold the level within their systems that are (and remain) the more generous of all and are forced to cut budgets (**UK-England and Wales, UK-Scotland, Norway, UK-Northern Ireland**). Likewise, important reductions in legal aid budgets are recorded in **Hungary** and **Slovakia**.

2.5 Public budget allocated to all courts and public prosecution (without legal aid)

The following analysis, which concerns 40 states or entities, refers to the sum of the budgets for courts and prosecution services. This data allows for the integration of states where the court budget cannot be separated from the budget allocated to prosecution services (**Austria, Belgium, France, Greece, Luxembourg, Spain, Turkey**). It was however not possible to include in this analysis the following 6 states or entities: **Croatia, Cyprus, Denmark, Portugal, Serbia** and **UK-Northern Ireland**.

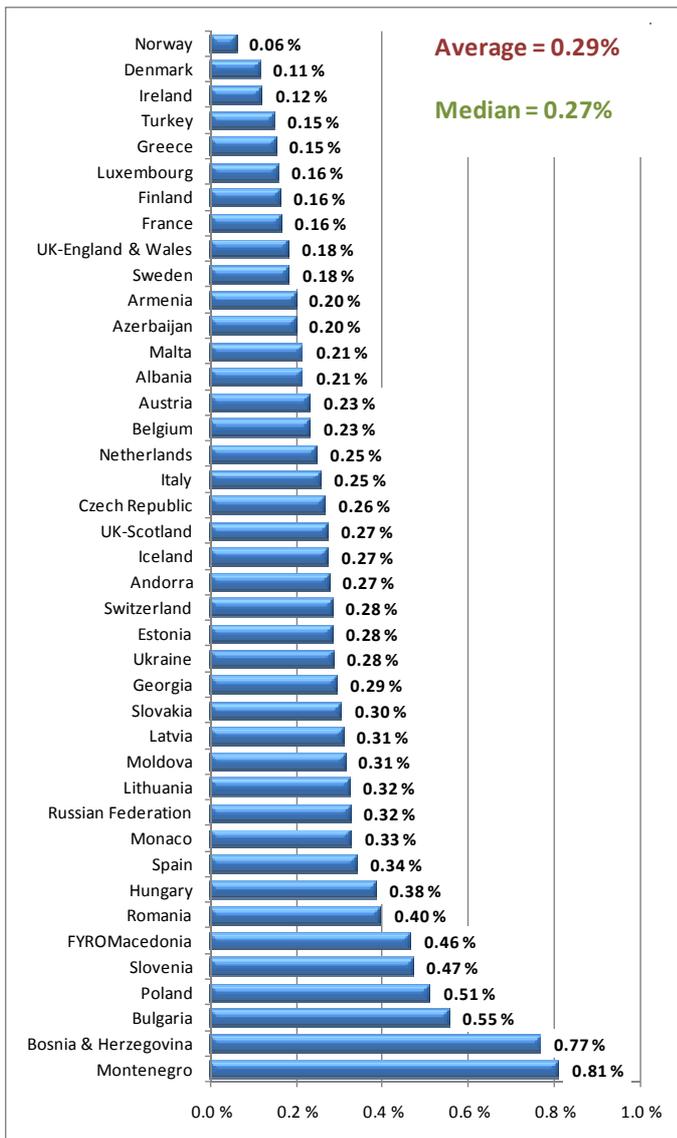
Figure 2.18 Total annual budget allocated to all courts and public prosecution (without legal aid) per inhabitant in 2008, in €(Q6, Q16)



Three zones can be identified from the geographical distribution of sums allocated to court and prosecution services' budgets: given their transitional economic systems, Eastern European states report the lowest budgets; Central European states, much of which have recently joined the European Union, stand at an intermediate level; Western European states spend the largest budgets per capita in accordance with the state of their economy.

In Europe, the average budget allocated to courts and prosecution services is 47,1 € per capita. The median level is 37,3 €

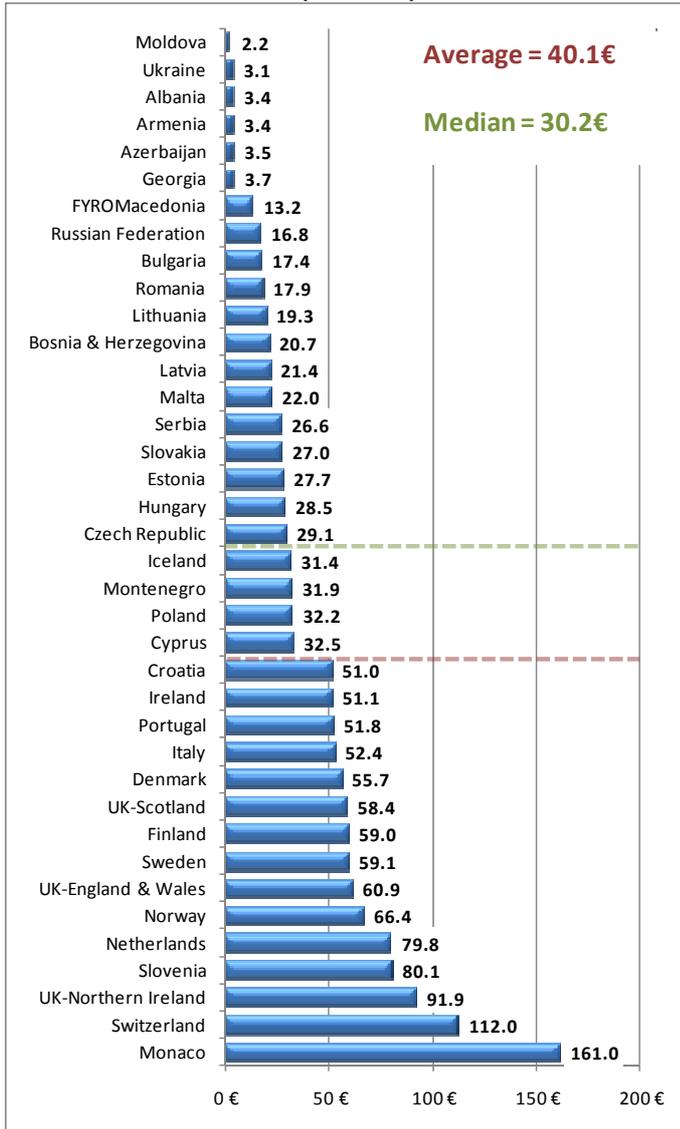
Of the 40 states or entities, **Monaco, Switzerland and Luxembourg** spend the largest amounts (more than 100 € per capita) for courts and public prosecution services. It must be borne in mind that sums per inhabitant in small states should always be put into perspective regarding the small number of inhabitants. **Azerbaijan, Albania, Georgia, Ukraine, Armenia and Moldova** spend less than 10 € per inhabitant on this system. A ratio including the GDP per capita must be analysed in order to compare these sums to the state's prosperity. One can observe that efforts of public authorities are higher than what the raw data suggest in these countries. According to the previous analysis, the relative commitments of public authorities (supported by European and international funds) in the judicial system remain high in **Montenegro, Bosnia and Herzegovina, Bulgaria, Poland**.



2.6 Public budget allocated to all courts and legal aid (excluding prosecution services)

In this section, it is possible to compare with each other budgetary figures for courts and legal aid of 36 states or entities. In certain states, the legal aid budget is an integral part of the court budget and can not be isolated. It is now possible to take these countries or entities into account in the following analysis.

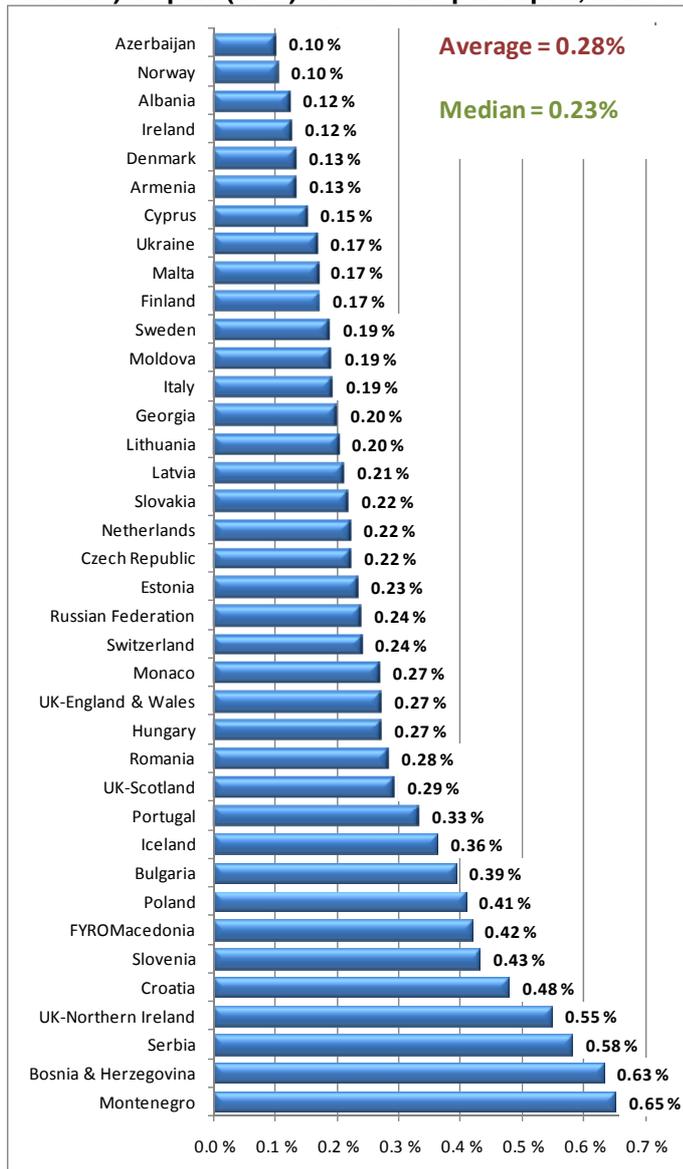
Figure 2.20 Total annual budget allocated to all courts and legal aid (without prosecution) per inhabitant in 2008, in €(Q6, Q13)



In this analysis, 40,1 € is the average amount spent per inhabitant in Europe, excluding the public prosecution service. Once again, the median value is more relevant to stress: 30.2 €. The financial government commitment to courts and legal aid may again be related to the level of wealth of each state by calculating a ration including the GDP per capita.

The analysis is similar to those completed above. States or entities that have developed positive legal aid systems are placed further forward: **UK-Northern Ireland, UK-Scotland, UK-England and Wales.**

Figure 2.21 Annual public budget allocated to all courts and legal aid (excluding prosecution services) as part (in %) of the GDP per capita, in 2008 (Q6, Q13)

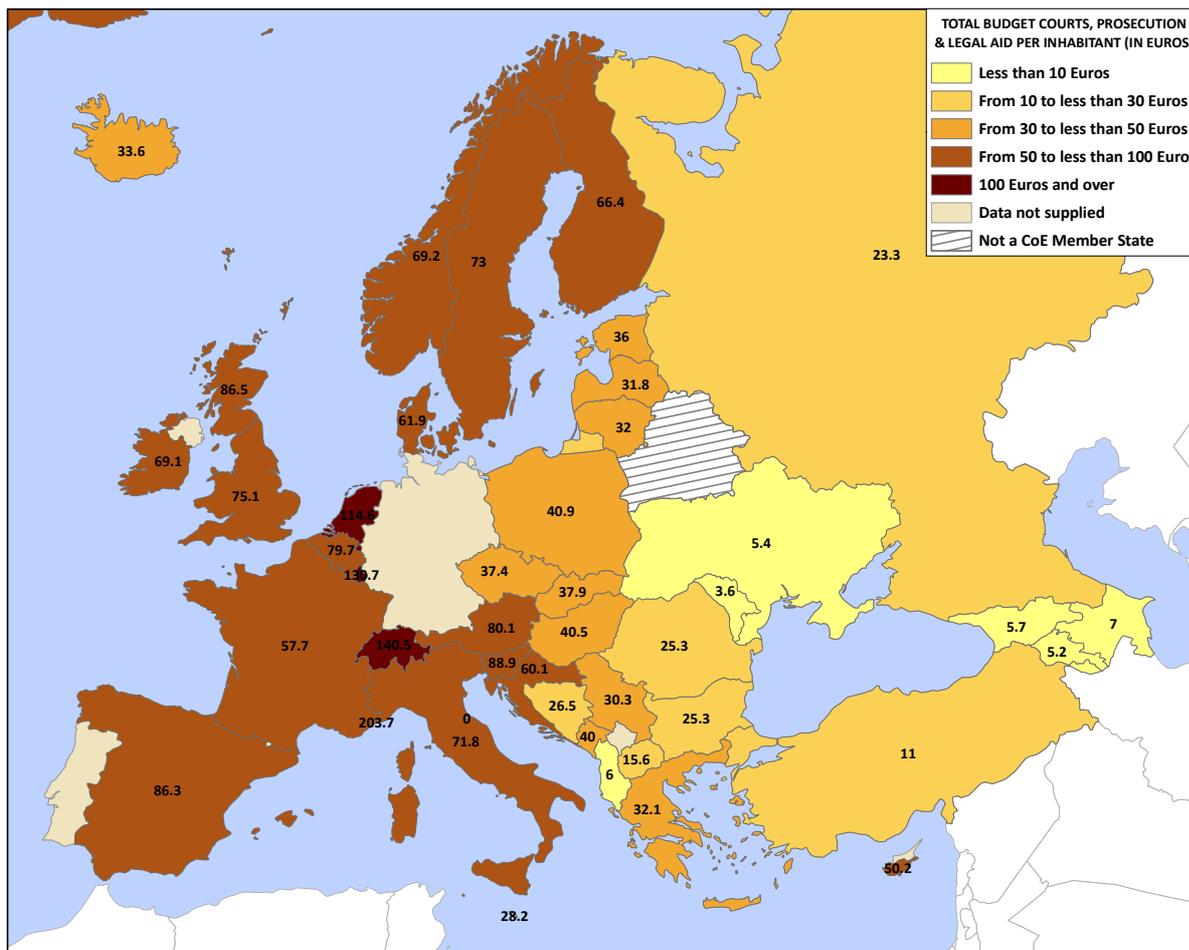


2.7 Public budget allocated to all courts, public prosecution services and legal aid

This part gives an overview of the budget allocated to the judicial system, when studying courts, legal aid and prosecution services together.

This global analysis allows for the evaluation of 42 on 47 states or entities participating in this report. Only the following countries are missing: **Andorra, Denmark, Portugal, San Marino** and **UK-Northern Ireland**.

Figure 2.22 Annual public budget allocated to all courts, public prosecution and legal aid per inhabitant in 2008, in €(Q6, Q13, Q16)



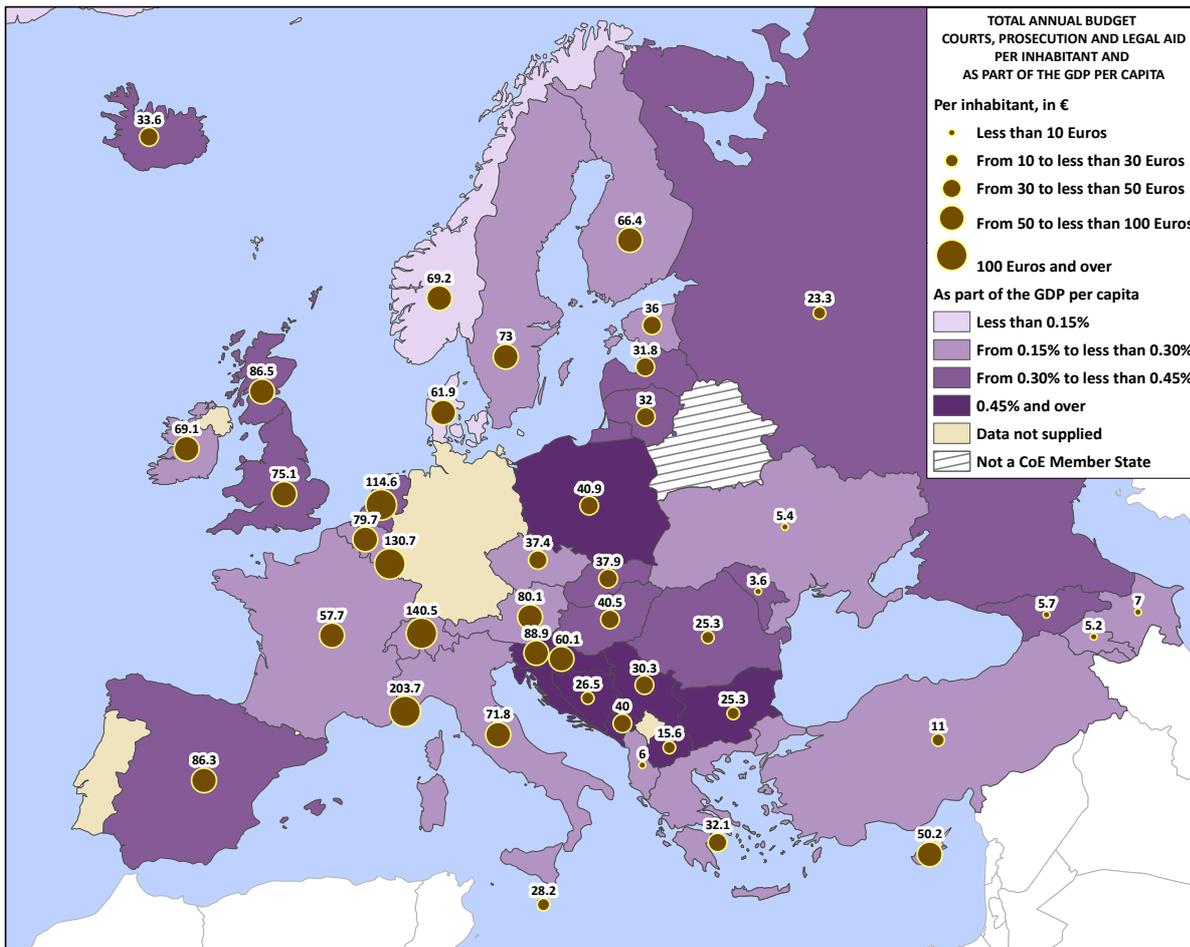
51,7 € per capita is the average amount of resources spent on the judicial system in Europe. 40% of European countries considered here are above the European average. Yet, in order to take into account “extreme” values, it is more appropriate to use within this analysis the median value for the budgetary commitment, that is 38,9 € per capita.

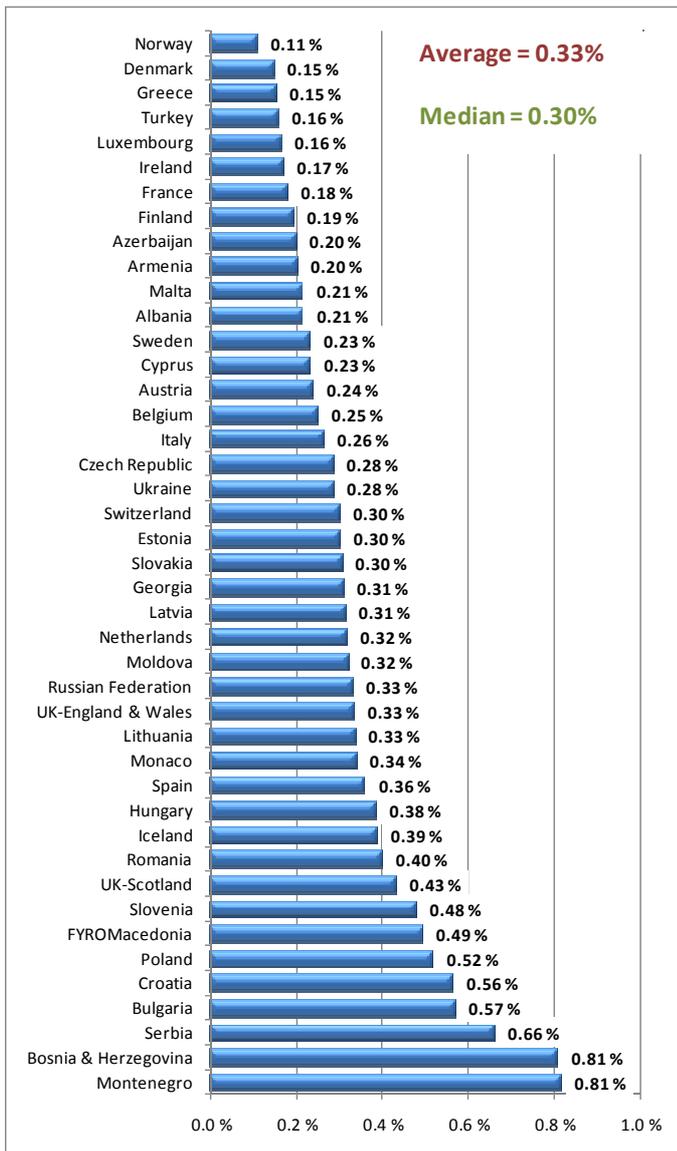
The same three geographical areas in Europe as those highlighted under chapter 2.5 above (budget of courts and prosecution service) can also be distinguished on the basis of the level of economic growth of the known states or entities: given their transitional economic systems, Eastern European States report the lowest budgets; Central European States, much of which have recently joined the European Union, stand at an intermediate level; Western European countries spend the largest budgets per capita in accordance with the state of their economy.

6 states spend less than 10 € per capita on the judicial system: **Moldova, Armenia, Ukraine, Georgia, Albania and Azerbaijan**. 4 states allocate more than 100 € per inhabitant: the **Netherlands, Luxembourg, Switzerland and Monaco** (again, one must notice the reservation for using the ratio for micro-states with small populations).

Similarly to previous analysis, it is interesting to compare raw data with the wealth of each state or entity by calculating the ratio including the GDP per capita. The budgetary commitments to judicial systems (with the frequent support of European and international funds) in **Montenegro, Bosnia and Herzegovina, Serbia, Bulgaria, Croatia, Poland, "the former Yugoslav Republic of Macedonia"**, are favourable and highlight the undergoing reforms of the judicial systems within these South-East European states as well as the Central European states that joined the European Union.

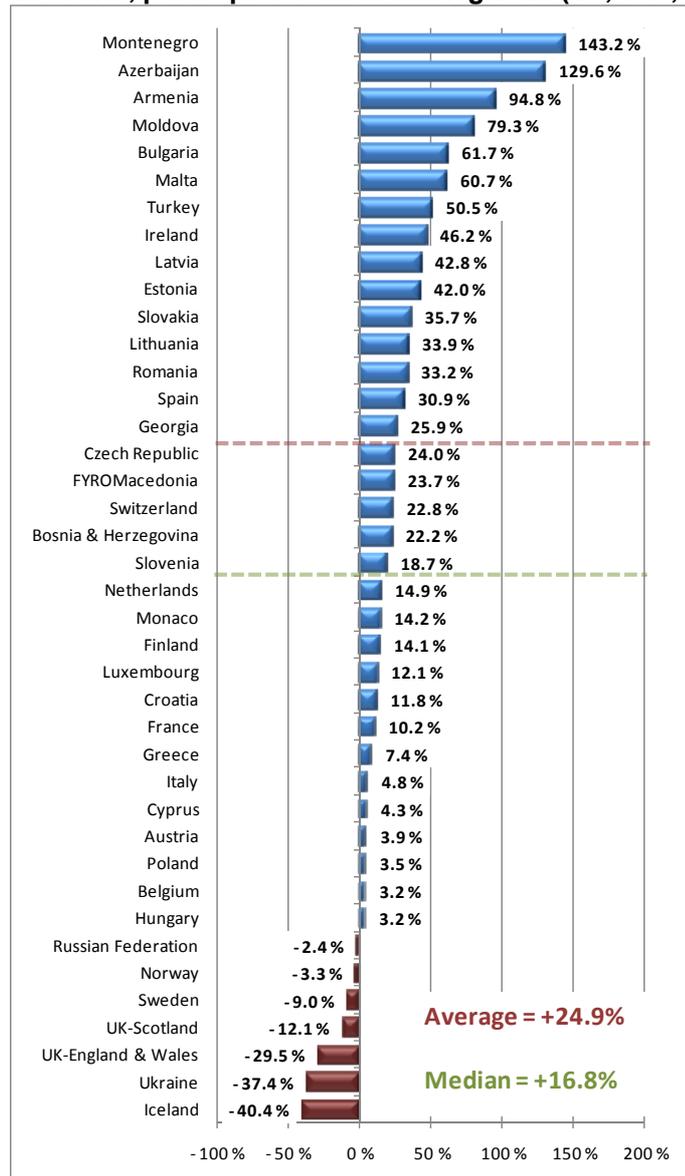
Figure 2.23 Total annual public budget allocated to all courts, prosecution and legal aid as part (in %) of the GDP per capita, in 2008 (Q6, Q13, Q16)





Note to the reader: the data of the wealthiest states or entities must here be reported once more to the level of prosperity of the state; otherwise it might be wrongly interpreted that they allocate a little amount of budget to their judicial system, because of their high GDP. This is namely the case for **Norway**, **Luxembourg**, **Finland**, and to a certain extent for **France**. This fact must be taken into account if relevant comparisons between comparable states had to be drawn.

Figure 2.24 Evolution between 2006 and 2008 of the total annual approved public budget allocated to all courts, public prosecution and legal aid (Q6, Q13, Q16)



The data available in previous evaluation cycles do not enable for the construction of statistical series starting in 2004. The evolution of budgets considered here relate only to the 2006-2008 period.

The evolution of the public budget allocated to the overall judicial system in Europe is positive between 2006 and 2008. An average growth of 24,4% in two years is recorded for member states of the Council of Europe (this evolution excludes 6 states or entities for which the data precludes from identifying the trend: **Albania, Andorra, Portugal, Serbia, UK-Northern Ireland**). Yet, this evolution must be tempered by variations in exchange rates that inflate artificially some data provided by countries outside the Euro zone (namely regarding the significant growth in the entities of the **United Kingdom**).

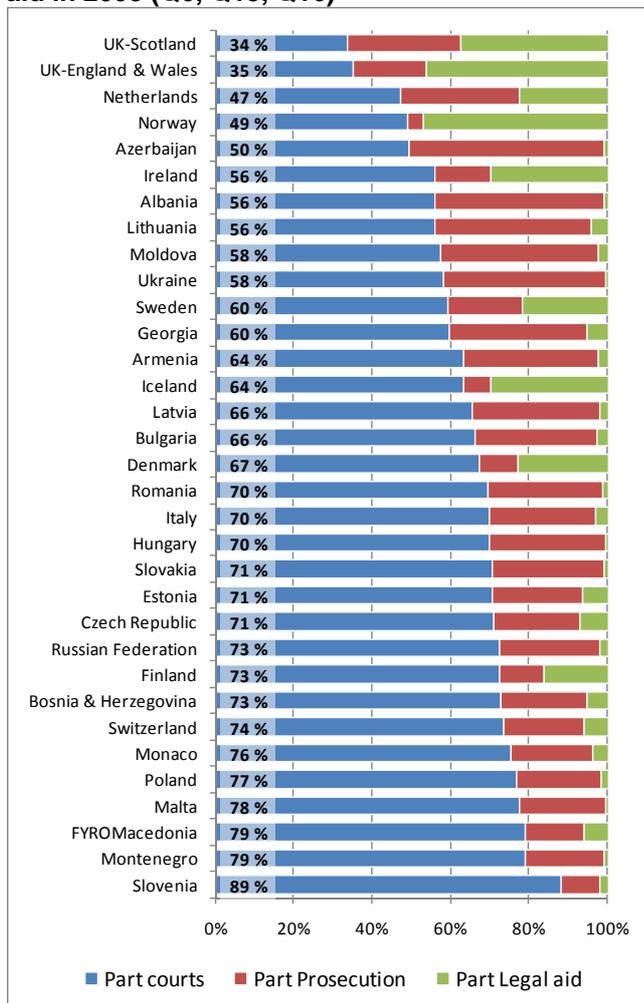
The most outstanding evolutions concern naturally countries that either launched relatively recently major reforms on their judicial systems following major political and institutional changes (**Montenegro, Azerbaijan, Armenia**) or decided on major legal reforms especially on the basis of a new membership to the European Union or an application for such membership (**Bulgaria, Malta, Turkey, Latvia, Estonia, Slovakia, Lithuania, Romania**).

The evolution of exchange rates must be taken into account when analysing the downward evolution of some state or entities.

For the **Russian Federation**, the decrease is primarily due to the decrease in the budget of the prosecution system, while the courts' budget has actually increased between 2006 and 2008.

One can observe that the economic situation in some states could adversely affect, as soon as 2008, the budgets allocated to the judicial system (**Iceland**) and that the entities of the **United Kingdom** that are traditionally allocating major budgets to the legal system, in particular to legal aid, are gradually forced to restrict their budgetary efforts, even though these systems remain among the better financed within Europe.

Figure 2.25 Relative distribution of parts in the public budget between courts, prosecution and legal aid in 2008 (Q6, Q13, Q16)



The distribution of the financial commitment to courts, prosecution services and legal aid was established for 33 states or entities. For these states, on average, 64,1% of the budgets allocated to the judicial systems were devoted to the operation of courts, 25,6% to the prosecution services and 10.3% to the legal aid system.

This figure enables to distinguish priorities set by the states or entities within their budgetary commitment. Such priorities are indicative of fundamental policy choices made by the states to conduct their judicial policies and current evolutions in those systems.

Thus, in a system lead by the *Habeas Corpus*, the entities of the **United Kingdom** give priority to legal aid. This priority remains a significant characteristic of Northern European systems (**Finland, Iceland, Ireland, the Netherlands, Sweden**). These same states or entities spend a smaller share of their budgets on the operation of courts, partly for the reason that the sum allocated to salaries is lower in *Common Law* systems, which allow for an important number of lay judges to sit (with the exception of **Ireland**). For the Northern European states, part of the explanation lies also in the tendency for society to be less litigious compared to the rest of Europe: part of the litigation is diverted from court proceedings (example: divorce, please see chapter 9 below) and assigned to administrative bodies.

Traditionally, prosecution services in the Eastern European states boast a strong position in the system (**Armenia, Azerbaijan, Bulgaria, Georgia, Latvia, Lithuania, Moldova, Romania, Ukraine**).

One can also observe that some countries have not allocated major sums to legal aid yet, these systems of access to justice having been created just recently (**Albania, Azerbaijan, Poland, Montenegro, Romania, Slovakia, Slovenia, Ukraine**).

Figure 2.26 Evolution between 2006 and 2008 of the parts of courts, prosecution and legal aid in the total budget, in % (Q6, Q13, Q16)

Country	Courts	Prosecution	Legal aid
Armenia	29.2	-30.4	38.4
Azerbaijan	15.7	-11.2	-52.0
Bulgaria	-9.8	24.7	66.3
Czech Republic	1.5	-11.1	33.8
Estonia	2.9	-2.1	-19.5
Finland	1.2	8.9	-10.0
Georgia	0.9	-12.4	
Hungary	-0.3	0.7	55.7
Ireland	-5.9	2.3	9.2
Italy	8.1	-17.3	17.6
Latvia	2.6	-3.2	-29.0
Lithuania	-7.5	13.1	-1.9
Malta	0.9	-3.1	-3.1
Moldova	39.7	-29.1	10.6
Monaco	2.0	-4.4	-12.4
Netherlands	-0.02	-3.9	5.9
Norway	-4.7	11.6	4.5
Poland	-2.2	8.9	-0.3
Romania	-0.9	4.8	-45.8
Russian Federation	-3.5	14.5	-35.2
Slovakia	-1.9	10.6	-76.1
Slovenia	1.8	-16.1	27.9
Sweden	-2.8	4.8	4.0
Switzerland	-1.0	2.2	6.1
FYROMacedonia	-4.2	10.2	59.2
Ukraine	-16.4	37.8	-3.4
UK-England and Wales	4.2	33.5	-11.8
UK-Scotland	48.2	3.3	-26.3
Average	3.5	1.7	0.5
Median	0.42	2.2	-0.3
Minimum	-16.4	-30.4	-76.1
Maximum	48.2	37.8	66.3

Given the data available, it was only possible to measure the evolution of all three elements of the judicial system (courts, prosecution services, legal aid) for 29 states or entities.

This analysis shows a considerable consistency within the systems. It may be tempting to think that, in most cases, this distribution is a structural characteristic of these systems.

Some important evolutions in terms of legal aid concern only small absolute values and should therefore be interpreted with caution.

This is mainly reflected by decreases in the public budgets allocated to the judicial system, as in **Bosnia and Herzegovina** (decline of budgets for courts and prosecution services by 5,7% in 2009), **Bulgaria** (the 2010 budget was reduced to the level of the 2008 budget), **Greece** (budgets decreased by 10% in 2010, especially in operational and equipment costs and salaries), **Finland** (limited to a reduction by 1%), **Hungary, Italy, Latvia** (mainly a reduction in the salaries: -15% in 2009 for all employees and an additional -27% for judges in 2010), **Lithuania, Slovenia, UK-England and Wales** (savings on operational costs and optimisation of resources). Some states or entities have chosen at this stage to freeze certain expenses (**Czech Republic**). Others have imposed limits on investment and maintenance of infrastructures (**Moldova**: reduction by 15% in 2009, 2010 budget remains stable). These budget reductions must be put into perspective for some states or entities that experienced high increases of budget in previous years (see above). **Bosnia and Herzegovina** relies on the financial international cooperation (International Monetary Fund) to maintain the level of its budget.

The crisis can equally generate a drop in estimated revenues for the judicial system due to slower economic activity, as **Portugal**, for instance, announces a significant decrease in revenues from taxes and costs on land, notarial and trade registers.

On the other hand, the following states do not report any direct impact at this stage from the financial and economic crisis on budgets for the judicial systems: **Austria, Cyprus, Croatia, France, Luxembourg, the Netherlands, Sweden, Switzerland, Turkey, UK-Northern Ireland**. Some states or entities (e.g. **the Netherlands**) feared that public budget cuts would only deepen the economic crisis. Instead public expenditures were maintained, while on the same time drastic cuts, for the period 2014 and further, are developed.

However, **France** draws attention to a restraint on the budget for judicial justice caught between a negative or stagnant evolution in funds and growing needs, as regards staff, operational funds or court fees.

Indirect impacts of the crisis on the budgets can also be observed for judicial systems: commercial, bankruptcy and labour litigations are affected by the worsening economic situation. Similarly, the social circumstances are grounds for an increase in criminal litigation (rise in delinquency). **Spain** indicated an increase in the workload of the whole civil jurisdiction in the second term of 2008 and in 2009 of 16,6% in comparison to 2007. This has led to the creation of a significant number of judicial posts (which explains that the number of resolved cases has also increased of 5 %). Predictably, this increase in litigation provokes further costs for justice, as specified in particular by **France** and the **Netherlands**.

Several states do not consider implementing measures restricting future budgets (**Sweden, Turkey**). On the other hand, others announce plans (**Portugal**) or foreseen projects by public authorities (**Czech Republic, the Netherlands**) to cut budgets. A majority of states or entities state that they are not able to rule on future budgets at this stage, although some suggest the likelihood of future restrictive measures (**Austria, France** – reduction of staff within the general policy of non-replacement of some civil servants -, **Lithuania, UK-England and Wales**).

Although this report tries to anticipate the effects of the crisis, such effects will probably manifest themselves fully in the next edition of this report that will count on replies from the member states corresponding to the 2010 data. Hopefully the chronological series of CEPEJ will facilitate the study of the impact of economic crisis in justice structures, staff, and budgets.

2.9 Trends and conclusions

Until 2008, the European trend is increasing budgets for justice in general and the judiciary in particular. The development of the judicial system remains a priority for governments in Europe, even though large differences are noted among the member states.

The budgets of the judicial systems have increased in most of the European states until 2008. Only 4 member states had experienced decreasing budgets until 2008. It is worth mentioning in particular the states that have more recently turned to a democratic system and implemented major structural reforms of their judicial systems are often those that provide a consistent budgetary effort and dedicate for the operation of the systems an important public budget according to the country's level of wealth. For many of them, the funds from international organisations (including World Bank, IMF) or European institutions (mainly the European Union) contribute to this evolution.

However the evolution of these budgetary efforts devoted to the courts, the prosecution system and legal aid in Europe will have to be followed, in order to assess the effects of the financial and economic crisis of 2009 /

2010. It is likely that, at the European level, the growth rate of budgets will slow down significantly and even, that the curve will invert.

The study of the part devoted to the judicial system in the overall budget of justice enables to highlight different political choices - or structural ways for building justice organisation - in Europe: more than half the member states spend more resources to other areas of justice than the judicial system (prison system, protection of minors, etc..), while others direct public budgetary efforts mainly to court operation. The allocation of the parts of the budget of the judicial systems also reflects, on the one hand, the structure of the judicial organisation in the member states and, on the other hand, the orientation of public policy decided by the governments.

The analysis of the breakdown of the budgets shows, for instance, that the common law states, which rely in particular on non-professional judicial staff (with the exception of **Ireland**) and hire a smaller number of judges (usually much experienced), devote a smaller share of their resources to salaries, while this part is the largest one in the budget of the continental law systems. Similarly, a larger budget is devoted to the prosecution system in states where prosecutors have traditionally occupied a prominent position in the functioning of justice. One can thus also identify systems that rely on a wide access to the law, promoted by public policies of justice guided by the principles of Habeas Corpus and generous as regards legal aid, in particular in the entities of the United Kingdom and in Northern Europe.

Orientations in public policies of justice can be highlighted from this analysis, such as the trend to decrease the number of courts in Western Europe when states or entities undertake a reform of their judicial map, the recent development of legal aid policies in states or entities that were not used to such systems, or the priority given to judicial training in the newest member states.

Chapter 3. Access to justice

Legal aid is essential to guaranteeing equal access to justice for all, as provided for by Article 6.3 of the European Convention of Human Rights regarding criminal law cases. Especially for citizens who do not have sufficient financial means, it will increase the possibility, within court proceedings, of being assisted by legal professionals for free (or limited expenses) or receiving financial aid.

Beyond the European Convention of Human Rights and the case law of the Court of Strasbourg, the Council of Europe encourages its member states to develop legal aid systems and has adopted several Recommendations and Resolutions in this field: Resolution 76 (5) on legal aid in civil, commercial and administrative matters; Resolution 78 (8) on legal aid and advice; Recommendation 93 (1) on effective access to the law and justice for the very poor and Recommendation 2005 (12) containing an application form for legal aid abroad for use under the European Agreement on the transmission of applications for legal aid (STCE N°092) and its additional protocol¹.

Legal aid is defined in the explanatory note of the Evaluation Scheme as: aid given by the State to persons who do not have sufficient financial means to defend themselves before a court (or to initiate a court proceeding). In this definition, legal aid mainly concerns legal representation before the court. However, legal aid consists also in legal advice. In fact, not all citizens who are faced with judicial problems initiate judicial proceedings before the court. In some cases legal advice can be sufficient to solve a legal issue. Then, legal aid is made of two components which might differ according to the states concerned: on the one hand, it is an aid for access to law (information and legal advice, aid for an alternative to a judicial hearing - ADR Alternative Dispute Resolution), on the other hand, it is an aid to safeguard individual rights within the framework of a judicial proceeding, as a claimant or a defendant in a civil proceeding, or as an accused or a victim in a criminal proceeding.

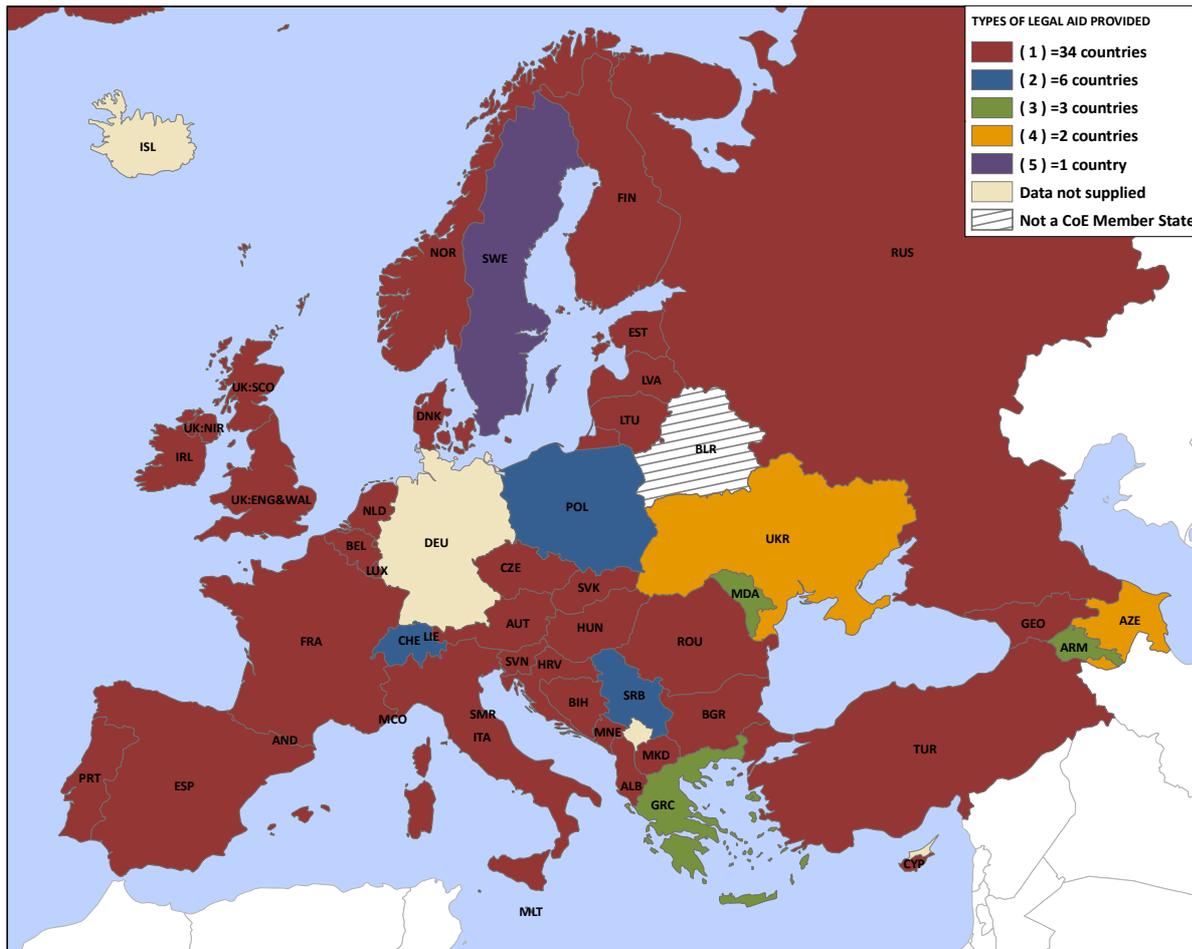
3.1 Various types of legal aid

All the member states provide legal aid for legal representation in criminal law cases. Only two member states (**Azerbaijan, Ukraine**) have restricted legal aid to criminal matters only. In the majority of the member states, legal aid is provided for legal representation, legal advice or other forms of (legal) assistance.

On the basis of the replies received, it is possible to cluster the member states in five classes (from the lowest level – legal aid only in criminal matters - to the widest range of legal aid - legal advice and representation in criminal and non-criminal cases (including other forms of legal aid). The following figure and table lay out the categories.

¹ This Recommendation enables to use common forms to the European Union and the Council of Europe which are in line with Directive 2003/8/CE of 27 January 2003 on legal aid.

Figure 3.1. Types of legal aid provided in criminal and other than criminal cases (Q20)



(1) [Representation in court + legal advice] in [criminal + other than criminal cases]. In this category are included a great part of the states or entities (34 of 46 which were able to provide information for this question). Then, three quarters of the states or entities widely grant legal aid to cover the users' needs.

(2) [Representation in court] in [criminal + other than criminal cases]. 6 states granting legal aid only for the representation in court, but in both criminal and other than criminal cases: **Malta, Monaco, Poland, San Marino, Serbia and Switzerland.**

(3) [Representation in court + legal advice] in [criminal cases] + [representation in court] in [other than criminal cases]. 3 states (**Armenia, Greece, Moldova**) apart from the representation already mentioned under heading (2) use to provide legal aid for the legal advice in criminal cases.

(4) [Representation in court + legal advice] in [criminal cases]. 2 states (**Azerbaijan and Ukraine**) do not allow any legal aid in other than criminal cases.

(5) [Representation in court] in [criminal cases] + [Representation in court + legal advice] in [other than criminal cases]. **Sweden** is the only state where more types of legal aid are made available in other than criminal matters than in criminal matters.

Legal aid can be restricted to particular categories of users. In **Greece**, for instance, legal aid is restricted to citizens of the European Union or third countries provided that the users live in a member state of the European Union (with some exceptions for some of the administrative cases).

In criminal matters, legal aid can be limited to a specific public institution such as the State Advocate who can defend the accused persons (**San Marino**). Legal aid can be more or less granted for the whole or a part of criminal procedure (legal aid can be granted for pre-trial investigation in **Estonia, Ukraine**, for instance) or for more or less wide categories of parties in the proceeding (legal aid can be granted to the victims of offences in **France, San Marino or Sweden** for instance). The state can also bear the costs of the proceedings when the accused person is acquitted (**Iceland**).

Outside the criminal law field, legal aid can be more or less granted according to the types of cases concerned. Several states grant legal aid in the main legal fields such as the civil law field or the administrative law field (**Estonia, France**). In some member states the scope of cases which can be entitled to legal aid is more limited: thus, for instance, legal aid is restricted to some administrative law cases

involving mandatory psychiatric treatment or legal incapacity (**Georgia, Moldova**), or cases regarding media campaigns where public interests are at stake (**Albania**).

Table 3.2 Fees covered by legal aid and other types of legal aid grants (Q20, Q22, Q23)

Country	Legal aid foresees the covering or the exoneration of court fees	Legal aid can be granted for the fees that are related to the execution of judicial decisions	Other special grants in criminal cases	Other special grants in other than criminal cases
Albania				
Andorra				
Armenia				
Austria				
Azerbaijan				
Belgium				
Bosnia and Herzegovina				
Bulgaria				
Croatia				
Cyprus				
Czech Republic				
Denmark				
Estonia				
Finland				
France				
Georgia				
Greece				
Hungary				
Iceland				
Ireland				
Italy				
Latvia				
Lithuania				
Luxembourg				
Malta				
Moldova				
Monaco				
Montenegro				
Netherlands				
Norway				
Poland				
Portugal				
Romania				
Russian Federation				
San Marino				
Serbia				
Slovakia				
Slovenia				
Spain				
Sweden				
Switzerland				
FYROMacedonia				
Turkey				
Ukraine				
UK-England and Wales				
UK-Northern Ireland				
UK-Scotland				
TOTAL	40 states/entities	31 states/entities	22 states/entities	23 states/entities

In most of the member states and entities, legal aid can take the form of an exemption from court fees. This exemption can be directly considered as part of the legal aid budget when it is financially counted within the state budget allocated to legal aid (**Finland**). In **UK-England and Wales**, the system does not take the form of court fee exemption but consists in the effective bearing of court fees by the legal aid system. For the other states, exemption from court fees is an aid which cannot be specifically valued; it is addressed in the chapter on court fees below (see chapter 3.5).

Two thirds of the states or entities foresee the possibility of granting legal aid as regards the enforcement of judicial decisions.

Some systems enable to grant legal aid within the framework of Alternative Dispute Resolution (ADR) or transactional procedures (**Bulgaria, France, Netherlands, Portugal, Slovakia**)².

Legal aid can also consist in bearing the fees of technical advisors or experts in the framework of judicial expertises (**Belgium, Slovenia, Spain**), preparing the documents that are needed to file a judicial proceeding (**Bulgaria, Estonia, Latvia, Lithuania, UK-Scotland**), or bearing (totally or partially) the cost of other legal professionals such as notaries, bailiffs (**Greece, Turkey**) or even private detectives (**Italy**). Travel costs can also be born by the legal aid system (**Sweden**).

Finally, it is worth stressing that only 5 member states have allowed a free access to all courts: **France, Iceland, Luxembourg, Monaco** and **Spain**. This generalised access to court must be born in mind when comparing the legal aid budgets of these states with the budgets of other states which also draw revenues from court fees.

3.2 The budget for legal aid

In chapter 2, budgetary data are given on the budget for legal aid in the member states in absolute numbers, per inhabitant and as a percentage of per capita GDP. In addition to this information, it is useful to identify the number of cases (criminal and other than criminal cases) that are supported through legal aid. On this basis, a calculation can be made on the average amount of legal aid allocated per case.

27 states or entities were able to provide data on the number of cases granted with legal aid. Therefore, it is possible to calculate the average amount of legal aid per case.

Table 3.3 Number of legal aid cases per 100.000 inhabitants and average amount allocated in the public budget for legal aid per case in 2008 (Q24, Q13, Q14)

Country	Cases granted with legal aid per 100 000 inhabitants (total)	Criminal cases granted with legal aid per 100 000 inhabitants	Other than criminal cases granted with legal aid per 100 000 inhabitants	Average amount of legal aid allocated per case	Average amount of legal aid allocated per criminal case	Average amount of legal aid allocated per other than criminal case
Armenia	66.9	66.9		164 €	164 €	
Austria			165.9			
Belgium	1 422.8			397 €		
Bosnia & Herzegovina	69.5	36.2	33.3	1 928 €	3 700 €	
Bulgaria	562.8			113 €		
Croatia	32.7		32.7			
Denmark			62.9			(12 369 €)
Estonia	2 612.3	2 408.8	203.4	84 €	76 €	189 €
Finland	1 609.8	712.9	896.9	663 €		
France	1 392.0	626.8	765.2	353 €	263 €	427 €
Georgia	210.0	192.7	17.3	130 €		
Hungary	435.9	28.2	407.7	7 €		
Ireland	1 419.3	1 249.7	169.6	1 432 €	1 001 €	4 619 €
Italy	247.1	165.3	81.8	787 €	898 €	563 €
Lithuania	1 313.5	1 043.6	270.0	94 €		
Luxembourg	740.0			714 €		
Moldova	125.7	125.7		56 €	56 €	
Montenegro	187.4	186.4	1.0	132 €	133 €	
Netherlands	2 482.3	963.4	1 518.9	1 029 €	994 €	1 052 €
Portugal	1 036.9			331 €		
Romania	676.9			30 €		
Russian Federation	991.9			38 €		
San Marino			3.2			
Slovakia			13.7			1 218 €
Slovenia	322.9	42.1		431 €		

² See Chapter 6.1.3 below.

Country	Cases granted with legal aid per 100 000 inhabitants (total)	Criminal cases granted with legal aid per 100 000 inhabitants	Other than criminal cases granted with legal aid per 100 000 inhabitants	Average amount of legal aid allocated per case	Average amount of legal aid allocated per criminal case	Average amount of legal aid allocated per other than criminal case
Spain	1 389.6			349 €		
Switzerland	510.3			1 911 €		
FYROMacedonia	141.3	139.5	1.7	614 €	120 €	
Turkey	8 298.6	4 276.9	4 021.7	8 €	13 €	3 €
UK-England & Wales	3 051.1	1 144.4	1 906.7	1 131 €	1 931 €	651 €
UK-Northern Ireland	4 843.9	1 740.2	3 103.7	1 021 €	1 656 €	598 €
UK-Scotland	5 975.1	3 748.9	2 226.2	537 €	558 €	429 €
Average	1 506.0	994.7	757.3	536 €	826 €	2 011 €
Median	866.0	626.8	169.6	353 €	411 €	598 €
Minimum	32.7	28.2	1.0	7 €	13 €	3 €
Maximum	8 298.6	4 276.9	4 021.7	1 928 €	3 700 €	12 369 €

Comments

Albania: legal aid for non-criminal matters has been developed since 2010.

France: since 2008, the annual public budget for legal aid has not only been fed through funds authorized by the law on finances but has also been completed by the amount of the legal aid spending recovered by the state against the convicted parties condemned to pay court fees and who are not subject to legal aid. This amount is directly allocated to the Ministry of Justice. In 2008, an amount of 8,9 million Euros has then been transferred to the Ministry of Justice by the Ministry entrusted with the budget which enables to spend more than the amount authorized by the law on finances.

Are not taken into account here, the cases which have not been addressed by the Legal Aid Offices and for which legal aid is granted automatically under the following circumstances: investigation custody, disciplinary procedure, prison isolation.

Hungary: only litigious cases are taken into account here. In non-litigious matters, 9.621 persons have been granted, in addition, legal advice and assistance for the drafting of legal documents and 29.941 persons have been given advice by the staff of the legal assistance service.

Italy: the 2006 data which appears in the previous report regarding the amount allocated to legal aid for non criminal cases must be corrected (23.481.012 €).

Moldova: the figures only take into account the cases from 1 July 2008 from which date the law on legal assistance was enforced.

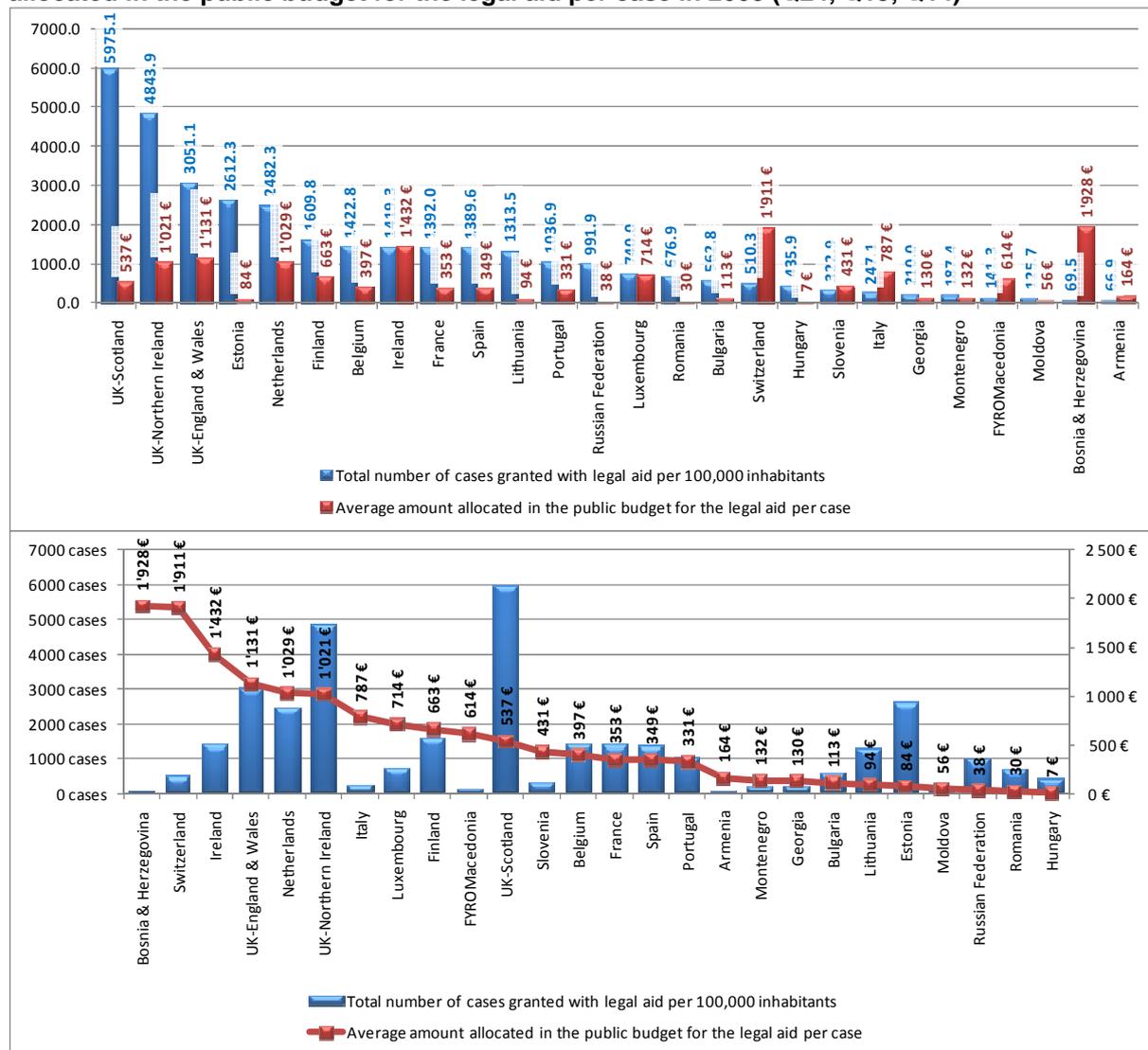
Montenegro: the legal framework of the legal aid system is being drafted.

Slovakia: the number of legal aid cases represents only those handled by the Legal Aid Centre. The number of cases where lawyers are appointed free of charge by the judge in civil proceedings is not available. The number of criminal cases where an *ex officio* counsel is appointed for free to the defendant is not available.

Slovenia: the two legal aid systems (which covered, on the one hand, all legal fields and, on the other hand, only criminal law cases) were merged on 1 September 2008. This evolution has had a significant impact on the 2008 data.

Switzerland: data are those from 11 cantons which form a representative sample.

Figure 3.4 Number of cases granted with legal aid per 100.000 inhabitants and average amount allocated in the public budget for the legal aid per case in 2008 (Q24, Q13, Q14)



Comments

In the figure above, the same data is presented in two various formats so as to facilitate various levels of analysis. The first figure highlights the number of cases granted with legal aid for 100.000 inhabitants whereas the second figure stresses more the amount allocated per case concerned by legal aid. The results concern 25 states or entities. **Turkey** is not included in this figure in order to ensure the comparability of information. Indeed in **Turkey**, 8.298,6 cases per 100.000 inhabitants were granted at an average of 8,4 € per case: this data includes only the fees for mandatory defence representation in criminal courts.

On average, in the 26 states or entities concerned, a case eligible for legal aid receives a grant of 536 €. The median value is 353 € per case. The average number of cases concerned is 1.506 per 100.000 inhabitants. The median value is 866 cases per 100.000 inhabitants. However, significant discrepancies between several groups of states or entities can be noted from this information.

Thus, it is possible to identify three groups of states or entities:

- those which allocate a significant amount to legal aid (more than 1.000 €): **Bosnia and Herzegovina, Ireland, UK-England and Wales, the Netherlands, UK-Northern Ireland,**
- those which allocate between 300 € and 800 € per case: **Italy, Luxembourg, Finland, "the former Yugoslav Republic of Macedonia", UK-Scotland, Slovenia, Belgium, France, Spain, Portugal** and
- those which allocate less than 300 € per case **Armenia, Montenegro, Georgia, Bulgaria, Lithuania, Estonia, Moldova, Russian Federation, Romania, Hungary;** several of these states have only recently started to develop a legal aid system.

The amount allocated per case must be related to the level of wealth in the state when analysing this issue more in depth.

Furthermore, the amounts allocated per case can be fully analysed only when considering the volume of cases concerned, which makes it possible to highlight more clearly the political choices of the states for legal aid. Some states or entities have chosen to define a strictly limited number of cases which can benefit from legal aid but allocate high amounts per case (**Bosnia and Herzegovina, Italy, "the former Yugoslav Republic of Macedonia"**, for example), whereas other states, on the contrary, have chosen to limit the amounts allocated per case but to open more widely the conditions for receiving legal aid (for example **Belgium, France, Estonia, Portugal, Spain**). Other states are both generous as regards the amounts allocated per case and the number of cases which can benefit from legal aid (**Finland, Netherlands, UK-Northern Ireland, UK-Scotland, UK-England and Wales**).

Figure 3.5 Evolution between 2006 and 2008 of the number of cases granted with legal aid and of the amount allocated in the public budget of legal aid per case, in % (Q24, Q13, Q14)

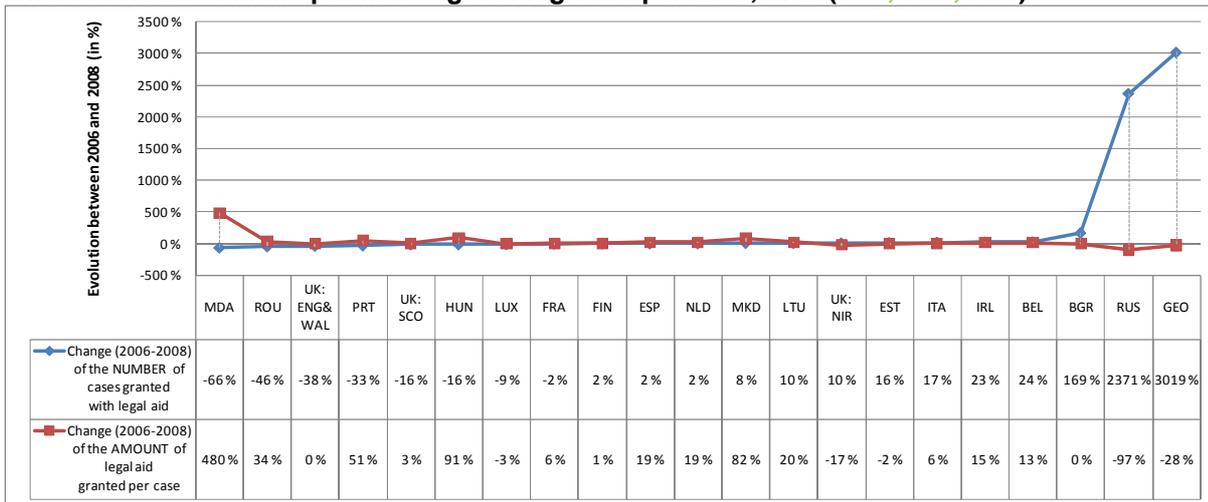
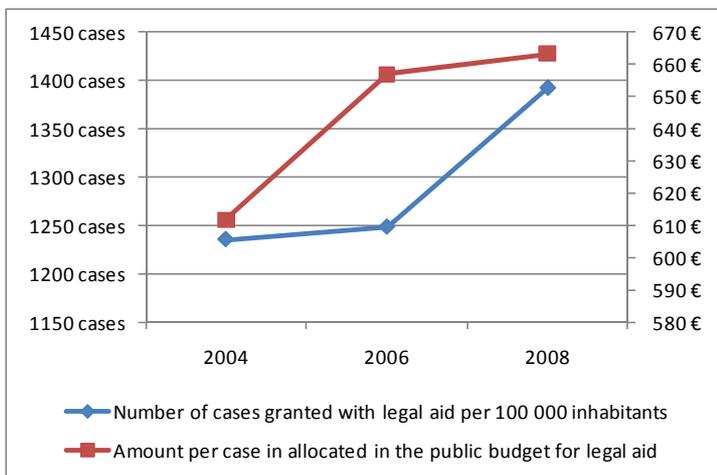


Figure 3.6 Evolution between 2004 and 2008 of the median number of cases granted with legal aid and of the median amount allocated in the public budget of legal aid per case



For reasons of methodological accuracy, in this graph, only 13 states or entities were included for which data were provided and validated for 3 reference years (2004, 2006 and 2008): **Belgium, Finland, France, Georgia, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Romania, UK- England and Wales, UK-Northern Ireland and UK-Scotland**.

The evolution of legal aid policy between 2006 and 2008 has been measured only for 22 states or entities. For these states or entities, generally, a slightly increasing trend can be noticed as regards the legal aid policy implemented by the states or entities: the number of cases granted with legal aid increased on average of 300 % and the average budget allocated per case of 27 %. The median values, which are certainly more accurate, increase by 5% as regards the number of cases concerned and by 6% as regards the amount allocated per case.

However, it is worth drawing attention to some outstanding exceptions in the case of states where the judicial system is recent: in **Moldova** the amount allocated per case increased considerably, but this evolution must

be relativised: the legal aid system was almost nonexistent in 2006 and the 2008 data concern only the number of cases covered by legal aid from the entry into force of the new law (1 July 2008). In the **Russian Federation** and **Georgia**, the number of cases which can benefit from legal aid increased very significantly. This phenomenon is accompanied by a clear decrease in the amount allocated per case in the **Russian Federation**, which is more relative in **Georgia**. Such phenomena must be relativised while keeping in mind that the legal aid systems remain recent, which accentuates artificially some statistical gaps. In any case, these states must be commended for the policy which has been initiated, which is in line with the requirements and the spirit of the European Convention of Human Rights.

The variations seem to be less topical in other states or entities, but it is nevertheless interesting to note some trends: when the number of cases covered by legal aid is increasing, the amounts per case remain stable (and even decrease) in **UK-Northern Ireland, Estonia, Italy, Bulgaria**. On the other hand, in the states or entities where the number of cases covered by legal aid decreases, a stability can be noted, and even an increase in the amount allocated per case (**Romania, UK-England and Wales, Portugal, UK-Scotland, Hungary, France**). It is difficult to establish a statistical correlation between such evolutions, but it makes political sense. The total budget is kept stable by either lowering the price or restricting the volumes.

3.3 Conditions for granting legal aid

For the types of cases eligible for legal aid, which vary according to the states or entities (see paragraph 3.1 above), there are, usually, conditions for granting legal aid, which depend on the financial situation of the parties concerned and/or on the merits of the case.

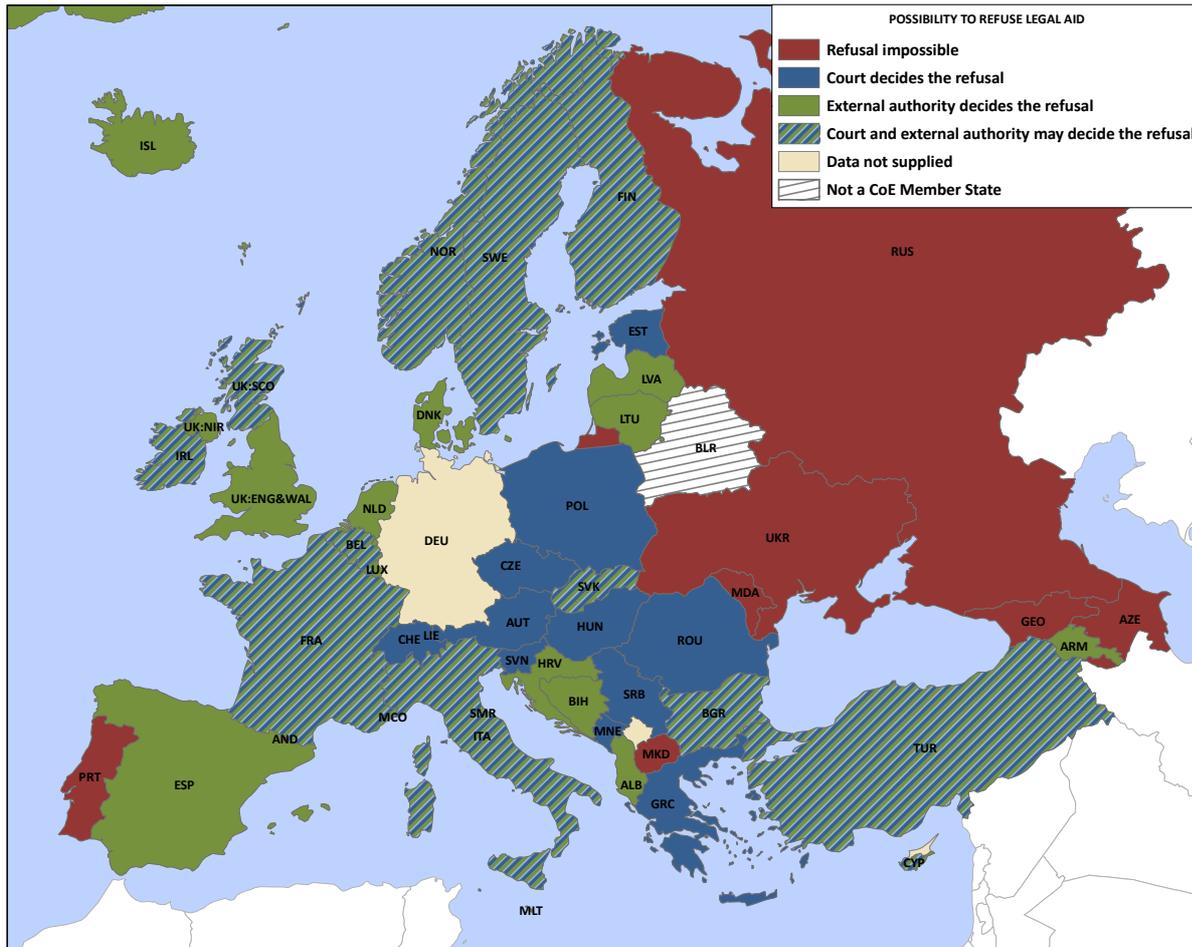
3.3.1 The merits of the case

The merits of the case or whether the case is well grounded in order to be granted legal aid are not relevant considerations for criminal law cases. In non-criminal matters, in 6 states only (**Andorra, Georgia, Moldova, Portugal, “the former Yugoslav Republic of Macedonia”³, Russian Federation**), it is not possible to refuse legal aid for lack of merit of the case (being understood that no legal aid is granted in non-criminal matters in **Azerbaijan** and **Ukraine**). For the member states of the European Union, Directive 2003/8/CE provides that it is in principle possible to refuse legal aid in other than criminal cases for lack of merit – **Portugal** has not commented on whether it is possible to refuse legal aid in this context.

The decision to grant or refuse legal aid on the basis of the merit of the case is usually taken by the court (11 states or entities) or by an external authority (15 states or entities) or by a court or an external authority (13 states or entities). The Bar association may be entrusted with such decisions (**Croatia, Turkey**). Prosecutors or the police have such power for the cases on which they have jurisdiction in **Estonia**.

³ However, the party can be deprived from the right to legal aid if he/she is convicted of false information on his/her status.

Figure 3.7 Possibility to refuse a request for legal aid for lack of merit in other than criminal cases, and authority responsible for granting or refusing legal aid (Q27, Q28)



Andorra: refusal impossible; **Malta** and **San Marino:** external authority decides the refusal; **Monaco:** court and external authority may decide the refusal.

Comments

France: the request for legal aid is studied by the legal aid offices related to each district court, the *Conseil d'Etat*, the Court of cassation and the national Court of asylum rights. These panels are chaired by active or honorary judges and are composed of civil servants and auxiliaries of justice (including at least one lawyer) and one person appointed on behalf of court users. Their decisions are decisions of judicial administrations and can be subject to judicial reviews. When legal aid has not been granted but the judge has nevertheless decided that the procedure was valid, court fees and honoraries are reimbursed up to a limit of the amount which would have been granted within the framework of the legal aid system according to the level of resources.

Netherlands: the Legal Aid Council is responsible for the allocation or the refusal of legal aid.

Switzerland: the exact criteria for denying legal aid is that the actions or remedies have no chance of success.

3.3.2 The level of resources of the parties

In criminal matters as in non-criminal matters, legal aid is usually granted according to the level of resources of the parties. In the great majority of states and entities, the level of resources is examined on a case by case basis (namely in **Bulgaria, Estonia, Malta, Montenegro, Poland, Switzerland, UK-Northern Ireland**). The law can determine the level of legal aid resources to grant, totally or partly, (**Belgium, France, Norway, Netherlands, Romania, Spain, UK-Scotland**) or define specific methods for assessing or calculating the level of resources (**Moldova, Slovakia, Slovenia**), which can, for instance, depend on the minimum living wage in the country or in a given entity (**Russian Federation**). The level of resources can be assessed by an *ad hoc* body (often the body entrusted with the decision regarding the merit of the case submitted to legal aid; see paragraph above), the court clerk's office or the court (see paragraph above). The maximum level is determined by the Bar association in **Croatia**. In **Turkey**, the court users can be granted legal aid upon presentation of a social certificate. The examination of the level of resources can depend on the type of legal aid concerned: in **Latvia**, for instance, there is an examination of resources only for the purpose of granting legal advice but not for that of granting representation in court in criminal matters.

Some states or entities determine the categories of persons who are eligible for legal aid without prior examination of the means of the individuals concerned: categories of socially vulnerable persons (**Andorra, Belgium, Finland, Luxembourg, Turkey, UK-Scotland**), minors or victims of some offences (**France**). Some states do not require preliminary assessment of the financial situation of the parties for specific types of proceedings, such as serious criminal law cases or cases having a serious impact on the integrity of persons (**Norway**), in urgent situations such as police custody (**France, Moldova**), in the disciplinary field or as regards solitary confinement in prison (**France**). Several states grant access to legal aid without conditions as regards access to the territory (**Belgium**).

In **UK-England and Wales**, where the legal aid system is quite comprehensive, various modalities can be combined: definition of categories of beneficiaries, maximum levels of resources and case by case assessment of the circumstances.

More general exceptions can in some instances be required. Thus, legal aid can be granted to persons without taking into account the maximum level of resources, due to case merits or foreseeable costs of the procedure (**France**) or, for member states of the European Union (Directive 2003/8/CE) for cross-border civil and commercial law cases where the parties can prove that they cannot bear the court costs because of the differences in the living conditions in the two states concerned.

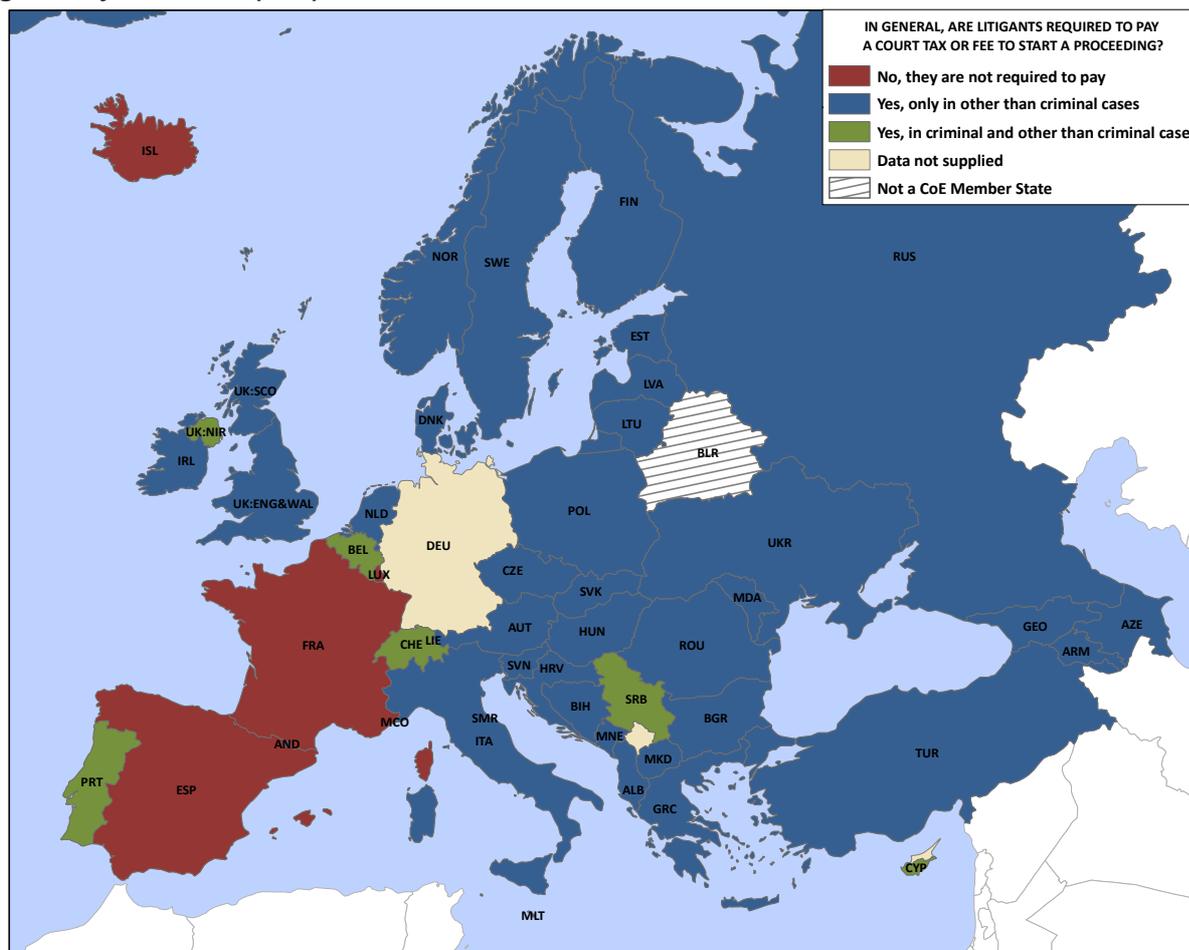
In the systems where the state shares the financial and managerial burden of legal aid with the Bar association, when legal aid is refused by the court the parties can turn to the Bar and request the *pro bono* assistance of a lawyer (**Croatia, Czech Republic**).

3.4 Court fees, taxes and reimbursement

In almost all the states or entities (42), the parties must pay court taxes or fees to file a non criminal law proceeding. Even for some criminal law proceedings, in some states or entities, parties must pay court taxes or fees: **Belgium, Cyprus, Portugal, Serbia, Switzerland, UK-Northern Ireland**.

Only 5 member states provide for a free access to all courts: **France, Iceland, Luxembourg, Monaco and Spain**. In **France** and in **Monaco**, fees must be paid in criminal matters, only when there is a private complaint (guarantee to file a complaint). This policy, which aims to facilitate a wide access to courts, must be taken into account when analysing the legal aid policy in these states.

Figure 3.8 General requirements to pay a court fee or tax to initiate a proceeding before a court of general jurisdiction (Q10)



Andorra: yes, in criminal and other than criminal cases; **Malta and San Marino:** yes, only in other than criminal cases; **Monaco:** no, they are not required to pay.

Comments

France: the principle of free court access which results from the law of 30 December 1977 led to the lifting of some fees, but did not make access to justice fully free. In criminal matters, when there is a decision of acquittal, the third party can be ordered to pay some court fees (expertises, for instance) if his/her complaint is judged excessive or delaying. The decisions of repressive courts are subject to determined fees to be paid by each condemned person. The criminal court can order the offender to pay to the third party, if so requested, an amount to cover the costs not borne by the state. In civil matters, in principle, court fees are required to be paid by the party who has lost the case (the judge may direct otherwise, for specific reasons). In addition, the judge may order the losing party to pay to the other party an amount to cover the costs not included within court fees (lawyers' fees, transportation costs, correspondence, etc.).

Hungary: fees are requested in a criminal law proceeding only when there is a private complaint or for a request of civil nature.

Portugal: the « assistente », that is to say the parties claiming damages, have been included within the litigants allowed to start proceedings before a court, in accordance with the Portuguese Code of Criminal Procedure.

Switzerland: in criminal matters, advances on fees are in principle requested at the second instance level only.

One development facilitating access to justice in European states is related to the growth of private legal expense insurance. Citizens can insure themselves for covering the costs of legal advice, the costs related to court proceedings or ensuring the intervention of a lawyer.

In 29 states or entities the citizens can be insured for the costs of a judicial proceeding, court representation in court or legal advice. The system of private insurance for legal costs does not exist in 18 European states. In this last group, taxes and fees are requested only in non criminal matters.

Several states indicate that they establish a direct link between the granting of legal aid and the existence of private insurance covering court fees. Public legal aid is not granted when the insurance covers court fees, or only takes into account the part not covered by the insurance (**Denmark, Finland, France, Lithuania, Sweden**).

Table 3.9 Private system of legal expense insurance enabling individuals to finance court proceedings (Q29)

Albania	
Armenia	
Austria	
Azerbaijan	
Belgium	
Cyprus	
Czech Republic	
Denmark	
Estonia	
Finland	
France	
Hungary	
Iceland	
Ireland	
Italy	
Lithuania	
Luxembourg	
Monaco	
Netherlands	
Norway	
Portugal	
Serbia	
Slovenia	
Spain	
Sweden	
Switzerland	
UK-England and Wales	
UK-Northern Ireland	
UK-Scotland	
	Andorra
	Bosnia and Herzegovina
	Bulgaria
	Croatia
	Georgia
	Greece
	Latvia
	Malta
	Moldova
	Montenegro
	Poland
	Romania
	Russian Federation
	San Marino
	Slovakia
	FYROMacedonia
	Turkey
	Ukraine
Yes (29 countries)	No (18 countries)
62%	38%

The costs for judicial proceedings are not only related to the costs of legal representation, legal advice, court fees/court taxes, but may also include costs to be paid by the losing party. This can include compensation, costs related to the damage caused or all the legal costs that were engaged by the successful party.

The reimbursement of court costs is often required to be paid by the losing party or when the criminal court decides that the party is not guilty. In all the responding states or entities (47), the decision of the judge has an impact on who bears the legal costs in other than criminal cases. The judicial decision does not have an effect on liability for the costs in criminal cases in: **Armenia, Georgia, Ireland, Lithuania, Malta, Moldova, Monaco, Netherlands, San Marino, Ukraine and UK-Scotland.**

Country	Total annual approved budget allocated to all courts	Annual income of court fees (or taxes) received by the State	Share of court fees (or taxes) in the court budget
Hungary	285 674 860 €	NA	
Iceland	6 832 940 €		
Ireland	171 333 000 €	38 105 000 €	22.2 %
Italy	3 124 673 861 €	271 893 857 €	8.7 %
Latvia	47 510 897 €	7 605 000 €	16.0 %
Lithuania	60 629 000 €	8 097 196 €	13.4 %
Luxembourg	64 300 000 €	NAP	
Malta	9 073 000 €	8 382 000 €	92.4 %
Moldova	7 521 012 €	2 439 444 €	32.4 %
Monaco	5 006 100 €	NA	
Montenegro	19 779 371 €	8 335 936 €	42.1 %
Netherlands	889 208 000 €	162 850 000 €	18.3 %
Norway	161 163 043 €	18 940 880 €	11.8 %
Poland	1 226 605 000 €	373 370 000 €	30.4 %
Portugal	513 513 518 €	132 680 045 €	25.8 %
Romania	385 309 000 €	22 914 634 €	5.9 %
Russian Federation	2 406 286 197 €	NA	
San Marino	4 573 250 €		
Serbia	195 863 391 €	83 533 573 €	42.6 %
Slovakia	145 584 333 €	52 009 161 €	35.7 %
Slovenia	162 282 837 €	36 041 000 €	22.2 %
Spain	3 906 088 640 €	NAP	
Sweden	399 825 654 €	3 566 533 €	0.9 %
Switzerland	862 249 923 €	241 858 098 €	28.0 %
FYROMacedonia	27 060 261 €	9 183 400 €	33.9 %
Turkey	786 503 133 €	436 651 583 €	55.5 %
Ukraine	248 517 182 €	2 392 218 €	1.0 %
UK-England and Wales	1 437 326 465 €	495 986 055 €	34.5 %
UK-Northern Ireland	161 600 000 €	26 017 275 €	16.1 %
UK-Scotland	151 940 889 €	24 150 000 €	15.9 %
Average			25.9 %
Median			20.3 %
Minimum			0.9 %
Maximum			110.9 %

The amount of these court fees and taxes can vary according to the complexity of the case and the amount at stake.

Most of the states and entities provide for exemptions to court fees. In many states or entities, exemption is automatic for those persons who can benefit from legal aid (**Czech Republic, France, Luxembourg, Monaco, Norway, "the former Yugoslav Republic of Macedonia", UK-Northern Ireland**) (see chapter 3.1 above). Exemptions from court fees can concern categories of vulnerable persons such as the beneficiaries of social minima i.e. welfare support (**Andorra, Belgium, Croatia, Finland, Turkey, UK-Scotland**), disabled persons, invalids and war victims (**Bosnia and Herzegovina, Croatia, Estonia, Ukraine**), or minors, students, foreigners – subject to reciprocity (**Bosnia and Herzegovina**). Public bodies can be exempted (**Bulgaria, Croatia, Estonia, Lithuania**) as well as NGOs and humanitarian organisations (**Bosnia and Herzegovina, Croatia, Portugal, Ukraine**), such as the Red Cross (**Bulgaria**).

In the majority of member states, the exemption from court fees is also aimed at specific cases, for instance some civil procedures (**Albania**), in the field of defence of constitutional rights and values (**Portugal**), administrative law (**Bulgaria, Estonia**), labour law and/or social law (**Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Italy, Lithuania, Moldova, Poland, Romania, Slovenia, Switzerland**), family or juvenile law (**Finland, Ireland, Italy, Lithuania, Moldova, Norway, Spain, Poland, Portugal, Romania**), civil status (**Spain**), agriculture (**Italy**), taxes (**Portugal**), electoral law (**Romania**) or as regards house rents (**Switzerland**).

Some states require that court fees be paid only at the end of the proceeding (**Finland**). Exemption of court fees can also take the form of free notices in legal gazettes (**Spain, Turkey**).

In certain states or entities, court fees or court taxes are used to cover the operational costs of courts. These states or entities have chosen to generate a certain level of income for the courts. Real financial autonomy of the courts can even result from such policy. When the annual income from court fees or court taxes received by states or entities is compared with the budget allocated to courts, it can be noted that, in one third of the

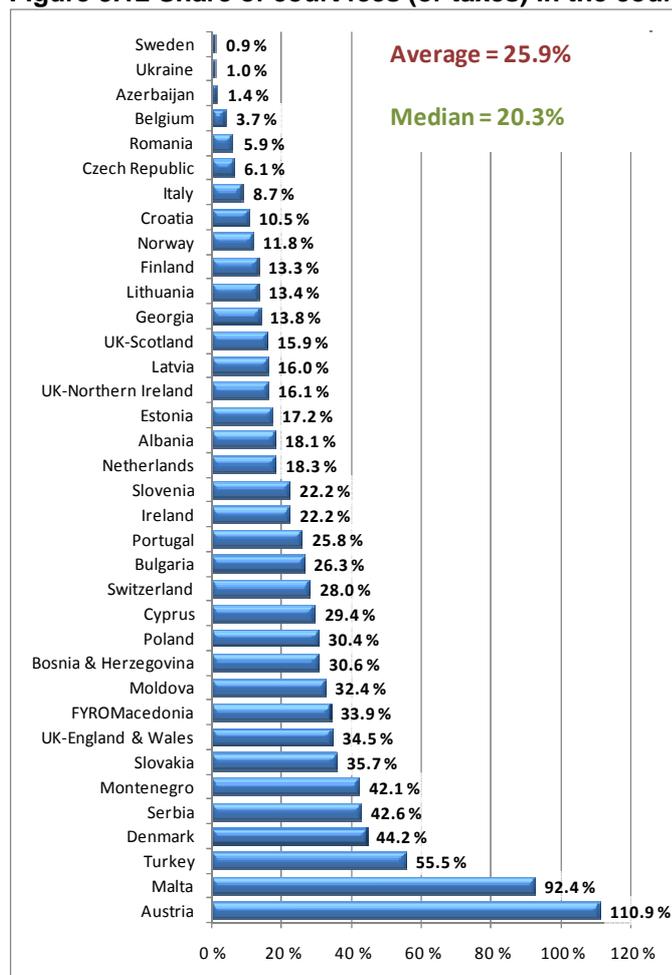
European states concerned, the amount of inputs is almost or more than one third of the budget allocated to courts (**Poland, Bosnia and Herzegovina, Moldova, "the former Yugoslav Republic of Macedonia", UK-England and Wales, Slovakia, Montenegro, Serbia, Denmark**), more than half of this budget (**Turkey**), and even approximately the whole of this budget (**Malta**). In this context the system in **Austria** is even more noteworthy, court taxes generate surplus. However, in the majority of states where court fees or court taxes are applied, the income is not "earmarked" for the payment of the costs related to the operation of courts but it is defined as general income for the state or regional budget.

For a large part, the high level of court fees for **Austria, Germany, Poland, Turkey** can be explained because the courts are responsible for the land registers. For acquiring information from these registers or for recording modifications, fees must be paid. In three of these states (**Austria, Germany and Poland**), revenues are also generated through business registers. For **Italy, the Netherlands and Romania**, there is no clear relationship between court fees and registers. A possibility is that in these states – and in other states as well – court fees are only connected with judicial proceedings (and not with registration tasks).

In **Austria**, generally, court users have to pay a certain fee for most of the judicial services. The level of court fees depends on the type and complexity of a case as well as the financial amount that is related to the case. The counterpart of this system is the existence of a developed legal aid system: accessing justice and court registries has a cost, but if the users do not have proper financial means to do so, access to courts is not closed to them thanks to legal aid.

A high degree of standardization and computerization of the judiciary and the use of "Rechtspfleger" especially in the branches with large numbers of cases (land registry, business registry, family law, enforcement cases, and payment orders) enable courts to keep costs low and allow revenue (derived from court fees) to be distributed to other parts of the court system (for example, criminal proceedings).

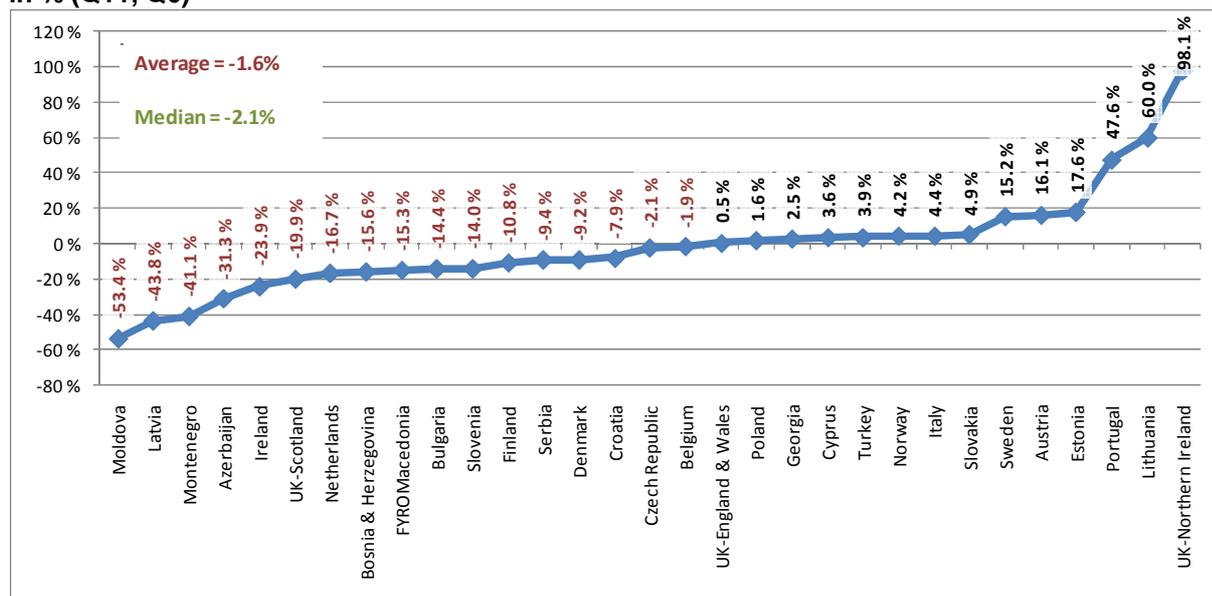
Figure 3.12 Share of court fees (or taxes) in the court budget (as receipts) in 2008, in % (Q11, Q6)



Comments

The courts in **France, Iceland, Luxembourg, Monaco and Spain** do not have receipts from court fees as they apply the principle of free access to court.

Figure 3.13 Evolution between 2006 and 2008 of the share of court fees (or taxes) in the court budget, in % (Q11, Q6)



The analysis of the evolution of the courts' financial inputs resulting from court fees shows a decreasing trend in a majority of states or entities (17) for which data are available (31). The variation of the exchange rates vis-à-vis Euro can certainly technically explain part of this, but it is also possible that the decrease in the economic activity has an impact on the activity of the land and commercial registries. It might be worthwhile measuring the trends for the years corresponding to the financial and economic crisis to verify the relevance of this hypothesis.

3.6 Trends and conclusions

All the European states have set up public policies to support access to justice for litigants who would not have the proper resources. This observation is general in criminal matters and the trend is positive in non-criminal matters: budgets for legal aid in Europe are generally increasing (+ 23% in four years).

For a relevant analysis of the legal aid policies implemented, a set of elements should be considered that constitute the system of access to justice, including in particular:

- the level of fees and taxes tied with judicial proceedings (for 4 states, access to courts is completely free);
- the number of cases eligible for legal aid (limited either by the legal matter or the procedure concerned or by elements attached to the quality or the level of means of the court users) and the amount of public legal aid allocated per case;
- the existing arrangements for facilitating access to court out of public assistance (*pro bono* systems provided by the bar associations, private insurance covering the costs of proceedings).

For a majority of European states and entities, the court fees constitute significant financial resources, allowing some to cover a major part of the court operating costs, or even to generate a net profit. Such a system, if accompanied by an effective legal aid system for enabling access to court to litigants who would not have sufficient means, is part of the current trend of public policy aimed at partly balancing the costs of public services between the users and the tax payers. However, in this regard, it is important to distinguish, on the one hand, fees to obtain information, make entries in land or commercial registries or other records, and, on the other hand, the costs of judicial proceedings. Regarding this last aspect, it is important - to ensure effective access to justice - that the fees do not become an obstacle for citizens to initiate a judicial proceeding. In certain states, there is no need to pay court fees to initiate a proceeding (**France, Iceland, Luxembourg, Monaco and Spain**) whilst in other states the level of fees may be directly related to the overall costs of judicial proceedings or the type of case (for instance, in **UK-England and Wales**, the determination of the level of court fees is connected with the operational costs of court proceedings). Land and commercial registries can be part of the public service falling within the courts' responsibility. But again, the levels of fees required to access land (or commercial) registries should not represent an obstacle for the citizens requiring these services.

Several states of Central and Eastern Europe which did not have legal aid systems a few years ago are strongly investing in developing such systems, which is an encouraging trend since the last evaluation exercise. Some states (**Azerbaijan, Bulgaria, Czech Republic, Estonia, Lithuania, Romania, Moldova**) are developing, or significantly improving, their policies for public access to court through a more generous legal aid system. Several states have recently established new legal provisions for legal aid (**Bosnia and Herzegovina, Croatia, Hungary, Moldova, Slovenia, "the former Yugoslav Republic of Macedonia"**). **Bulgaria** has expanded the scope of legal aid. Plans to reform the system are under consideration in **Montenegro** and **Poland**. Older member states or entities of the Council of Europe have also recently upgraded their legal aid systems by reforming legislative provisions (**Sweden, UK-Scotland**) or are envisaging reforms (**Turkey**, as part of their application for membership to the European Union).

To measure the evolution of policies on access to justice in Europe, it is important that members of the Council of Europe should in the future be able to give more precise information regarding the amount of budget allocated to legal assistance and the number of cases affected by these allocations. Member states or entities should be encouraged to develop their statistical systems in this direction.

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

The justice system is entrusted with a public service mission to serve the interests of the citizens. Thus the rights of court users must be safeguarded. These rights can be protected and improved in various ways.

One of the means of doing so is to provide them with information not only about relevant legal texts, case law of higher courts, electronic forms and courts, but also concerning the foreseeable timeframes of judicial proceedings as well as assistance and compensation programmes for victims of crimes (Item 4.2).

When court proceedings are introduced, facilities can be provided for certain categories of citizens, in particular vulnerable people such as victims, minors, minorities, disabled persons, etc.

The prosecutor can also play a specific role in protecting the rights and assisting the victims of crimes (Item 4.3).

In criminal proceedings, a compensation procedure can enable a victim of crime or his/her relatives to be compensated (Item 4.4).

Dysfunctions may occur within the courts. Therefore court users must be entitled to means of redress (for instance the possibility of appealing or seeking review or filing a complaint and/or to initiating a compensation procedure) (Item 4.5).

Furthermore, courts may have already introduced a quality control system within their organisation. As a part of this system, court user satisfaction surveys can be conducted (Item 4.6).

This chapter describes the means and procedures implemented by the public services of justice to protect and improve court users' rights.

4.1 Provisions regarding the supply of information to the court users

General information

Information is essential for effective access to justice. With the ever-expanding possibilities of the internet, it is very easy to obtain information regarding laws, procedures, forms, documents and courts from official websites.

Almost all states or entities (except **Serbia**) have established websites, referencing national legislation, within the Ministry of Justice, Parliament, Official Journal, etc. These websites, such as those providing case law of the higher courts (which exist everywhere except in **Greece** and **San Marino**), are often used by practitioners.

Users seeking practical information, about their rights or the courts, or directly the forms enabling them to enforce their rights will make more use of specific websites held by the relevant courts or those created in their interest by the Ministry of Justice. These "practical" websites are being developed in Europe but currently do not exist in **Andorra**, **Azerbaijan**, **Cyprus**, **San Marino** and **Serbia**. These are mainly small states where it is easy to move directly to the court to gather information.

For additional information on all existing official websites concerning legal texts, high courts' case-law and other documents which can be accessed by the general public, free of charge (see Table in Appendix).

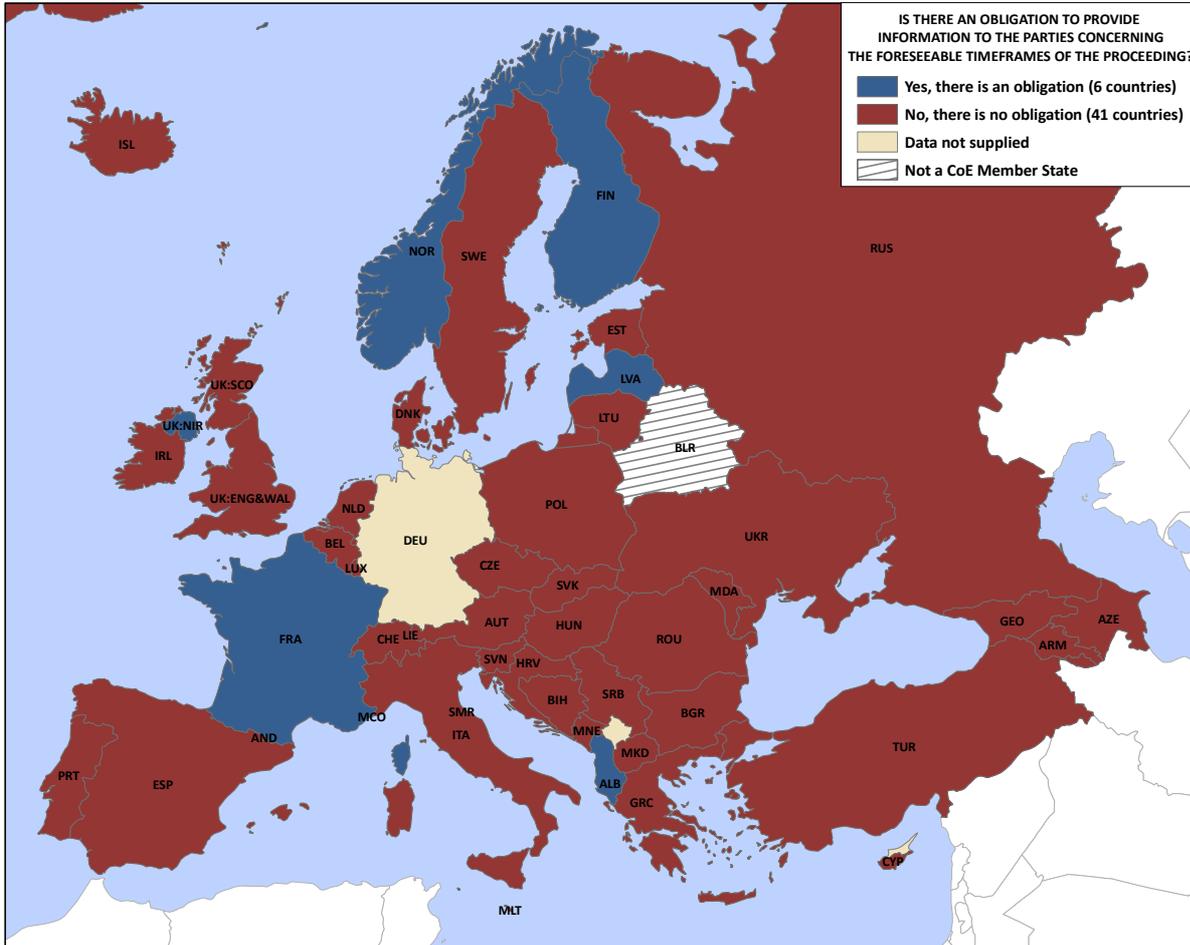
Information on timeframes of proceedings

It is not only important to provide general information on the rights and proceedings via the websites, but also, to provide court users with information, in accordance with their expectations, concerning the foreseeability of procedures, i.e. the expected timeframe of a court procedure. This specific information, provided in the interests of the users, but not yet general across Europe, can only be given by states which have experienced, within their jurisdictions, an efficient system of case management.

Factors such as increases in the court case load burden, the complexity of issues which may require expert opinions and commitment of significant court resources to a case, render this requirement difficult to meet: indeed, it is not easy for the court to provide the parties with a detailed timetable of the proposed procedure, as well as a specific and reliable date for the final hearing of the case. This explains why there is a low number of states which agree to provide such information. This table further illustrates the efforts made by

some states to inform users, and therefore develop their confidence on the measures implemented to reduce the timescale of proceedings.

Figure 4.1 Obligation to provide information to the parties concerning the foreseeable timeframes of the proceedings (Q32)



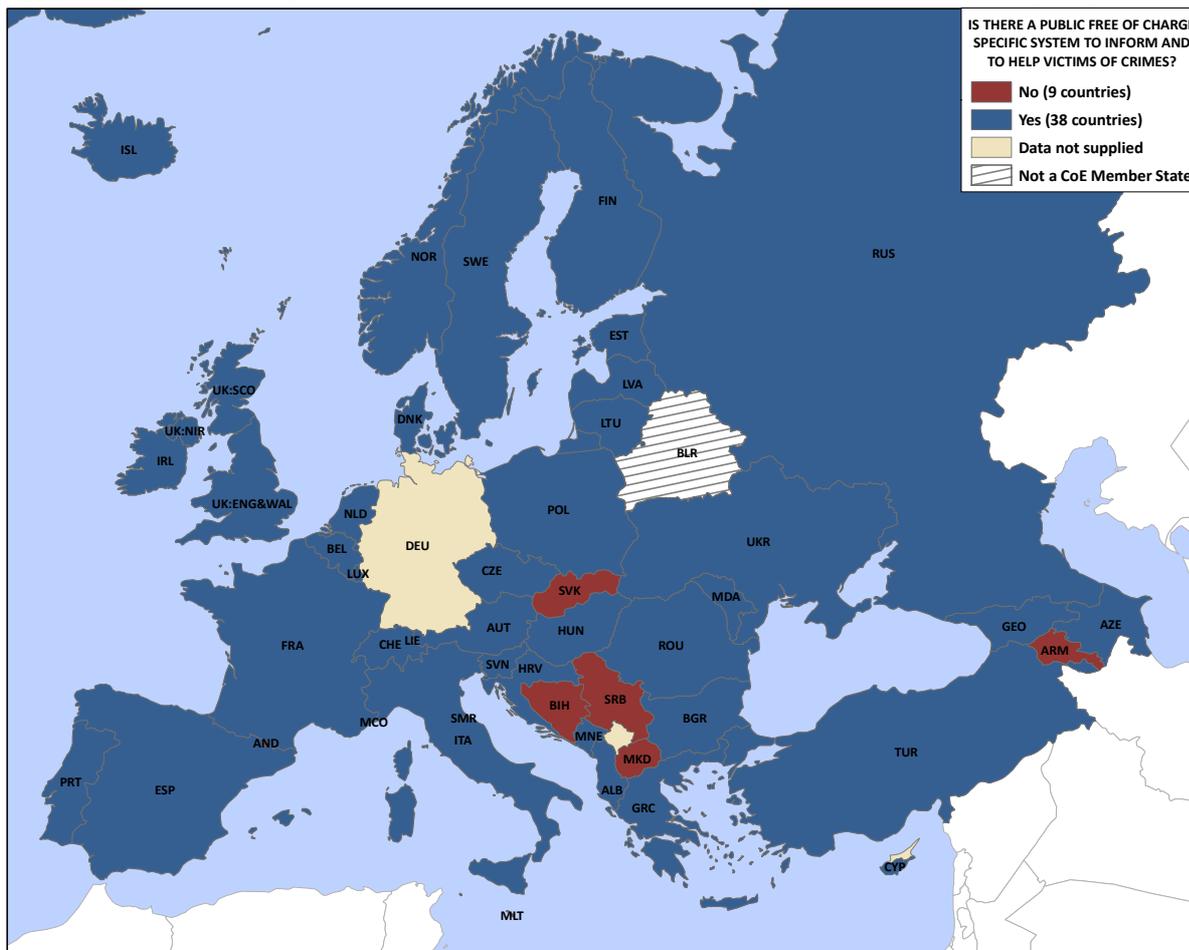
The 6 states or entities which stated having an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings are: **Albania, Finland, France, Latvia, Norway and UK-Northern Ireland**. Such an obligation can concern only some case categories. **Moldova** had indicated in previous evaluation exercises that such obligation existed: however, it seems that in the case of these states only an obligation to address the matter in a reasonable time is provided for by the law, without a need to indicate a specific deadline for each case. In **Georgia**, the legal deadline for finalising civil and administrative cases is usually two months, and five months for complex cases.

In some states or entities the obligation to provide information does not exist, however sometimes they do present information on foreseeable timeframes or specific mechanisms to prevent excessive duration of proceedings. For example, in **UK-England and Wales** and **UK-Scotland** there is no specific rule or obligation, nevertheless it is usual to do so. In **Spain**, there are procedural provisions which set statutory timeframes for the proceedings. In **Estonia**, the advocate is required to notify the client on the time-limit related to the provision of legal services, but the court has no such obligation.

Information for victims of crimes

Victims of crime form a category of citizens in need of special attention. For such victims of criminal offences, the state should establish structures which are known to the public, easily accessible and free of charge, and where they can find (practical) information about their (legal) rights and adequate remedies.

Figure 4.2 Free of charge specific system to inform and to help victims of crimes (Q33)



There are 9 states which have not yet set up a public free of charge specific system to inform and to help victims of crimes: **Andorra, Armenia, Bosnia and Herzegovina, Malta, Monaco, San Marino, Serbia, Slovakia and "the former Yugoslav Republic of Macedonia"**.

These systems, generally set up in the framework of improvement programmes of criminal justice services, are typified by free-of-charge hot lines for victims of crime in general and by category (victims of rape, victims of domestic violence, children and juvenile, etc.). States are often helped with this task by NGOs, support programmes of the European Commission or other countries projects ("**the former Yugoslav Republic of Macedonia**").

4.2 Protection of vulnerable persons

For vulnerable people (victims of rape, terrorism, children's/witnesses/victims, domestic violence ethnic minorities, disabled persons, juveniles), special mechanisms may be used to protect and to strengthen their rights during court proceedings. There are different ways to do so, for example, by introducing specific information mechanisms (telephone hotlines, internet sites, leaflets, etc) for the various vulnerable groups. Another possibility is the use of special hearing procedures. For example, minor offenders can be protected by holding closed-door court sessions. Victims of certain crimes can be protected during a court hearing by making use of a one-way screen. Specific procedural rights can also strengthen the status of vulnerable persons. For ethnic minorities this can be related to the use of court interpreters and the freedom to speak in their own language.

Table 4.3 Special favourable arrangements applied during judicial proceedings to certain categories of vulnerable persons (Q34)

Country	Information mechanisms	Special hearing modalities	Special procedural rights	Other special arrangements	Total (cumulated possibilities)
Albania					22
Andorra					9
Armenia					9
Austria					32
Azerbaijan					18
Belgium					16
Bosnia and Herzegovina					14
Bulgaria					23
Croatia					14
Cyprus					21
Czech Republic					6
Denmark					12
Estonia					8
Finland					15
France					22
Georgia					15
Greece					6
Hungary					9
Iceland					24
Ireland					12
Italy					7
Latvia					12
Lithuania					9
Luxembourg					13
Malta					5
Moldova					9
Monaco					5
Montenegro					14
Netherlands					15
Norway					27
Poland					11
Portugal					22
Romania					23
Russian Federation					17
San Marino					10

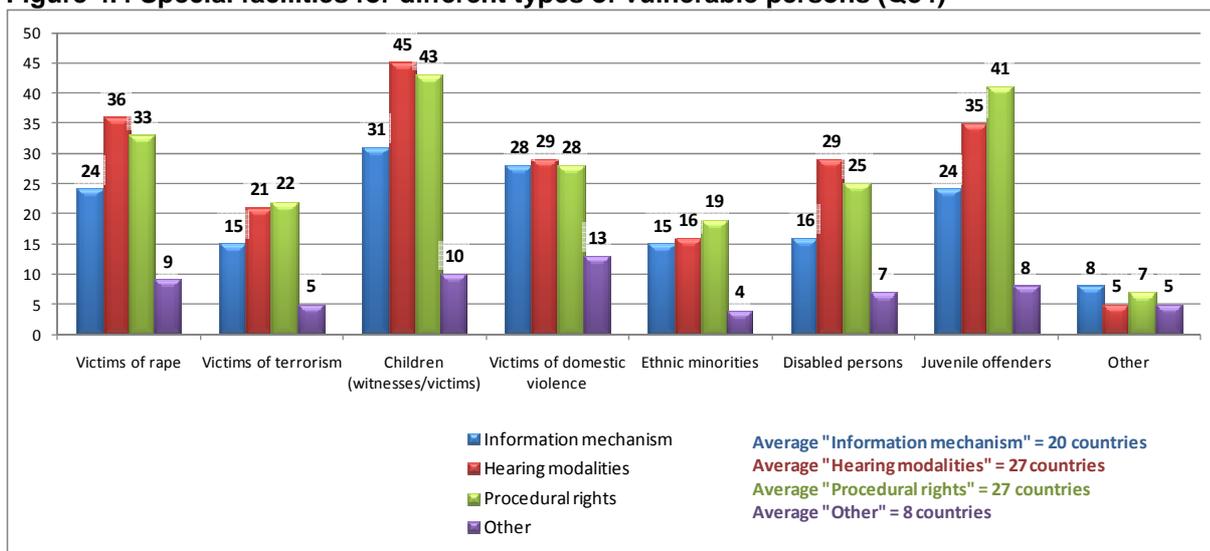
This table gives a comprehensive picture of all existing specific rules during legal proceedings according to categories of vulnerable persons for all the states involved in this cycle, with the exception of **UK-Northern Ireland** which has simply stated that a range of modalities was provided for vulnerable persons without further information.

The measure that is the most used for vulnerable persons concerns the manner in which hearings are conducted, followed by procedural rights. Information mechanisms are also frequently used, although some states indicate that no information mechanisms exist at all (**Bosnia-Herzegovina, Estonia, Malta, Moldova, Monaco, Montenegro, Sweden, Ukraine**). However, the majority of these states apply to a great extent the other measures favourable to the vulnerable persons.

Most information mechanisms, special hearing modalities and procedural rights are available for the majority of the categories of vulnerable persons in **Albania, Austria, Azerbaijan, Bulgaria, Cyprus, France, Iceland, Norway, Romania, Serbia, "the former Yugoslav Republic of Macedonia"** and **UK-England and Wales**. Since 2006, **Belgium, Georgia, Turkey** and **Serbia** have widely increased the number of these protective modalities and their beneficiaries. It is necessary to analyze the 2008 data from **UK-Scotland** and **Ukraine** with caution vis-à-vis the 2006 data since it is difficult to imagine that they have reduced the existing possibilities in these fields. The interpretation of these data should indeed take account of the different methods existing for counting and classifying these arrangements within the proposed categories.

At last, the following group of countries has very few special facilities, for very few categories of vulnerable persons and victims: **Czech Republic, Greece, Italy, Malta, Monaco, Serbia, Slovakia, Turkey** and **Ukraine**.

Figure 4.4 Special facilities for different types of vulnerable persons (Q34)



Almost all the different mechanisms (information mechanism, hearing modalities, procedural rights and other) are widely applied to cases involving children (witnesses and victims) and for juvenile offenders. Children have special hearing modalities in all countries. Several favourable arrangements are made for victims of rape and for victims of domestic violence. Fewer arrangements are planned for victims of terrorism and ethnic minorities.

Information mechanisms for all the different categories of vulnerable persons are applied on average in 20 states or entities. The highest averages concern the categories of hearing modalities and of procedural rights (on average 27 states or entities plan such special arrangements in each of these two categories). With an average of 8 states or entities, the category of "other" arrangements is underrepresented.

4.3 Role of the public prosecutor in protecting the rights or assisting the victims of crimes

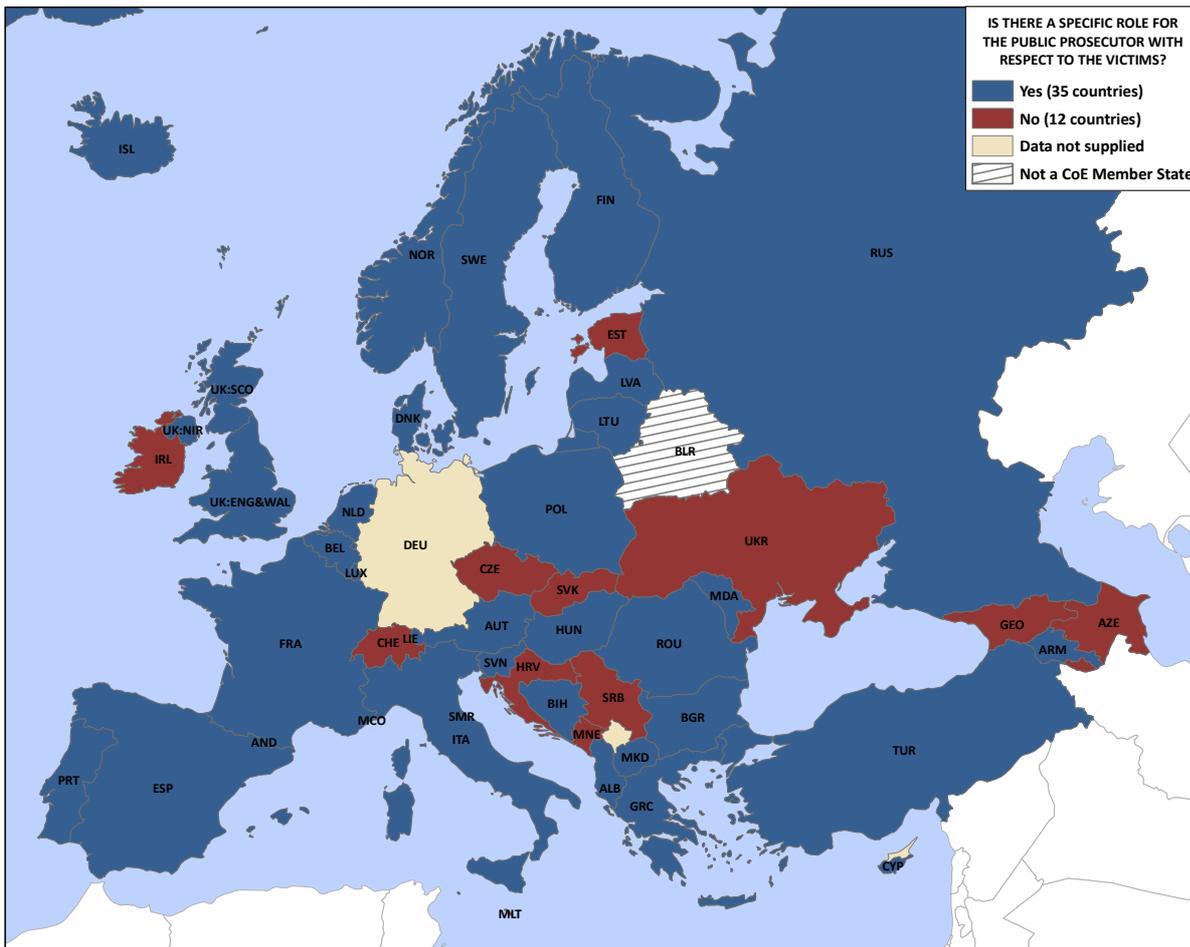
The public prosecutor can play a specific role for the protection and assistance of victims during criminal proceedings:

- the prosecutor can provide victims with information about their rights, in particular to receive compensation (for example **Portugal, Spain**) or information on certain stages of the procedure such as the final decision or the moment when the defendant is released (for example **Norway**);

- in many cases, the role of the public prosecutor also includes supporting or introducing civil claims on behalf of the victims (for example **Andorra, Finland, Spain**) or making sure the victim receives compensation (for example the **Netherlands**);
- the assistance provided to victims can be organised at the level of the General Prosecutor's Office (**Luxembourg**).

Sometimes, a public prosecutor can decide not to proceed with a criminal case and to stop the criminal investigation procedures: for the countries where public prosecutors are free to act as described, there should be a possibility for a victim of crime to contest the decision of the public prosecutor (39 states or entities replied that there is a possibility to contest a decision of a public prosecutor to discontinue a case); in countries where such a possibility does not exist, the right of victims to have their case heard is often guaranteed in different ways (for example **Bosnia and Herzegovina** reported the possibility to file a complaint against a prosecutor - in many other countries this is also possible). Sometimes victims can become a formal party themselves, introducing civil and/or criminal claims even when the prosecutor has decided not to prosecute (**Spain**). **Serbia** mentions the possibility (after closing the procedure) of a private request for prosecution. In **Belgium**, victims of crime are advised to start a judicial action against a criminal offender if a prosecutor decides to discontinue a case. The last method is common in Europe. Finally, in countries where prosecutors do not have the power to end a case by dropping it without judgment, the victim is often given the right to contest the decision, by the judge, to discontinue a case (for example in **Spain**).

Figure 4.5 Specific role of the public prosecutor with respect to the protection and assistance of victims of criminal offences (Q38)



Andorra, Monaco and San Marino: yes; Malta: no.

34 states or entities have indicated that the prosecutor has a specific role in relation to victims. This large majority may appear as obvious, as it is difficult to argue that the prosecutor does not have to be concerned about protecting the victims. Contrary to the previous Edition of the report, **Austria, Bosnia and Herzegovina, Latvia, Slovenia and UK-England and Wales** have indicated a specific role for the prosecutors towards victims. On the other hand, **Georgia, Serbia and Ukraine** have indicated that prosecutors do not have such powers, contrary to what was stated in the previous evaluation report. This

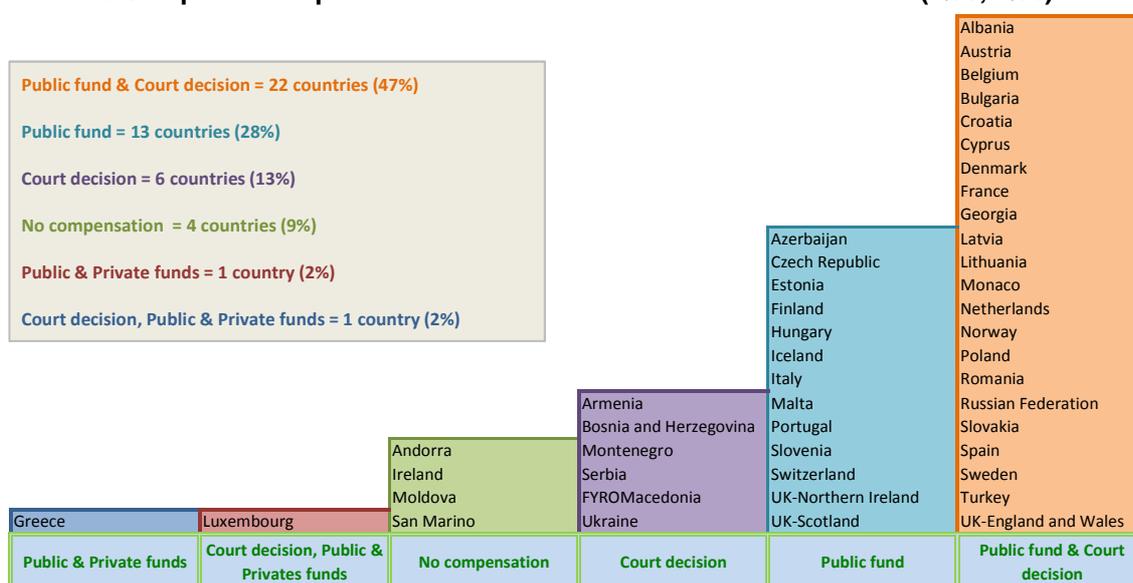
information appears to result more from a misunderstanding of the question than a legislative reversal. In total, 13 states or entities have indicated that the prosecutor has no specific power towards victims of crime.

4.4 Compensation procedures

In criminal proceedings, a compensation procedure can enable a victim of crime or his/her relatives to be compensated. Sometimes there is a special public fund for which the intervention of a judge is not requested. In other cases, a judgment is necessary to benefit from such public funds. In a limited number of countries, there are private funds for victims of crime (**Greece** and **Luxembourg**). In **Greece**, such private funds designed under schemes of private insurance are linked to crimes related to property damage. In **Luxembourg**, the private funds apply to physical damages only.

The table below provides a classification of the states according to whether the compensation procedure consists of private funds, public funds or result from a decision (or a combination thereof). A column is also provided for the states which do not provide compensation procedures: **Andorra, Ireland, Moldova** and **San Marino**. These states are an exception at the general European level.

Table 4.6 Compensation procedures for the victims of criminal offences (Q35, Q36)



Out of the 47 states or entities, 43 replied that they have a compensation procedure for victims. Among them, 22 countries or entities have indicated that compensation procedures are based on public funds and need a court decision. 13 states or entities have compensation procedures based on public funds without the need for a court decision. Compensation procedures of 35 states or entities are provided from public funds.

Studies have been undertaken in 12 states or entities (among 43 where a compensation procedure exists) to assess the rate of recovery of damages: **Denmark, Finland, France, Ireland, Luxembourg, Netherlands, Norway, Poland, Serbia, "the former Yugoslav Republic of Macedonia", Turkey, UK-England and Wales** and **UK-Scotland**. Most of the studies do not specify the exact level of recovery. In **Denmark**, the recovery rate is 2.5% for 2008. A **French** study in 2008 showed that for the decisions of 2007, among the 28% of victims who received a recovery of the damages (or compensation), 63% had not received any compensation at the date of the survey, 24% received the total amount et 13% received a part only of the amount. According to a study in **Poland** in 2008, 31% of claims were accepted and compensation paid to the victims, the average amount of compensation being about 1500€, whereas in **Norway**, a recovery rate of 90% is common.

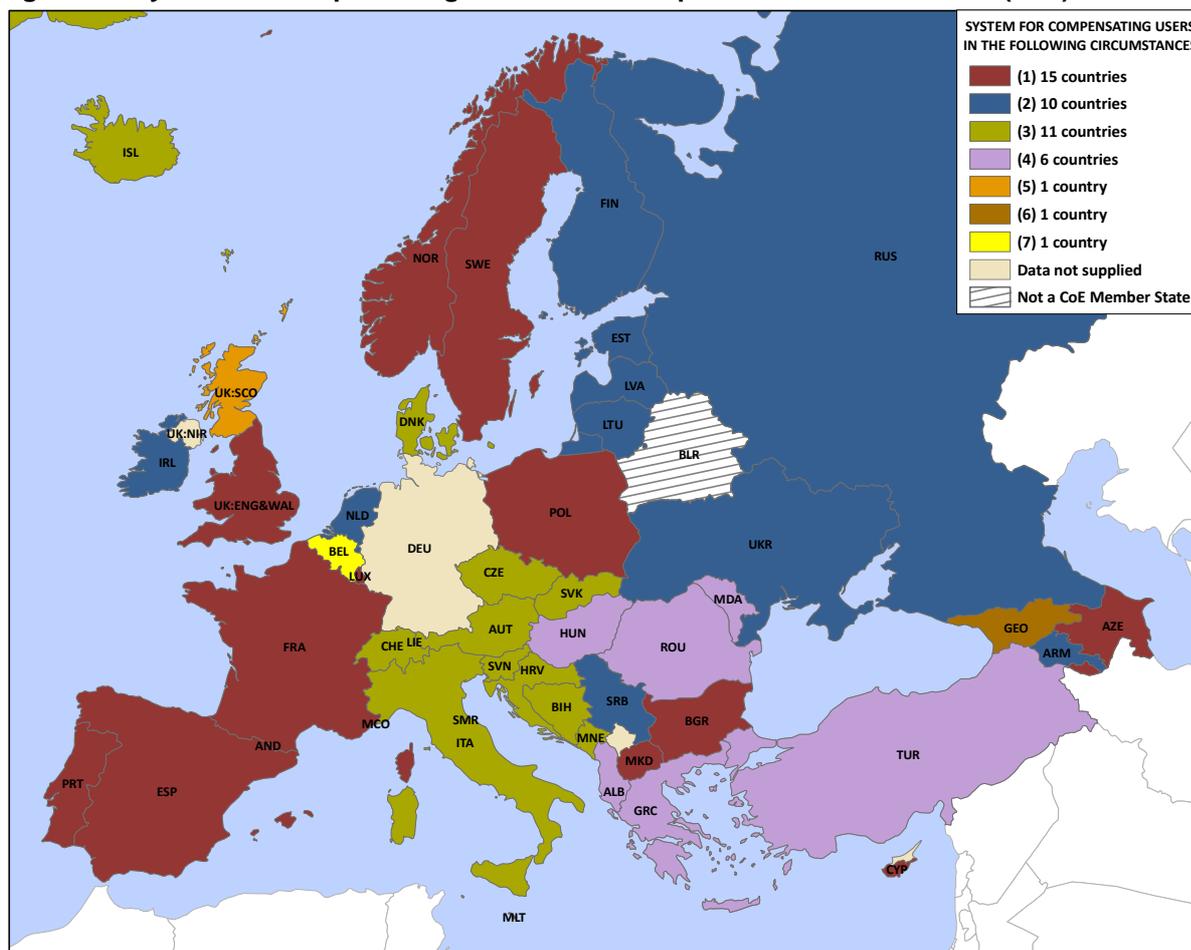
4.5 Compensation of the users for dysfunction and complaints

All court users should have the right to apply to a national court for compensation for the damage he/she has suffered due to a dysfunction of the judicial system. This dysfunction may consist in an excessive length of proceedings, a non-enforcement of court decisions, a wrongful arrest or wrongful conviction.

All the responding countries have a compensation mechanism in case of any dysfunctions of justice. All have a compensation procedure for a wrongful arrest or conviction. 27 states or entities report having compensation procedures for excessive proceedings and 21 for the non-execution of court decisions.

Therefore, in case of dysfunctions of the judiciary, several particular circumstances give right to compensation. The table below classifies the states by coloured category depending on whether they have taken or not these circumstances into account.

Figure 4.7 System for compensating users in several particular circumstances (Q40)



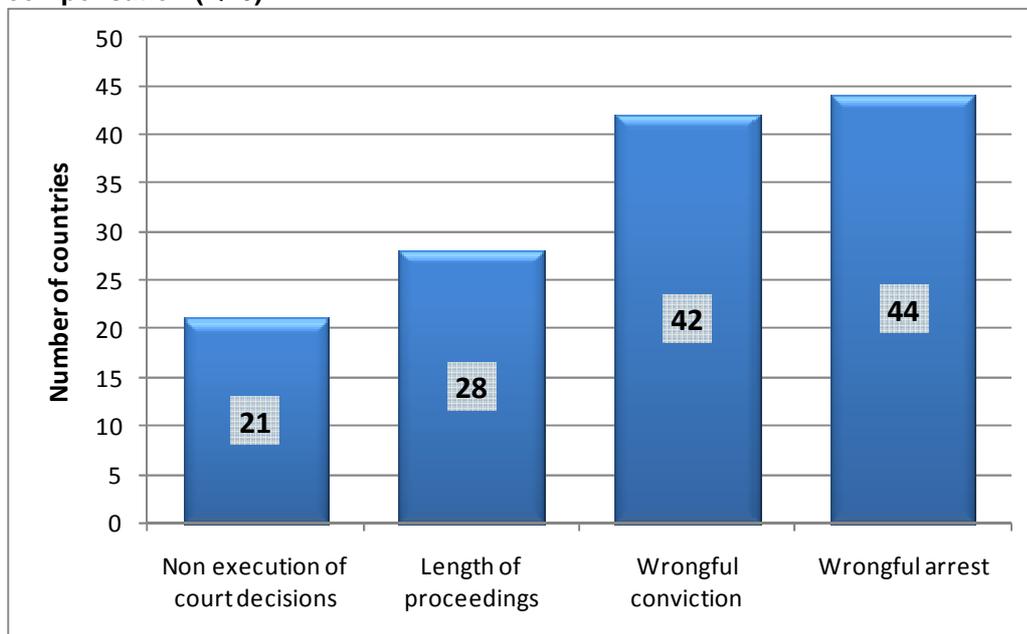
Categories represented according to the colours on the map:

- (1) 15 states or entities have put in place a compensation procedure for the **4 circumstances** contained in the questionnaire (a) length of proceedings, (b) non execution of court decisions, (c) wrongful arrest and (d) wrongful conviction: **Andorra, Azerbaijan, Bulgaria, Cyprus, France, Luxembourg, Malta, Monaco, Norway, Poland, Portugal, Spain, Sweden, "the former Yugoslav Republic of Macedonia" and UK-England and Wales.** *(In red on the map)*
- (2) 10 states have put in place a compensation procedure for the **2 following circumstances** only (c) wrongful arrest and (d) wrongful conviction: **Armenia, Estonia, Finland, Ireland, Latvia, Lithuania, the Netherlands, Russian Federation, Serbia and Ukraine.** *(In blue on the map)*
- (3) 11 states have put in place a compensation procedure for the **3 following circumstances** only (a) length of proceedings, (c) wrongful arrest and (d) wrongful conviction: **Austria, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Iceland, Italy, Montenegro, Slovakia, Slovenia and Switzerland.** *(In green on the map)*
- (4) 6 states have put in place a compensation procedure for the **3 following circumstances** only (b) non execution of court decisions, (c) wrongful arrest and (d) wrongful conviction: **Albania, Greece, Hungary, Moldova, Romania and Turkey.** *(In purple on the map)*
- (5) In **UK-Scotland**, the only compensation available is in the category of (a) length of proceedings; nevertheless, no formal process for compensating really exists. *(In orange on the map)*
- (6) In **Georgia**, the only compensation available is in the category of (c) wrongful arrest (or wrongful detention). *(In brown on the map)*

(7) In **Belgium**, the compensation available is for the two following categories: (a) length of proceedings, and (c) wrongful arrest. There is also a possibility to claim compensation for a wrongful pre-trial detention. *(In yellow on the map)*

It has been impossible to establish the categories for which compensation is possible in **San Marino** (procedure against the judge in case of fraud, negligence or denial of justice) and **UK-Northern Ireland**.

Figure 4.8 Number of states or entities per category of cases for which the users can request for compensation (Q40)



The majority of states or entities apply compensations for wrongful arrest and wrongful conviction. In almost half of the states or entities, compensation is planned for non-execution of court decisions and excessive lengths of proceedings.

Several small variations between the situations in 2006 and 2008 can be explained by various interpretations, in particular as regards the 4 definitions of the circumstances (for ex. wrongful arrest/wrongful conviction/wrongful detention). Moreover, it is sometimes difficult to understand if the procedure mentioned refers to a national procedure or to the cases that can be brought to the European Court of Human Rights.

In addition to the possibility of a compensation procedure, in almost all of the responding states or entities (44) there is a national or local procedure for making complaints about the functioning (for example the handling of a case by a judge or the length of proceedings) of the judicial system. Only in **Ireland**¹, **Monaco** and **Ukraine** does such a facility not exist. **Armenia** indicated that such measure exists, which was not the case during the previous evaluation exercise.

Various organs or authorities can be entrusted with the examination and processing of the complaint. It might be the court concerned, a higher court, the Ministry for Justice, the Judicial Council or another external organ, such as the ombudsman.

Generally, there are always several bodies to which it is possible to address complaints. In the majority of cases, a court of higher instance (23 states or entities) is responsible. Specialised courts (21), the Ministry of Justice (18) or a Council for the Judiciary (19) may also be responsible for dealing with such complaints. The shared configuration of the complaint is a recurrent feature (a mixed configuration between 2 and 5 authorities can be found in 25 states or entities). One single body entitled to deal with complaints can be found in 5 states (the Council for the Judiciary in **Armenia** and **Romania**, Court of Appeal in **Italy**, the Supreme Court in **the Netherlands** and the Commission for the Administration of Justice in **Malta**). The

¹ Draft legislation has recently been published in Ireland (August 2010) which would establish a complaint procedure concerning judicial misconduct.

opposite situation, where 5 bodies deal with such requests, can be found in **Bulgaria, Montenegro, Norway, Russian Federation, "the former Yugoslav Republic of Macedonia"** and **UK-England and Wales**. These states or entities changed their arrangements since the last evaluation exercise and these results should be analysed carefully.

It is important to know if this competent body is also given a timeframe in order to reply to the complaint, as well as to deal with the complaint. 30 among the 44 states or entities which put in place a national system to allow a complaint are given a timeframe in which to reply to the complaint. Apart from **Georgia, UK-Northern Ireland** and **UK-Scotland**, these states or entities are also given a timeframe in which to deal with the complaint. 10 states have declared that the relevant bodies are not subject to any timeframes in which to reply to the plaintiff or to deal with the complaint (**Belgium, Denmark, Finland, France, Greece, Iceland, Luxembourg, San Marino, Sweden** and **Switzerland**). **Slovenia** and **Turkey** indicated that they have timeframes, which was not the case in the last evaluation exercise. Nevertheless, in these countries, appeals against court dysfunctions are possible.

It is not always easy for a user to understand whom he/she should contact to complain about any case of dysfunctions of the judicial system. In addition, imposing deadlines for the relevant bodies to reply to complaints allow dissatisfied users to know that they have been heard. It would also be useful to analyze what are the outcomes of these complaints in order to perform a realistic analysis of the effectiveness of redress procedures with respect to such users.

Table 4.9 Time limits given to the authorities responsible for responding to and dealing with complaints on the functioning of the judicial system (Q44)

Country	Time limit to respond					Time limit for dealing with the complaints				
	Court concerned	Higher court	Ministry of Justice	High Council of the Judiciary	Other external organisations	Court concerned	Higher court	Ministry of Justice	High Council of the Judiciary	Other external organisations
Albania										
Andorra										
Armenia										
Austria										
Azerbaijan										
Belgium										
Bosnia & Herzegovina										
Bulgaria										
Croatia										
Cyprus										
Czech Republic										
Denmark										
Estonia										
Finland										
France										
Georgia										
Greece										
Hungary										
Iceland										
Ireland										
Italy										
Latvia										
Lithuania										
Luxembourg										
Malta										
Moldova										
Monaco										
Montenegro										
Netherlands										
Norway										
Poland										
Portugal										
Romania										
Russian Federation										
San Marino										
Serbia										
Slovakia										
Slovenia										
Spain										
Sweden										
Switzerland										
FYROMacedonia										
Turkey										
Ukraine										
UK-England and Wales										
UK-Northern Ireland										
UK-Scotland										
TOTAL	21	23	18	19	15	19	22	13	18	13

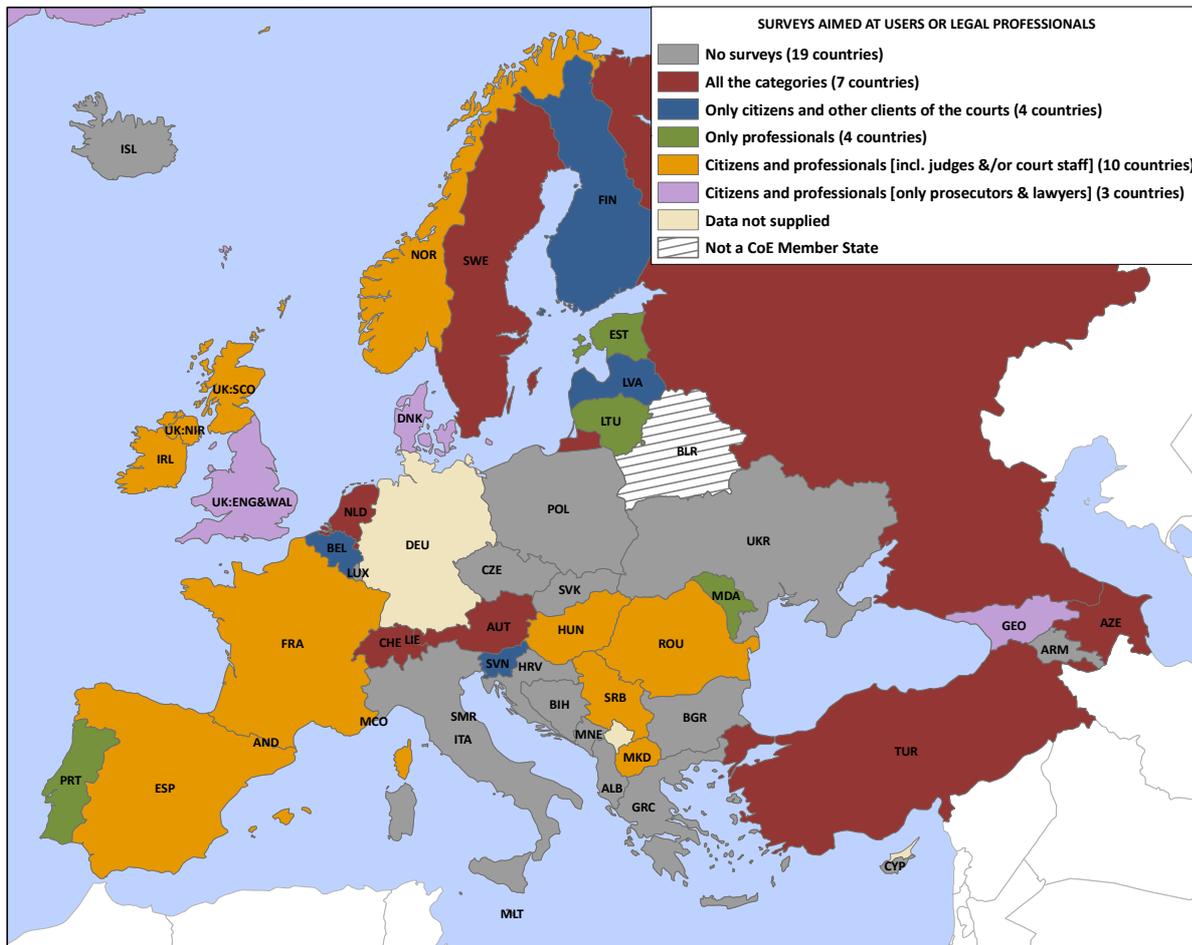
4.6 Assessment of the satisfaction of users

Information on court users' and court personnel (judges and staff) satisfaction levels and on levels of public trust in the courts are important tools of the quality policy of judicial systems. Within the framework of the CEPEJ's working group on the quality of justice a report and a model questionnaire and its subsequent guide of methodology have been prepared by Jean-Paul Jean and H  l  ne Jorry². The use of these documents has been tested by the CEPEJ with its Network of pilot courts before being provided to the member states for their courts in 2011.

Surveys to measure the level of satisfaction are conducted with people who have actually had contact with a court (litigants, lawyers, other legal professionals - legal experts, interpreters, representatives of government agencies, etc.), and directly involved in the procedure (e.g. parties). General surveys of opinion which measure only general representations of justice at a given time are not feasible. This also applies to satisfaction surveys conducted among court staff (judges and non judge court) or the public prosecution system (prosecutors or non prosecutor staff).

28 states or entities have indicated that they use such surveys aimed at court users or legal professionals. In 19 countries this is not the case (see next table). Data have not varied between 2006 and 2008 but it is expected that the situation evolves when the tools designed by the CEPEJ are provided to the member states. Small states do not often organise satisfaction surveys (**Andorra, Cyprus, Monaco**) this may be due to greater proximity between court users, professionals and the courts.

Figure 4.10 Surveys conducted among users or legal professionals to measure public confidence and/or satisfaction (Q41)



Andorra, Malta, Monaco and San Marino: no surveys.

² CEPEJ(2010)1 and CEPEJ(2010)2.

It may be noted that 8 states or entities (**Austria, Azerbaijan, the Netherlands, Russian Federation, Sweden, Switzerland and Turkey**) have indicated that they organise surveys at all levels (users of the courts, professionals, citizens). This demonstrates their efforts to ensure that the service of justice is consistent with expectations of users and those who work there daily.

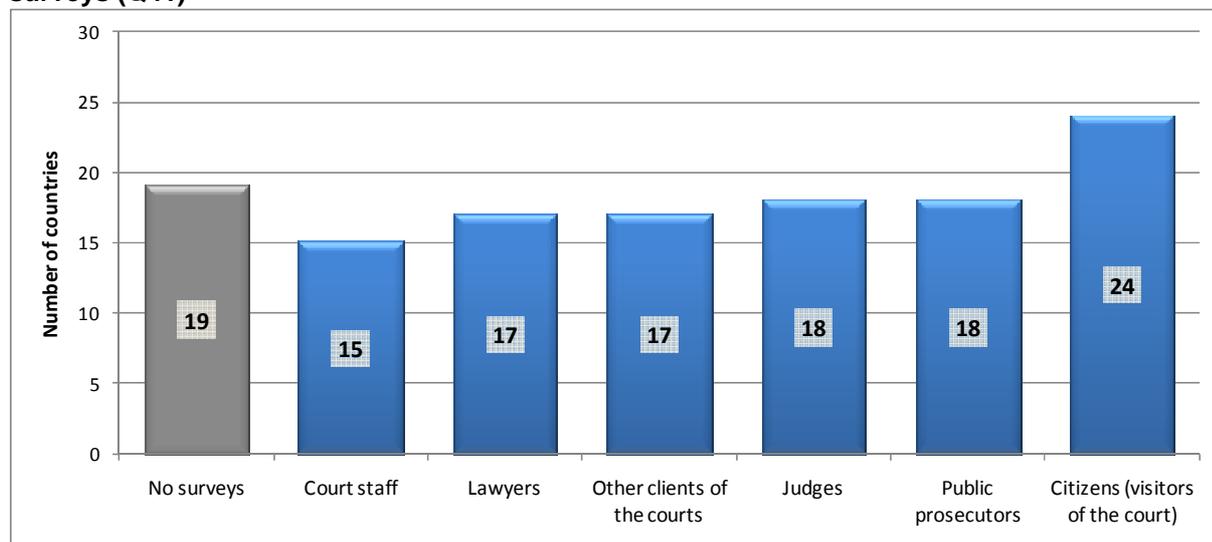
2 states organise surveys only for prosecutors and lawyers on the one hand, and citizens on the other (**Denmark, Georgia**). **UK-England and Wales** selects respondents on a random basis at different exits of court buildings (with the exclusion of judges and magistrates) - prosecutors, lawyers and other visitors to the building will be included but not specifically targeted.

When it comes to surveys referring to users of justice, the distinction made in the questionnaire to question 41 between "surveys of citizens / visitors of the courts" and "surveys of other court users" does not seem always obvious. The users' satisfaction seems to be still paramount in **Belgium, Latvia and Slovenia**, where surveys refer to the citizens/visitors of the courts, and in **Finland** where investigations refer to both the citizens/visitors to the courts as well as 'other court users'. For these states, the professionals of the courts are not involved in the investigations and only the users and citizens are questioned.

On the contrary, only the justice professionals are surveyed in four states, although the professionals surveyed vary from country to country: **Estonia** (court staff only), **Lithuania** (court staff and prosecutors), **Moldova** (judges, prosecutors and lawyers) and **Portugal** (judges, court staff, prosecutors and lawyers).

The largest category of those who organise surveys are the states or entities that conduct surveys not only towards the court users (the public) but also among professionals who are "attached" to the court (judges, court personnel) and those who may not be, such as lawyers and prosecutors. These professionals involved in the surveys vary from state to state: **France, Norway and Serbia** (judges and prosecutors), **Romania and Hungary** (all professionals), **Ireland** (court staff), **Spain and UK-Scotland** (judges and lawyers), **"the former Yugoslav Republic of Macedonia"** (judges and court staff), **UK-Northern Ireland** (court staff, prosecutors and lawyers). For detailed distribution of the categories aimed by the surveys in each country, see Table in Appendix.

Figure 4.11 Target groups of legal professionals or users of the courts concerned by the satisfaction surveys (Q41)



In the table above, a balance can be found between the different groups of professionals or users affected by satisfaction surveys. Logically, citizens and court users are the most consulted. The group the least consulted is the court personnel. This table gives no indication of the frequency of surveys, thus a state may appear in the table having completed only one survey occasionally in the same category as other states who have conducted frequent surveys on a regular basis.

In the following table, the frequency and the level of surveys are presented. Only the countries conducting the survey are counted in the table (28 states). Out of them, 15 states or entities always conduct surveys at a regular interval at the national level and 11 conduct surveys on a regular interval at a court level. Most of the countries that use surveys conduct them occasionally at a national level (18 states) or a court level (13 states).

Austria, Azerbaijan, Belgium, Denmark, France, the Russian Federation, Slovenia, Spain, and Turkey are conducting at the same time surveys both in a systematic and occasional manner.

Austria, Denmark, the Netherlands, the Russian Federation, Spain, "the former Yugoslav Republic of Macedonia" and **UK-England and Wales** conduct surveys both on a national level and at the court level. **France and Slovenia** as well, but only occasionally and only on a court level basis.

Table 4.12 Frequency and level of the satisfaction surveys (Q42)

Austria		Austria	
Azerbaijan		Azerbaijan	
Belgium		Belgium	
Estonia		Estonia	
Finland		Finland	
France		France	
Georgia		Georgia	Austria
Hungary		Hungary	Denmark
Ireland		Ireland	Finland
Latvia		Latvia	France
Moldova		Moldova	Georgia
Norway		Norway	Hungary
Portugal		Portugal	Norway
Romania		Romania	Romania
Russian Federation		Russian Federation	Russian Federation
Serbia		Serbia	Serbia
Spain		Spain	Slovenia
Sweden		Sweden	Sweden
Turkey		Turkey	Switzerland
Austria	Austria		
Denmark	Denmark		
Netherlands	Netherlands		
Russian Federation	Russian Federation		
Spain	Spain		
Switzerland	Switzerland		
FYROMacedonia	FYROMacedonia		
Turkey	Turkey		
UK-England and Wales	UK-England and Wales		
UK-Northern Ireland	UK-Northern Ireland		
UK-Scotland	UK-Scotland		
National level	Court level	National level	Court level
15 countries	11 countries	19 countries	13 countries
REGULAR		INCIDENTAL	

In this table are presented only the 28 states or entities which indicated in 2008 that surveys exist. More than half of the states conduct regular surveys at national as well as at court levels.

4.7 Trends and conclusions

There is a trend in Europe by which citizens and legal professionals can retrieve information about relevant laws, courts and legal proceedings easily and free of charge via the Internet. Only a limited number of countries have specific arrangements to inform the (potential) users of the courts on the foreseeability of procedures i.e. the expected timeframes of a procedure.

With respect to vulnerable persons, victims of rape, children, and juvenile offenders are the categories which are the best protected in judicial proceedings. This is done mostly by providing these categories with special hearing arrangements, special procedural rights or support in terms of a specific supply of information adapted to their needs. In 34 states or entities (30 in 2006), public prosecutors have a role to play in assisting victims of crimes. A majority of states and entities also have a compensation procedure for victims of crimes. Often a public fund is set up. A judicial decision is usually necessary to obtain compensation.

As a part of the protection of the court users against dysfunctions of the courts, judicial systems may have implemented compensation procedures. In 26 states or entities, there is a compensation mechanism for excessively long proceedings and in 20 states or entities for non-execution of a court decision. Almost all the countries have provision for compensating a person in cases of wrongful arrest or wrongful conviction.

Due to increasing attention paid to the needs and expectations of the court users, there is a growing trend in Europe for the introduction and use of specific tools, such as surveys, to evaluate court users' level of satisfaction or public confidence in courts. In several European countries, it is common practice to conduct a survey at a national level or court level on a regular basis. The model survey and the methodological guide provided by the CEPEJ should facilitate future implementation of the surveys conducted among court users to improve the quality of the public service of justice.

Chapter 5. Courts

A *court* is defined in the explanatory note as a “body established by law and appointed to adjudicate on specific type(s) of judicial disputes within a specified administrative structure where one or several judge(s) is/are sitting, on a temporary or permanent basis”.

The major on-going or planned reforms of the court system are listed in Chapter 16 below.

5.1 Court organisation

5.1.1 1st instance courts of general jurisdiction, specialised 1st instance courts and geographic locations

In this section, a difference is made between:

- *first instance courts of general jurisdiction (legal entities)*: these courts deal with all issues which are not attributed to specialised courts owing to the nature of the case,
- *first instance specialised courts (legal entities)*,
- *all courts considered as geographical locations*: these are premises or court buildings where judicial hearings take place. If there are several court buildings in the same city, they must be taken into account. The figures number the locations for first instance courts of general jurisdiction and first instance specialised courts, as well as the locations for High Courts and/or Supreme Courts.

Table 5.1 Number of 1st instance courts as legal entities and number of all the courts as geographic locations, from 2004 to 2008 (Q45)

Country	1 st instance courts of general jurisdiction (legal entities)			Specialised 1 st instance courts (legal entities)			Total number of 1 st instance courts in 2008	% of specialised 1 st instance courts in 2008	All the courts (geographic locations)		
	2004	2006	2008	2004	2006	2008			2004	2006	2008
Albania	29	21	22	1	1	1	23	4.3	39		31
Andorra	1	1	1	0	0	0	1	0.0	1	1	1
Armenia	17	17	16	1	1	1	17	5.9	21	21	20
Austria	153	153	154	7	7	7	161	4.3	149	149	149
Azerbaijan	85	85	85	16	19	19	104	18.3	106	112	112
Belgium	27	27	27	262	262	262	289	90.7	320	320	320
Bosnia & Herzegovina	66	65	64	0	0	0	64	0.0	72	93	93
Bulgaria	145	140	156	5	5	33	189	17.5	153	153	182
Croatia	108	108	67	123	123	123	190	64.7	252	256	190
Cyprus	4	7	7	10	11	11	18	61.1	14	18	18
Czech Republic	86	86	86	0	0	0	86	0.0	98	98	98
Denmark	82	24	24	1	1	1	25	4.0	86	30	30
Estonia	16	4	4	4	2	2	6	33.3	22	22	22
Finland	63	58	51	11	11	11	62	17.7	130	132	131
France	1 141	1 141	1 131	1 370	1 364	1 251	2 382	52.5	(900)	(900)	(900)
Georgia	60	66	61	0	0	0	61	0.0	65	69	64
Greece	455	435	435	4	4	4	439	0.9	460	435	435
Hungary	131	131	131	20	20	20	151	13.2	157	157	157
Iceland	8	8	8	2	2	2	10	20.0	9	9	9
Ireland	3	4	67	3	1	1	(68)		187	180	130
Italy	1 013	1 014	1 011	58	58	58	1 069	5.4	1 291	1 292	1 289
Latvia	34	34	34	1	1	1	35	2.9	41	41	42
Lithuania	59	59	59	5	5	5	64	7.8	67	67	67
Luxembourg	5	5	5	5	5	5	10	50.0	8	8	8
Malta	1	1	1	1	2	2	3	66.7	2	2	2
Moldova	46	46	46	2	2	2	48	4.2	55	55	55
Monaco	18	18	18	6	6	6	24	25.0	1	1	1
Montenegro	17	17	17	3	3	3	20	15.0	22	22	22
Netherlands	19	19	19	2	2	2	21	9.5	61	52	52
Norway	79	68	66	7	6	2	68	2.9	93	71	75
Poland	353	360	364	29	27	30	394	7.6	301	326	376
Portugal	229	231	231	116	116	95	326	29.1	333	326	336
Romania	188	188	179	4	4	10	189	5.3	250	249	246
Russian Federation	9 170	9 846	10 082	82	119	82	10 164	0.8	NA	NA	NA

Country	1 st instance courts of general jurisdiction (legal entities)			Specialised 1 st instance courts (legal entities)			Total number of 1 st instance courts in 2008	% of specialised 1 st instance courts in 2008	All the courts (geographic locations)		
	2004	2006	2008	2004	2006	2008			2004	2006	2008
San Marino	1		1	NA			1		1		1
Serbia	169	138	138	18	17	17	155	11.0	NA	199	199
Slovakia	45	45	54	3	4	12	66	18.2	58	51	68
Slovenia	55	55	55	5	5	5	60	8.3	66	66	66
Spain	1 976	2 016	2 109	572	760	1305	3 414	38.2	683	703	743
Sweden	91	76	76	15	11	11	87	12.6	132	135	134
Switzerland		302	295		93	82	377	21.8		394	462
FYROMacedonia	27	25	25	NA	3	3	28	10.7	31	33	33
Turkey	2 502	4 017	4 141	1135	1574	1617	5 758	28.1	NA	5 767	5 758
Ukraine	722	679	726	54	54	54	780	6.9	790		783
UK-England & Wales	710	660	543	18	25	(0)	543	0.0	711	595	573
UK-Northern Ireland	22	22	20	2	2		20		21	19	
UK-Scotland	22	22	72	22	22	NA	72			50	76
Average								18.1			
Median								10.1			
Minimum								0.0			
Maximum								90.7			

Comments

Armenia: specialised courts have been abolished in May 2009.

Bulgaria: 28 administrative courts have started their activity in 2007.

France: data on geographic locations are round estimates for 2004, 2006 and 2008. The estimation is of 1 January of each reference year.

Ireland: local courts have been counted as separate courts of first instance (25 Circuit Courts and 41 District Courts). Nevertheless, no comparison with the figures of the previous years is possible because of the differences in the categories included.

Norway: courts of particular jurisdiction (Labour Court, Land Consolidation Courts) and conciliation boards are not included in the provided figures.

Romania: data on specialised courts in 2008 is not comparable with the data of previous years, because military courts have been included for the first time in 2008.

Russian Federation: the 2008 figure on specialised 1st instance courts includes 81 commercial courts and the Supreme Commercial Court of the Russian Federation. The 2006 figure included military courts.

UK-England and Wales: data for Tribunals are not included in the figures. As regards specialised first instance courts, some specialist approaches to dealing with domestic violence have been introduced into 127 existing magistrates' courts and dedicated approaches to mental health and drugs are being piloted in a total of 8 magistrates' courts. There are also some courts that focus their work on dealing with cases of community concern, for example the Community Justice Centre in North Liverpool. However, all of these courts operate within general jurisdiction and are not separately designated.

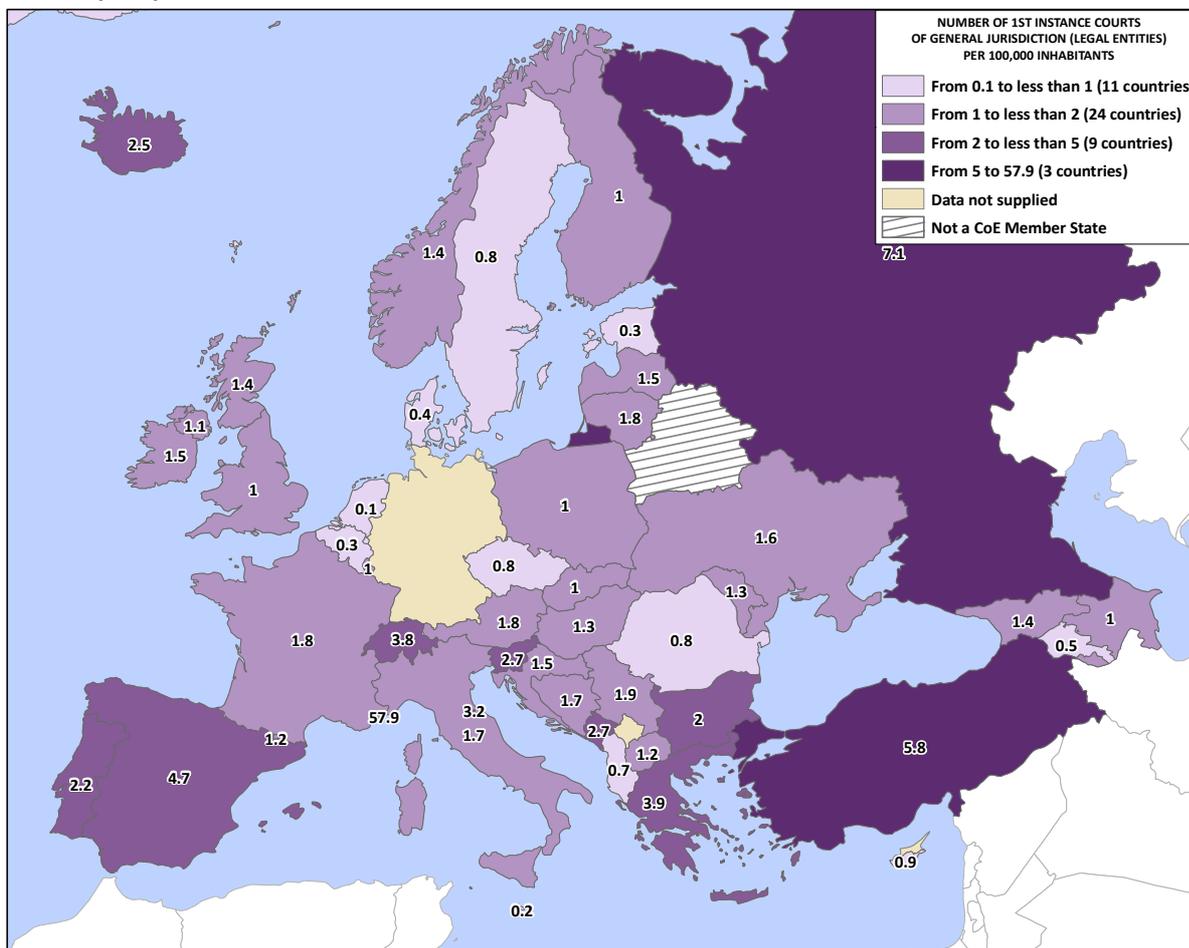
Courts perform different tasks according to the competences that are described in the law. In the majority of cases, courts are responsible for dealing with civil and criminal law cases, and possibly administrative matters. In addition, courts may have a responsibility for the maintenance of registers (land, business and civil registers) and have special departments for enforcement cases (**Austria, Estonia, Finland, Hungary, Latvia, Poland, Slovenia and Switzerland**; **Spain** has special courts for enforcement; see question 92). Therefore, a comparison of the court systems between the member states or entities needs to be addressed with care.

Nearly all member states or entities of the Council of Europe have specialised courts, except **Bosnia and Herzegovina, Czech Republic and Georgia**. Because of their small size, **Andorra** and **San Marino** have one single court. **UK-Northern Ireland** has not answered the question.

As a European average, specialised first instance courts represent 19% of all the first instance courts considered as legal entities. The court system in **Belgium** is mainly based on specialised first instance courts (90,7% of the first instance courts). Most of these courts are related to the Justice of the Peace. **Croatia** (mainly misdemeanour courts) and **Cyprus** have also a relatively important number of specialised courts (more than 60%). On the other hand, in **Greece** (0,9%) and in the **Russian Federation** (1.1%) there are only few specialised courts.

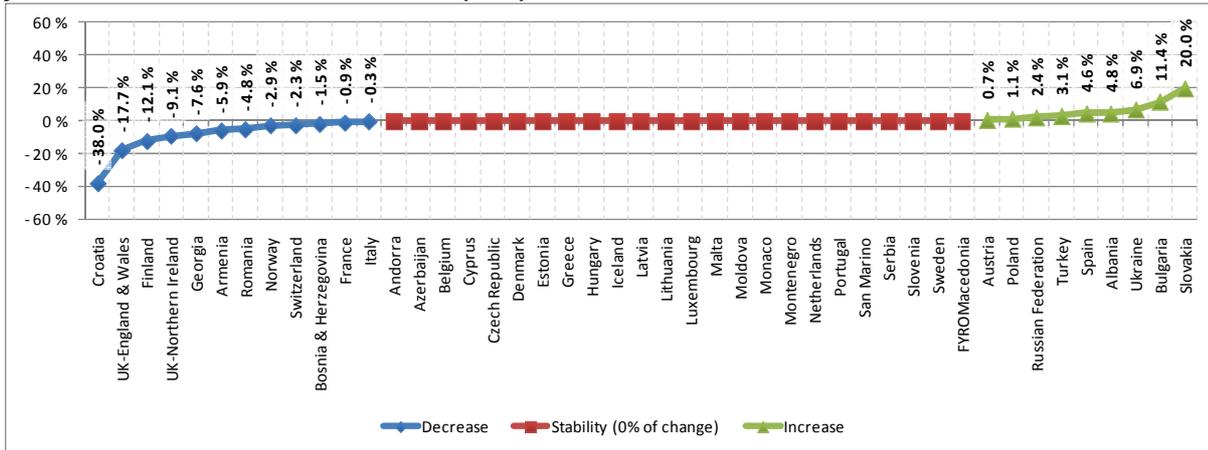
Specialised first instance courts deal with various matters. Most of the responding states or entities mentioned specialised administrative courts, commercial courts and labour courts. Several states or entities listed courts that deal with family, minors and wardship, insurance and social welfare, military, (particular) criminal offences, enforcement of criminal sanctions and rent and tenancies. Particular courts exist for example in **Finland** (Court of Impeachment that hears charges against Ministers), **Spain** (violence against women) and **Turkey** (civil and criminal intellectual property courts).

Figure 5.2 Number of 1st instance courts of general jurisdiction (legal entities) per 100.000 inhabitants in 2008 (Q45)



Most of the states or entities (24) have between 1 and less than 2 first instance courts of general jurisdiction per 100.000 inhabitants. In 11 states, the rate is below 1 court per 100.000 inhabitants. 9 states have more important rates, but only **Turkey**, **Russian Federation** and **Monaco** have indicated more than 5 courts per 100.000 inhabitants. **Turkey** and the **Russian Federation** are two of the four states which have increased significantly the number of courts between 2004 and 2008 (see below figure 5.5). The figure reported by **Monaco** must be considered together with the small number of inhabitants, which has a distorting impact on ratios per 100.000 inhabitants.

Figure 5.4 Average Annual Variation of the [absolute] number of 1st instance courts of general jurisdiction between 2006 and 2008 (Q45)

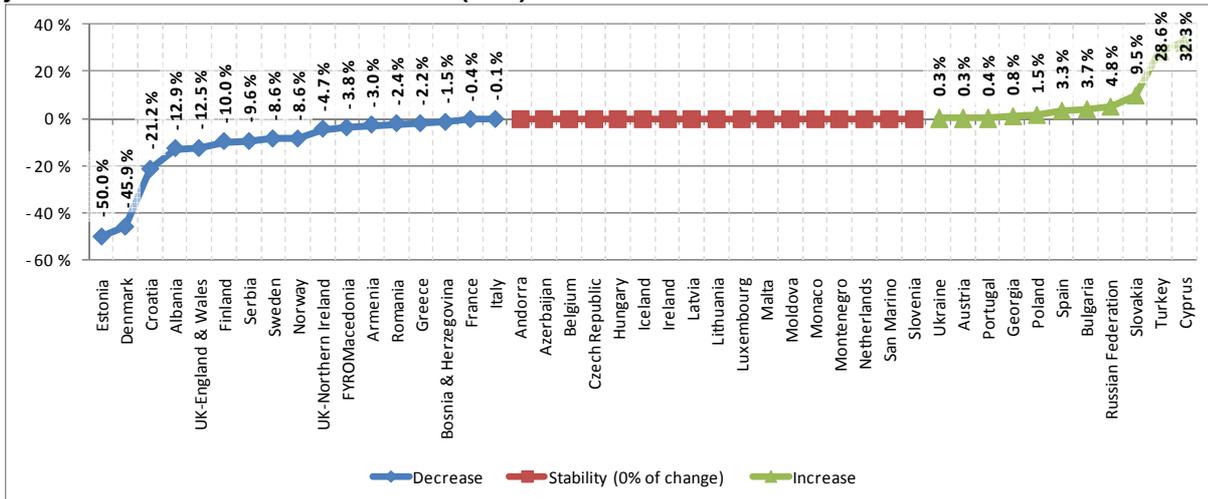


On 46 responding states or entities, a small majority (24) had not experienced any change in the number of first instance courts of general jurisdiction between 2006 and 2008. The judicial map of first instance courts was modified in 22 states or entities: 12 states or entities reduced the number of their courts, and 9 increased this number.

The highest decreasing trends in the number of first instance courts (more than 10%) can be observed in **Croatia, Ireland, UK-England and Wales** and **Finland**. Important increasing trends can be seen in **Bulgaria** and **Slovakia**. In general, a decreasing trend can mainly be noticed in Northern and Western Europe (but also in **Croatia, Georgia, Armenia** and **Romania**), while the dominant trend in Eastern and Southern European states is to increase the number of first instance courts.

It is important to highlight that data for several states or entities should be interpreted very carefully, considering the small absolute numbers of courts. This is the case, for example, of **Ireland**, that is presented with a decrease of 25% between 2006 and 2008, but the change in absolute numbers is only one court (4 in 2006 and 3 in 2008).

Figure 5.5 Average Annual Variation of the [absolute] numbers of 1st instance courts of general jurisdiction between 2004 and 2008 (Q45)

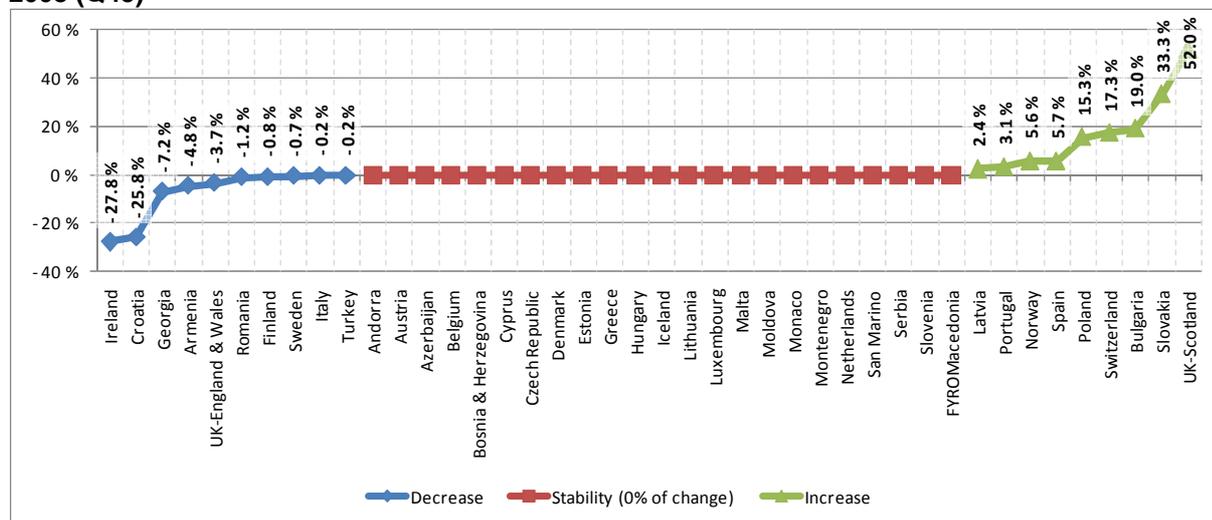


A quite similar trend can be observed on the 2004 – 2008 period. **Bosnia and Herzegovina, Finland, France, Norway** and **UK-England and Wales** have continually reduced the number of first instance courts between 2004 and 2008. On the other hand, there are 4 states (9%) who, from 2004 until 2008, continued to increase the number of this type of courts: **Poland, the Russian Federation, Spain** and **Turkey**.

For 19 other states or entities with increasing or decreasing trends it is not possible to generalise and to present a unidirectional trend, because the small numbers do not allow more reliable analysis. Further longitudinal studies will bring some new results in the next surveys.

Regarding the number of specialised 1st instance courts, 32 states or entities didn't experience any change between 2006 and 2008. **France, Norway, Portugal** and **Switzerland** reported a decrease. On the other hand, **Bulgaria, Poland, Romania, Slovakia, Spain** and **Turkey** increased the number of specialised courts. For the **Russian Federation**, the number of courts can not be compared as the provided figures include different courts in 2006 and 2008. When including into the comparison data from all the evaluation periods, it can be stressed that **Spain** and **Turkey** continually increased the number of courts.

Figure 5.6 Trends in the [absolute] numbers of all courts (geographic location) between 2006 and 2008 (Q45)



Out of 43 states and entities for which data were available in 2006 and 2008, 23 kept exactly the same number of geographic court locations. 10 states or entities experienced a decreasing trend, whereas 9 other states or entities increased the number of courts. The increase in **Switzerland** is mainly due to the fact that 2006 figures did not include one of the biggest cantons (Bern).

5.1.2 First instance courts competent for small claims, dismissals and robbery cases

Table 5.7 Number of 1st instance courts competent for cases concerning: debt collection for small claims, dismissal and robbery (geographic locations) in 2008 (Q48)

Country	Debt collection for small claims		Dismissal		Robbery	
	Absolute number	Per 100.000 inhabitants	Absolute number	Per 100.000 inhabitants	Absolute number	Per 100.000 inhabitants
Albania	22	0.69	22	0.69	22	0.69
Andorra	1	1.18	1	1.18	1	1.18
Austria	141	1.69	16	0.19	16	0.19
Azerbaijan	NA	NA	85	0.98	3	0.03
Belgium	187	1.75	21	0.20	27	0.25
Bosnia and Herzegovina	48	1.25	48	1.25	48	1.25
Bulgaria	NAP	NAP	113	1.48	146	1.91
Croatia	80	1.80	67	1.51	88	1.98
Cyprus	6	0.75	1	0.13	10	1.25
Czech Republic	86	0.82	86	0.82	86	0.82
Denmark	24	0.44	24	0.44	24	0.44
Estonia	4	0.30	4	0.30	4	0.30
Finland	NAP	NAP	51	0.96	51	0.96
France	610	0.95	216	0.34	186	0.29
Hungary	111	1.10	20	0.20	131	1.30
Iceland	8	2.50	8	2.50	8	2.50
Ireland			1	0.02	2.5	0.06
Italy	846	1.42	165	0.28	165	0.28
Latvia	34	1.50	34	1.50	39	1.72
Lithuania	54	1.61	59	1.76	54	1.61
Luxembourg	3	0.61	3	0.61	2.5	0.51
Malta	1	0.24	1	0.24	1	0.24
Moldova	47	1.32	46	1.29	47	1.32
Monaco	1	3.22	1	3.22	2	6.43
Montenegro	17	2.74	15	2.42	17	2.74

Country	Debt collection for small claims		Dismissal		Robbery	
	Absolute number	Per 100.000 inhabitants	Absolute number	Per 100.000 inhabitants	Absolute number	Per 100.000 inhabitants
Netherlands	19	0.12	19	0.12	19	0.12
Norway	67	1.41	67	1.41	67	1.41
Poland	319	0.84	224	0.59	360	0.94
Portugal	232	2.19	59	0.56	233	2.19
Romania	179	0.83	41	0.19	179	0.83
Russian Federation	7 554	5.32	2 549	1.79	10 081	7.10
Serbia	138	1.88	138	1.88	138	1.88
Slovakia	54	1.00	54	1.00	54	1.00
Slovenia	44	2.17	4	0.20	11	0.54
Spain	1 645	3.63	319	0.70	1 479	3.27
Sweden	53	0.58	53	0.58	53	0.58
Switzerland	234	3.04	141	1.83	120	1.56
FYROMacedonia	26	1.27	26	1.27	26	1.27
Turkey	851	1.19	1 137	1.59	1 193	1.67
UK-England and Wales	216	0.40	26	0.05	248	0.46
UK-Northern Ireland	7	0.40	NA	NA	20	1.14
UK-Scotland	49	0.95	NA	NA	50	0.97
Average		1.41		0.96		1.36
Median		1.19		0.76		1.07
Minimum		0.02		0.02		0.03
Maximum		5.32		3.22		7.10

Note: Armenia, Georgia, Greece, San Marino and Ukraine were unable to provide data for question 48. In Georgia all the types of cases are treated by courts of general jurisdiction, but the number is unavailable. Ireland and Luxembourg stated that the number of courts competent for robbery cases varies from 2 to 3. For comparative purposes, an average of 2,5 courts for both states was applied in this table. Moreover, Ireland has not counted each local court as being separate courts.

Small claims

The European average and European median being 1,41 and 1,19 courts respectively per 100.000 inhabitants, a relatively large number of first instance courts competent for *debt collection of small claims* (over 3 courts per 100.000 inhabitants) can be observed in the **Russian Federation** (5,32), **Spain** (3,63), **Monaco** (3,22) and **Switzerland** (3,04). Quite a low number can be noted in **Ireland** (0,02), **the Netherlands** (0,12), **Malta** (0,24), **Estonia** (0,30), **UK-England and Wales** (0,40) and **UK-Northern Ireland** (0,40). However, this indicator is really sensitive to the definition of a small claim.

Indeed, there is a large variety between the states or entities with respect to the financial amount of the dispute. The lowest value is observed in **Lithuania** ($\leq 72,40\text{€}$), the highest in **San Marino** ($\leq 50.000\text{€}$). These differences may partly be caused by the specific economic situation of the countries, the civil procedural rules that are applied and the level of specialisation of courts in this area.

Table 5.8 Monetary value of a small claim in 2008 (Q48)

Country	Monetary value of small claims	Country	Monetary value of small claims
Albania	$\leq 1\ 500\text{€}$	Malta	$\leq 3\ 494\text{€}$
Andorra	$\leq 1\ 200\text{€}$	Moldova	no definition
Armenia	$\leq 5\ 000$ times the min. salary	Monaco	$\leq 1\ 800\text{€}$
Austria	$\leq 10\ 000\text{€}$	Montenegro	$\leq 500\text{€}$
Azerbaijan	No definition	Netherlands	$\leq 5\ 000\text{€}$
Belgium	$\leq 1\ 860\text{€}$	Norway	$\leq 14\ 850\text{€}$
Bosnia and Herzegovina	$\leq 1\ 500\text{€}$	Poland	$\leq 2\ 371\text{€}$
Bulgaria	No definition	Portugal	$\leq 14\ 963.94\text{€}$
Croatia	$\leq 1\ 364\text{€}$	Romania	$\leq 2\ 509.28\text{€}$
Cyprus	No definition	Russian Federation	$\leq 1\ 470\ \text{€}$
Czech Republic	No definition	San Marino	$\leq 50\ 000\text{€}$
Denmark	$\leq 6\ 640\text{€}$	Serbia	$\leq 1\ 124\text{€}$
Estonia	$\leq 2\ 000\text{€}$	Slovakia	$\leq 500\text{€}$

Country	Monetary value of small claims	Country	Monetary value of small claims
Finland	No definition	Slovenia	≤2 000€
France	≤10 000€	Spain	≤3 000€
Georgia	≤852€	Sweden	≤ 1 891€
Greece	≤ 800€	Switzerland	310€ to more than 21 400€ (vary from canton to canton)
Hungary	≤ 18 834€	FYROMacedonia	≤ 2 932€
Iceland	No definition	Turkey	≤ 2 959€
Ireland	≤2 000€	Ukraine	no definition
Italy	≤ 15 494€	UK-England and Wales	≤ 1 041 or ≤ 5 203€
Latvia	No definition	UK-Northern Ireland	no amount specified
Lithuania	≤ 72.40€	UK-Scotland*	≤ 3 122€
Luxembourg	≤ 10 000€		

Comments

Albania: there is no specific definition for small claims, but, since the modification of the Civil Procedure Code in December 2008, all civil cases up to a sum of 1.500€ are regularly decided by a single judge if not both parties explicitly ask for a decision by a panel of 3 judges.

Armenia: 2006 data.

Croatia: in national currency, the monetary value of a small claim is less than 10.000 kunas.

Czech Republic: there is no special definition for small claims, but applications will be inadmissible if the amount in dispute is lower than 2.000 CZK (63€).

Estonia: there are several meanings for “small claims”: 1. Claims below 2.000€. In this case, the court may adjudicate the case by way of simplified proceedings. All general courts are competent to solve these cases. 2. Claims that can be filed to the order of payment procedure (up to 6.391€). In 2008, they could be filed to any general court. Since 2009, these claims can only be filed electronically and are solved only in one courthouse.

Finland: small claims do not exist as a legal term in Finland. Undisputed civil matters can be dealt with in a summary proceeding.

Greece: 2006 data.

Norway: the Dispute Act of 2005 that entered into force 1st January 2008 introduced a simplified procedure for small claims. Small claims are cases in which the value of the subject-matter is below 125.000 NOK (14.850€).

Poland: small civil claims are property claims based on contracts and breach of contracts relations, with a total value not exceeding 10.000 PLN, rent payment disputes in housing matters, court deposits.

Romania: there is no special definition for small claims, but the maximum limits of the claims which are under the competence of first instance courts, are defined as follows: 1. those with a value up to 2.509,28€ are handed to trainee judges; 2. those with a value up to 25.092,84€, in commercial matter, are handed to other judges; 3. those with a value up to 125.464,21€, in civil matter, are handed to other judges.

Russian Federation: 2006 data.

San Marino: no definition is provided for small claim, but a distribution of functional competence is established between two offices: the *Law Commissioner* Judge and the Judge of Peace, if the value of the claim is less than or over 50.000 €.

Serbia: 2006 data.

Slovakia: a small claim is a claim, whose value does not exceed 500€ at the time when the claim is filed at the court, excluding all interests, expenses and disbursements.

Slovenia: in May 2008, the Civil Procedure Act was amended. The previous value of 200.000 Slovenian tolar was changed to 2.000€. A special simplified procedure is applied in those cases.

Spain: verbal and ordinary proceedings are applied to claims not exceeding 3.000€. Monetary proceedings are applied to debts not exceeding 30.000€.

Sweden: in 2008, the claim was less than 20.500 SEK.

FYROMacedonia: the claim does not exceed 180.000 Denars.

Turkey: 5.490 YTL. Small claims are dealt with by the civil courts of peace.

UK-England and Wales: 1. claims with a financial value of not more than £5.000 subject to the special provisions about claims for personal injuries and housing disrepair claims; 2. claims for personal injury which has a financial value of not more than £5.000 and the claim for damages for personal injuries is not more than £1.000; and 3. claims which includes a claim by a tenant of residential premises against his landlord for repairs or other work to the premises where the estimated cost of the repairs or other work is not more than £1.000 and the financial value of any other claim for damages is not more than £1.000.

UK-Scotland: £3.000. The courts do not enforce the decrees or collect the debts.

Dismissals

Fewer first instance courts are competent for *dismissal* cases. The European average and European median are 0,96 and 0,76 respectively. The highest number of courts per 100.000 inhabitants can be found in **Monaco** (3,22) – the ratio calculated using a very small number of courts and inhabitants is not so relevant -, **Iceland** (2,50) and **Montenegro** (2,42), whereas **Ireland** presents again the lowest number (0,02) followed

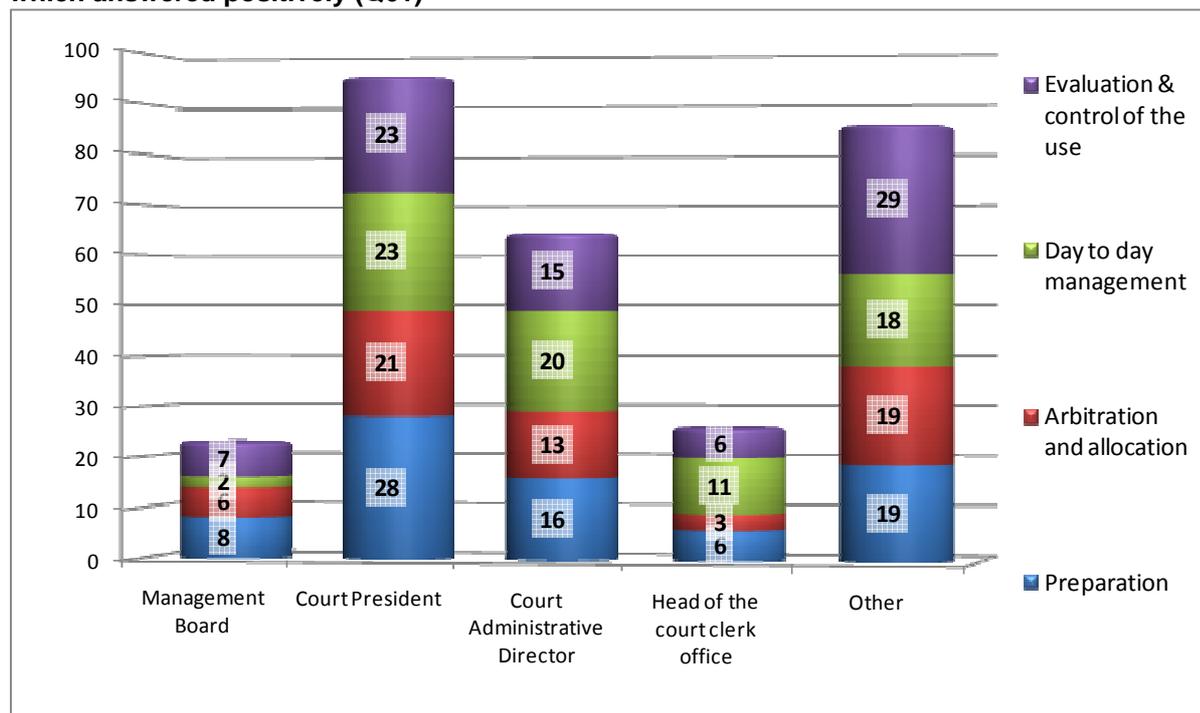
by **UK-England and Wales** (0,05), **the Netherlands** (0,12) and **Cyprus** (0,13). Besides **UK-England and Wales**, all these countries do not have specialised labour courts. A correlation between the number of courts competent for dismissal cases and the existence of labour courts cannot be analysed here, considering the little information available.

Robberies

The highest number of courts competent for *robbery* cases can again be found in the **Russian Federation** (7,10), **Monaco** (6,43) – with the same reservations - and **Spain** (3,27). **Azerbaijan** (0,03), **Ireland** (0,06), **the Netherlands** (0,12) and **Austria** (0,19) present the lowest numbers of courts per 100.000 inhabitants. Again, because of the lack of relevant information about specialised courts for small criminal offences, a comparison between the numbers of courts competent for robbery cases cannot be established.

5.2 Budgetary powers within courts

Figure 5.9 Instances responsible for individual court budget in 2008, number of states or entities which answered positively (Q61)



The figure takes into account 46 states or entities (only **San Marino** was not able to give any information).

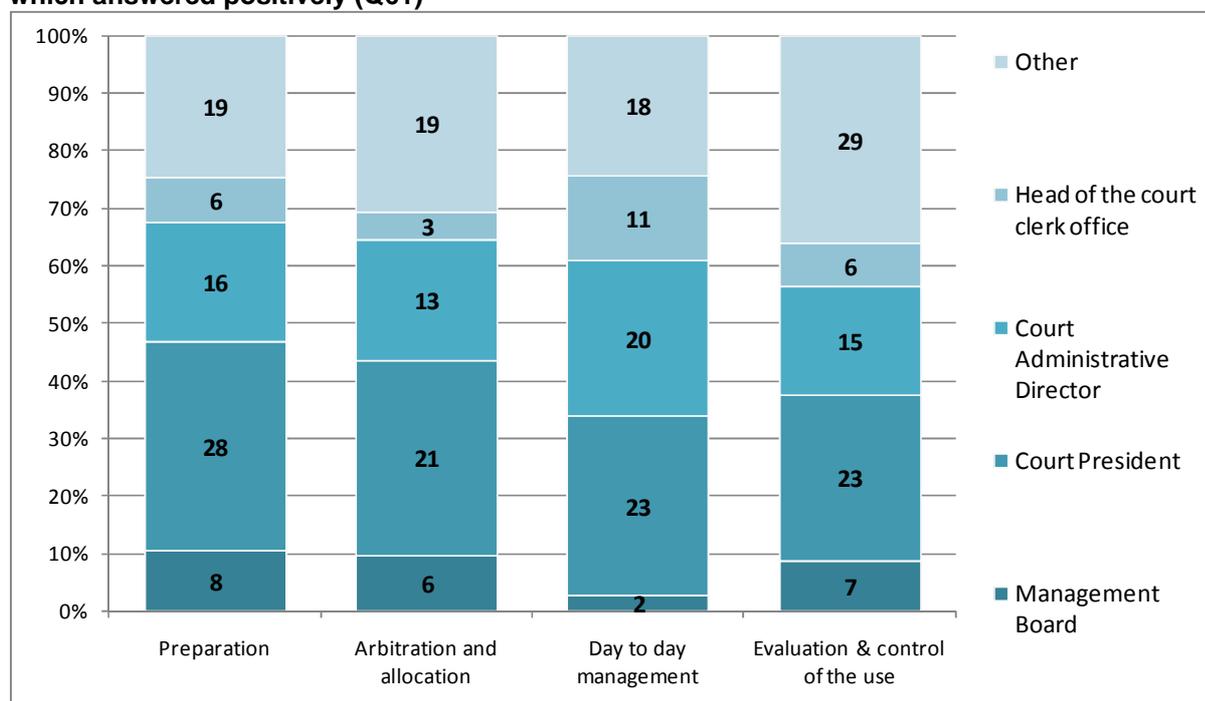
The organisation of the competence and responsibility for the budgets differ from one state or entity to another. When examining the role of each instance, it can be noted that the Court President is the most involved authority in all the stages of the budget's management. In 52% of the states or entities, the Court President is responsible for the preparation, arbitration, day-to-day management and also evaluation and control of the budget. Most often she/he is involved in the preparation of the budget.

Among the "other" authorities which can be involved, can be noted the Ministry of Justice or one of its agencies (**Azerbaijan** for the budget for the 1st instance courts, **Belgium, Latvia, Romania and Slovakia** except for the Supreme Court who governs its own budget, **UK-England and Wales**), the Ministry of Finances (**Luxembourg, Montenegro**), the Presidents of higher courts (**Austria, "the former Yugoslav Republic of Macedonia"**) or a collective group of Presidents of higher courts (**Russian Federation**), the national court administration (**Denmark, Georgia, Montenegro, Ukraine, UK-Northern Ireland, UK-Scotland, Turkey**), a State Audit Office (**Latvia, "the former Yugoslav Republic of Macedonia"**), the Office of the General Prosecutor (**Luxembourg, Turkey**) or court accountants (**Bosnia and Herzegovina, Cyprus, Lithuania**).

Where appropriate, the Court administrative director is also very often present at all the stages of the budget's cycle, but is mostly involved in the day-to-day management. The head of the court clerk office and the management board are less often involved. In **the Netherlands** and **UK-Northern Ireland**, the management board is in charge of the day-to-day management of the court budget.

The budgetary process for the court may be arranged at different levels (from national level to regional or local level) and may be different for each instance. At each level and for each court instance, various actors are involved in the process.

Table 5.10 Stages of management of individual court budgets in 2008, number of states or entities which answered positively (Q61)



One can observe that at all the stages of the management of court budget, the instances are involved in quite the same proportions. At all the stages – namely for the preparation – the Court President is the most involved instance.

5.3 Information and communication technology (ICT) in the courts (e-justice and e-courts)¹

For the analysis on the installation of computer facilities within the European courts, three areas have been distinguished:

- *Computer facilities used for the direct assistance of judges and court clerks:* one of the "basic" applications concerns *word processing / office facilities* where a judge or staff member can draft his/her decisions or the preparation of a court case in an "electronic file". In the field of legal research, various tools and applications, from CD-ROMs to Intranet and Internet software, make it possible for a judge to gain access to statute law, appellate decisions, rules, court working methods, etc. Office applications, together with tools for jurisprudence, can be combined with facilities in the field of "standard-decisions" models or templates that can be used by judges to reduce their workload when drafting a judgment. Other computer facilities used for the direct assistance of judges and court clerk are *electronic databases of jurisprudence, E-mail facilities* and *Internet connections*.
- *Systems for the registration and management of cases:* traditional court docket books and other registers are replaced by computerized databases with court records. These systems are not limited to registration of case information, but they introduce functionalities in the area of the management of cases. Fields of applications are: the generation of information concerning the performance of courts, financial management of courts and (non-)judicial case management support systems (for case tracking, case planning and document management).
- *Electronic communication and information exchange between the courts and their environment:* regarding court users one of the most common tools is a court *website* providing different information

¹ Detailed information is described in: Velicogna M. (2007), *Use of Information and Communication technology in European Judicial systems*, CEPEJ Study N°7 (Strasbourg).

on the court activities (e.g. the follow up of cases online) and organisation. Typically, it will offer downloadable forms or enable a claim – to be submitted electronically. There exist also electronic registers such as business registers and land registers. SMS-messaging can keep parties informed of the position of their case in the court list. Regarding technology in the courtroom, this includes a range of hardware and software made available to facilitate parties in presenting their case to the court, including for instance video conferencing, electronic evidence presentation software, visualisers, scanning and bar-coding devices, digital audio technology and real-time transcription.

Table 5.11 is based on a point system and presents the use of different computer facilities for the mentioned three areas. Questions about the implementation of video conferencing and sound recording in judicial proceedings or detailed information about other electronic communication facilities have not been submitted to the member states. Though, it is important to mention that **Ireland** and **Slovenia** are pioneers in this matter.

Reading keys for the table 5.11

100% (4 points)
>50% (3 points)
<50% (2 points)
<10% (1 point)

The total number of points is provided only for information. It was calculated when the data were available for the totality of the categories, but also when only one category was missing per country. The questionnaire allows only a very general categorisation (100%, >50%, <50%, >10%), therefore only a general overview can be applied. From a methodological point of view, no rigorous interpretation should be based on the analysis of national features.

Table 5.11 Computer facilities used within the courts for three areas of use (Q63, 64, 65)

Country	Direct assistance to judges and court clerks					Administration and management			Communication between courts and the parties			Total number of points
	Word processing	Electronic database of jurisprudence	Electronic files	E-mail	Internet connection	Case registration system	Court management information system	Financial information system	Electronic Web forms	Special Website	Other electronic communication facilities	
Albania												30
Andorra												29
Armenia												39
Austria												44
Azerbaijan												23
Belgium												32
Bosnia and Herzegovina												30
Bulgaria												40
Croatia												34
Cyprus												25
Czech Republic												40
Denmark												44
Estonia												42
Finland												44
France												41
Georgia												23
Greece												27
Hungary												37
Iceland												
Ireland												39
Italy												34
Latvia												32
Lithuania												40
Luxembourg												37
Malta												44
Moldova												21
Monaco												34
Montenegro												28
Netherlands												33
Norway												41
Poland												35
Portugal												41
Romania												38
Russian Federation												44

Country	Direct assistance to judges and court clerks					Administration and management			Communication between courts and the parties			Total number of points
	Word processing	Electronic database of jurisprudence	Electronic files	E-mail	Internet connection	Case registration system	Court management information system	Financial information system	Electronic Web forms	Special Website	Other electronic communication facilities	
San Marino												
Serbia												29
Slovakia												41
Slovenia												39
Spain												39
Sweden												32
Switzerland												40
FYROMacedonia												37
Turkey												43
Ukraine												
UK-England and Wales												39
UK-Northern Ireland												40
UK-Scotland												44

Comments

Albania: in January 2010, the implementation of the IT system for court administration and case management was finalized. The introduction of the "Integrated Case Management Information System" (CCMIS/ICMIS) was financed by the European Community. The CCMIS/ICMIS project started in 2007. This new system includes case registration, lottery assignment of cases to judges, statistics, webpage etc. CCMIS/ICMIS will replace the existing Ark IT system, which is active in some courts for the moment and also facilitates the day to day work for all courts and court users. Additionally, for the period 2010 - 2012 a new electronic archive system for all court cases will be implemented with the support of the Ministry of Justice and USAID. Both systems will be compatible for management and archive of court cases.

Bosnia and Herzegovina: ICT implementation in the judiciary has been ongoing for a number of years and covers all aspects of massive and systematic introduction of ICT in courts and prosecutors' offices. The most important results achieved in the area of E-justice in the past two years are the implementation of the *Case Management System* (CMS) in Bosnian courts connected into a single wide area network (WAN) as well as the development and implementation of the Registry of Fines and Content Management System for the centralized Judicial Portal. All of the said ICT activities, which were successfully carried out, have fundamentally changed the way courts and prosecutors' offices in Bosnia and Herzegovina conduct business, have streamlined burdensome procedures within the courts and increased transparency of their work. However, these achievements can be considered as a first phase of development of the judicial information system. In the next phase, it will be necessary to respond to the needs of Bosnian citizens, the business sector and legal professional community by offering them different kinds of services such as access to: legal information, registers, databases and other services.

Luxembourg: since 01.12.2009, a new management software in criminal cases has been put in place. A specific tool for the management of small business recovery has been put into action, as well as a program for manager business community recovery. A new system for civil cases will also be developed in 2010. All these tools include statistical modules. The Internet portal common to ordinary courts and administrative courts was established in spring 2010; the temporary site has been online since summer 2008. This contains some online forms.

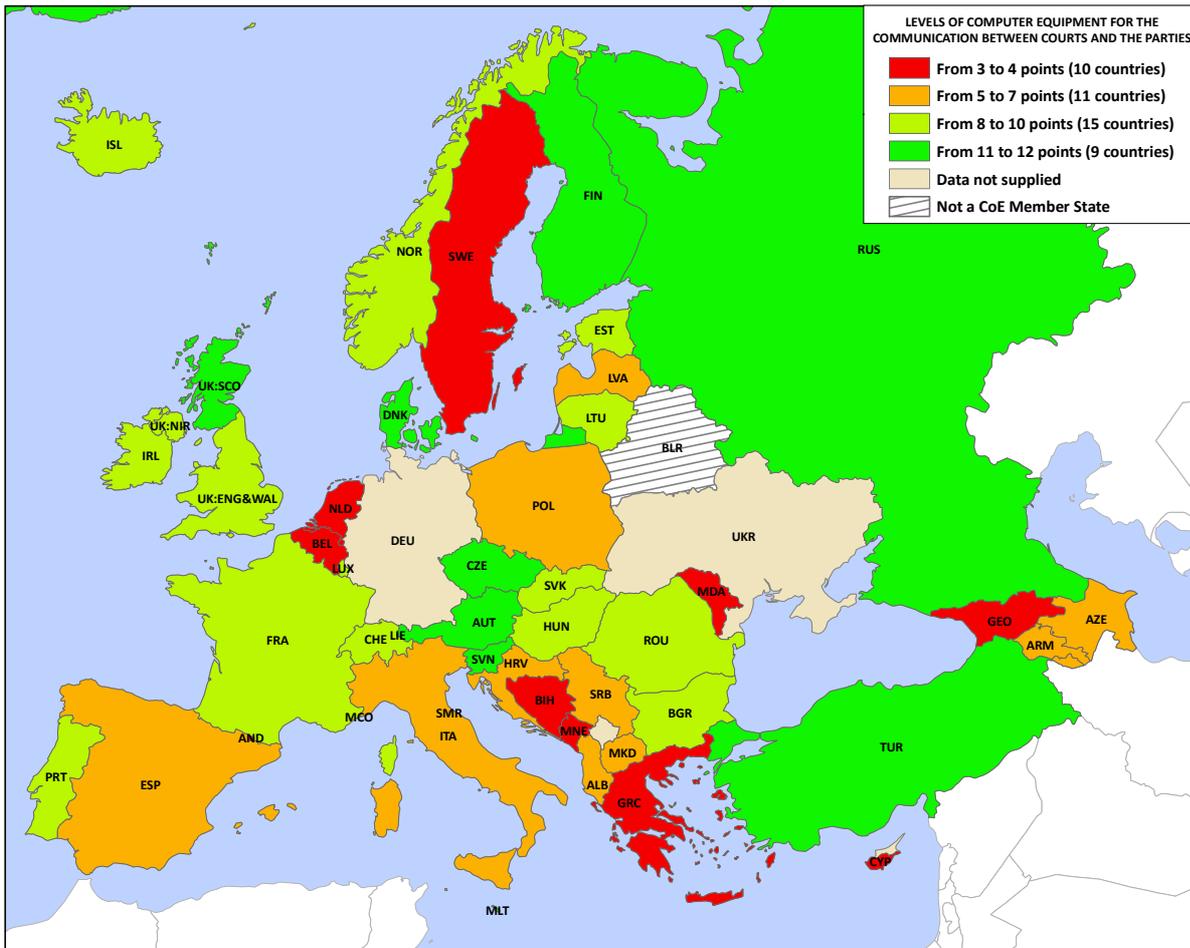
Spain: 29.275.510 € have been allocated to courts for new technologies in 2008. Regarding main reforms the Modernisation Plan for the Justice System was approved in September 2009

"the former Yugoslav Republic of Macedonia": strategy for ICT in the Judiciary 2007-2010 is being implemented.

There are 7 states or entities which have a 100% implantation of computer facilities in all the sectors listed in the questionnaire: **Austria, Denmark, Finland, Malta, Russian Federation, Turkey and UK-Scotland**. 2 states (**Moldova and Georgia**) reported a relatively low level of computerisation compared to other states or entities.

Generally speaking, the use of ICT in courts is constantly increasing in Europe. Many states or entities reported recent or ongoing reforms (**Albania, Bosnia and Herzegovina, Luxembourg, Spain, Switzerland** and **"the former Yugoslav Republic of Macedonia"**; see also chapter 16 regarding Information technologies). The matter that remains the least developed in Europe is communication between courts and the parties.

Figure 5.13 Availability of computer equipment for the communication between the court and the parties (Q65)



Andorra: 3 points, **Malta:** 12 points, **Monaco:** 5 points. **San Marino** has not supplied data.

Member states or entities have made fewer efforts in providing computer equipment for facilitating the communication between the parties and the courts. Nevertheless, the trend is encouraging. **Austria, Czech Republic, Denmark, Finland, Malta, Russian Federation, Slovenia, Turkey** and **UK-Scotland** have particularly high scores. A good level of computer facilities for communication can also be found in one third of the states or entities concerned. However, it must be kept in mind that this indicator does not assess the performance of such systems.

In comparison to the 2008 Edition of the report, significant progress can be noted in **Poland**, the **Russian Federation** and **Turkey** in this area. In **Poland**, e-courts for simplified proceedings in civil matters are operational since 2009. **Switzerland** indicated that electronic communication will be introduced in all instances from 1 January 2011.

Table 5.14 Level of computerisation of courts for the three areas of application (Q63, 64, 65)

	Albania	
	Bosnia and Herzegovina	
	Belgium	Bulgaria
	Latvia	Czech Republic
	Sweden	Lithuania
	Netherlands	Switzerland
	Croatia	UK-Northern Ireland
	Italy	France
	Monaco	Norway
	Poland	Portugal
	Hungary	Slovakia
Moldova	Luxembourg	Estonia
Azerbaijan	FYROMacedonia	Turkey
Georgia	Ireland	Austria
Cyprus	Romania	Denmark
Greece	Armenia	Finland
Montenegro	Slovenia	Malta
Andorra	Spain	Russian Federation
Serbia	UK-England and Wales	UK-Scotland
	< 30 points	30 to < 40 points
	(8 countries)	(19 countries)
	18%	43%
		40 points and over
		(17 countries)
		39%

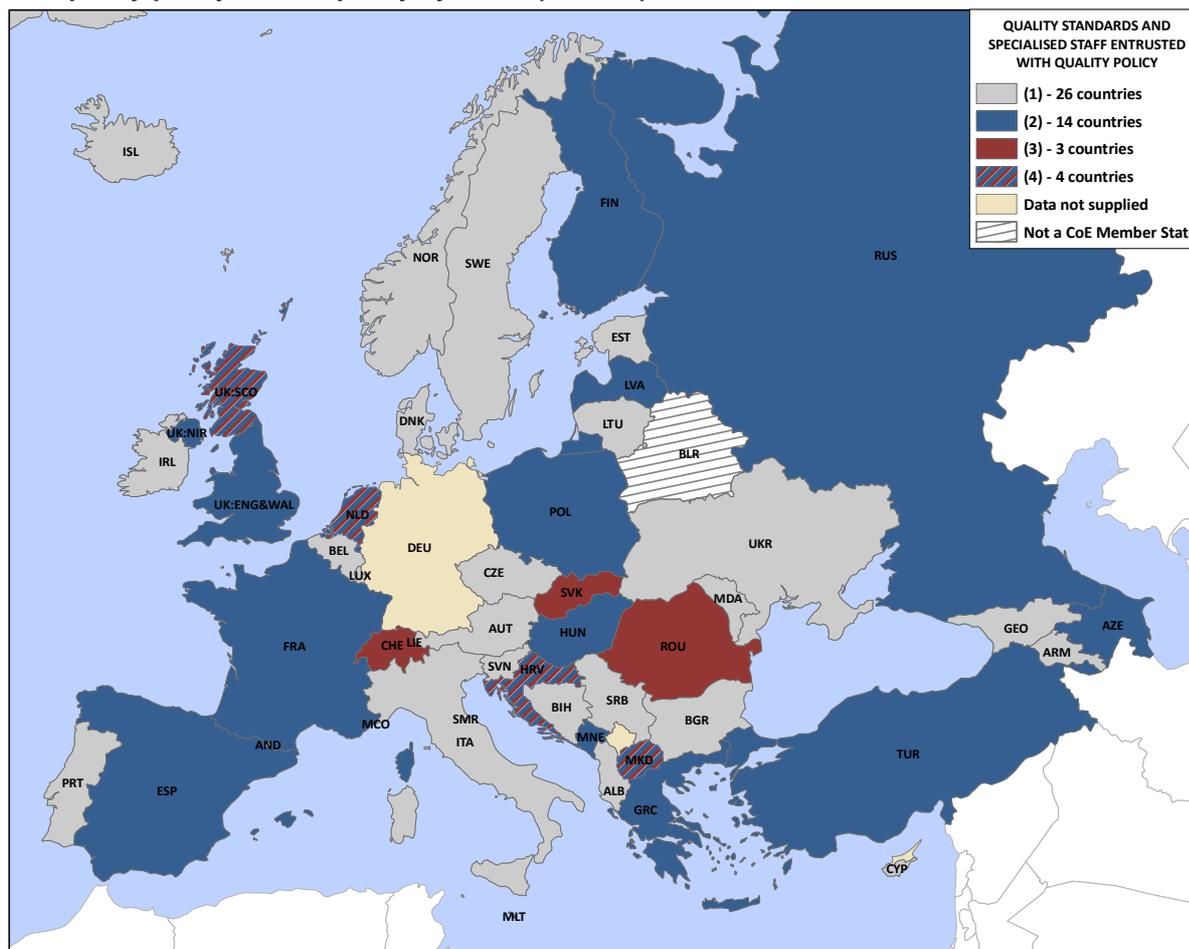
As observed before, most of the states or entities have achieved high or acceptable results and can provide the court users with a range of developed facilities. Insufficient funding might explain the delays of other states in developing e-justice devices.

5.4 Quality and performance of the courts – Evaluation

5.4.1 Quality standards and performance targets

To underline the growing importance for the development of a quality policy for the courts and the judiciary, the CEPEJ has created a special working group and has adopted a Checklist for the promotion of quality of justice and courts: a practical tool that can be used by the courts to introduce specific quality measures. Another important area is the use of court user (satisfaction) surveys. A specific Handbook for setting up and implementing such surveys aimed at court users was drafted and published by the CEPEJ. Furthermore, a specific Study on quality systems with courts in Europe has been published by the CEPEJ (see: www.coe.int/cepej).

Figure 5.15 States or entities which defined quality standards and have specialised staff entrusted with quality policy and/or quality systems (Q78, 79)



Andorra, Monaco and San Marino have no quality standards defined and no specialised staff entrusted with quality policy. Malta has specific quality standards defined, but no specialised court staff for dealing with these standards.

Comment

Switzerland: 3 cantons apply quality policies.

Reading keys for map 5.15:

- (1) **No quality standards defined and no specialised staff entrusted with quality policy** (26 states or entities)
- (2) **Specific quality standards defined, but no specialised court staff for dealing with these standards** (14 states or entities)
- (3) **Specialised court staff but no general quality policy** (3 states or entities)
- (4) **Quality standards defined and specialised court staff** (4 states or entities).

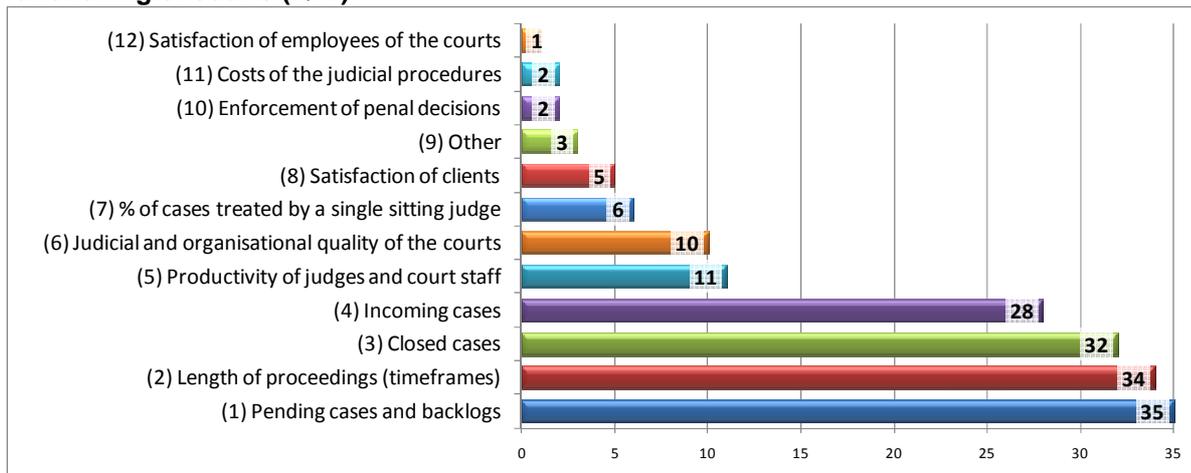
Most of the responding states or entities (26) have not defined quality standards and do not have any qualified staff entrusted with this purpose. However, 18 states or entities reported having quality standards for the courts and 17 have specialised staff. Only **Croatia, the Netherlands, "the former Yugoslav Republic of Macedonia"** and **UK-Scotland** indicated having both a quality policy and specialised staff.

Several states or entities reported that general quality policies are set up by law (**Greece, Hungary, Montenegro and Turkey**) or by a judicial authority (**Croatia and UK-Scotland**).

For example, **Finland** informed about quality projects in the Courts of Appeal of Rovaniemi and Helsinki and mentioned a cooperation project between administrative courts. **France** and **Latvia** reported existing standards regarding the quality of court users' facilities. In **Montenegro**, strict deadlines for the announcement of decisions for several procedural acts exist and **Poland** uses the judgement stability ratio as a major indicator. In **Slovenia**, a pilot project for a quality system started in 2008.

All member states, except **Belgium, Luxembourg, Malta** and **San Marino** have indicated that they have defined performance indicators for court activities (Q69).

Table 5.16 Number of countries using (mainly) performance and quality indicators for a proper functioning of courts (Q71)



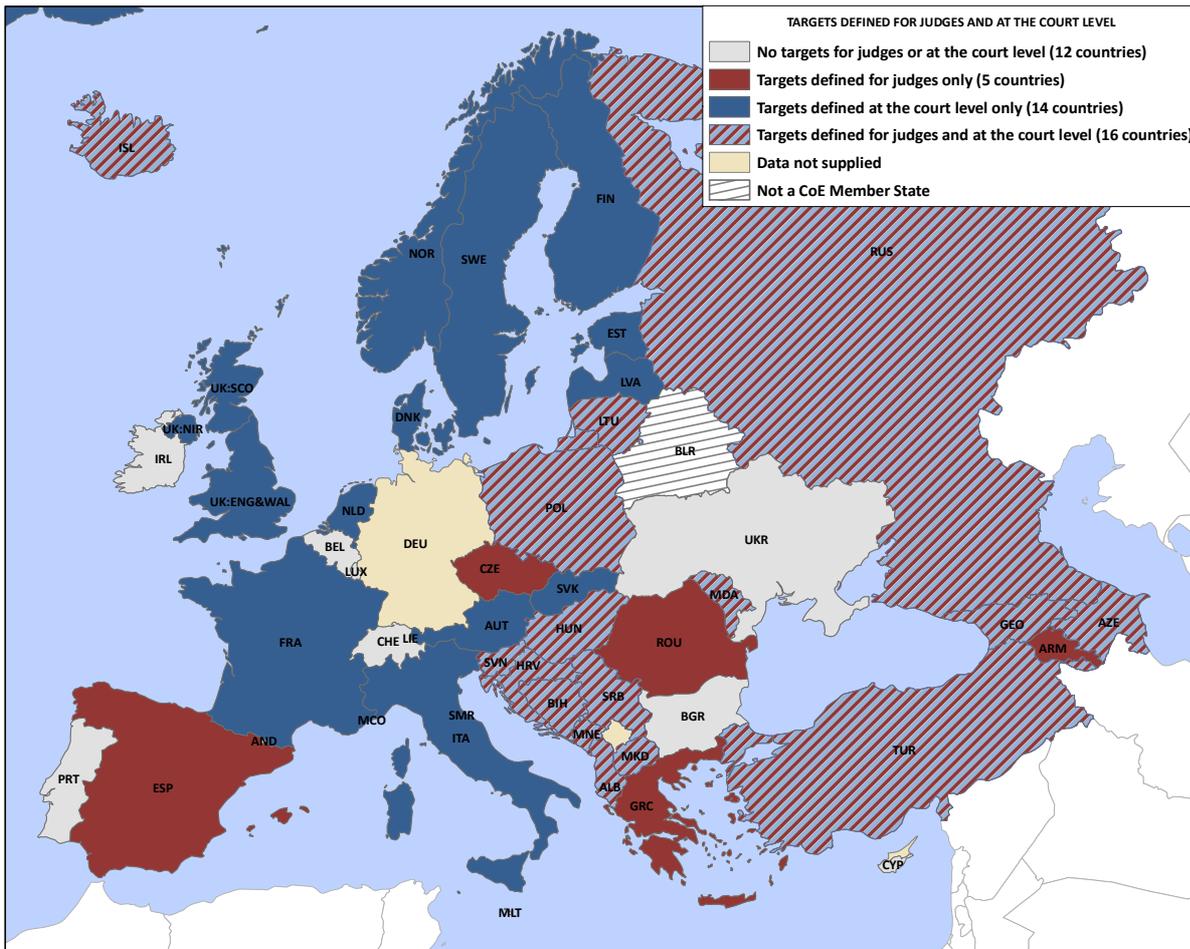
There are four main indicators highlighted by the responding states or entities:

1. indicator of pending cases and backlogs,
2. indicator of the length of proceedings,
3. indicator of the number of closed cases and
4. indicator of the number of incoming cases.

Other indicators are of lesser significance in justice systems across Europe. Nevertheless, there are several states or entities mentioning them as important in their systems:

- productivity of judges and court staff is one of the main indicators in 11 states: **Bosnia and Herzegovina, Cyprus, Denmark, Finland, France, Greece, Latvia, Lithuania, Montenegro, Slovenia and Turkey,**
- judicial quality and organisational quality of the courts is evaluated in 10 states: **Albania, Cyprus, France, Georgia, Greece, Latvia, Montenegro, the Netherlands, Sweden and "the former Yugoslav Republic of Macedonia",**
- percentage of cases that are dealt with by a single sitting judge was highlighted by 6 states: **Albania, Azerbaijan, Estonia, Georgia, Moldova and the Netherlands,**
- satisfaction of clients regarding the services delivered by the courts is one of the priorities for 5 states or entities: **Denmark, Spain, Switzerland, UK-Northern Ireland and UK-Scotland,**
- enforcement of penal decisions is stressed as one of the main indicators in **France and UK-England and Wales,**
- costs of the judicial proceedings are mainly evaluated in 2 states: **Estonia and Switzerland,**
- satisfaction of employees **UK-Scotland.**

Figure 5.17 Performance targets defined for an individual judge and at the court level (Q72, 74)



Andorra, Malta, Monaco and San Marino have no target, neither for judges nor at the court level.

Comment

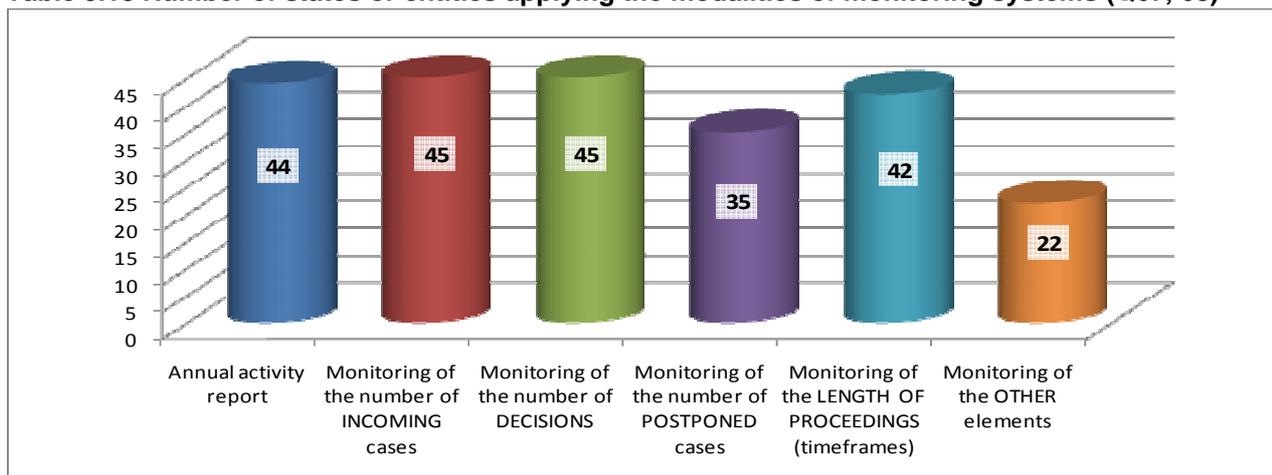
Switzerland: only 4 cantons use performance indicators for judges.

16 states or entities reported having defined performance targets for individual judges and at the court level. However, still 12 states or entities do not have any targets.

5.4.2 Evaluation and monitoring

As part of the management of courts, a periodic evaluation and monitoring of the quality of justice and of the court performance is recommended. Also, for the external orientation of the judiciary, annual (public) reports should be produced and provided to the public.

Table 5.18 Number of states or entities applying the modalities of monitoring systems (Q67, 68)

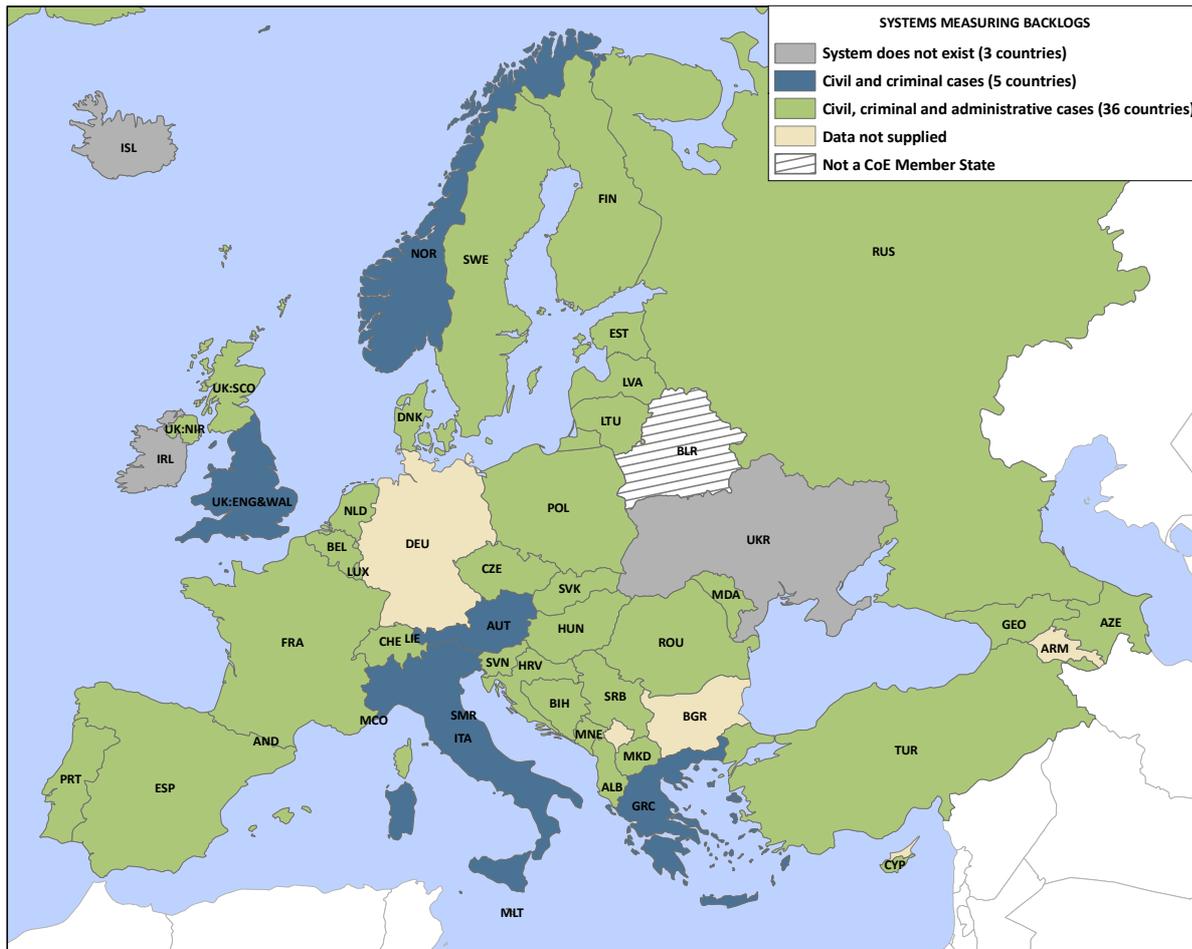


A high number of member states or entities reported that courts are required to prepare an annual activity report and to have monitoring systems on the number of incoming cases, number of decisions and length of proceedings. Only **Armenia**, **Estonia** and **Georgia** do not require annual reports from courts. Nevertheless, in **Estonia**, the Ministry of Justice collects the information from the courts and is in charge of preparing the report at a general level. In **Georgia**, courts are required to submit their activity data to the High Council of Justice in charge of analysing the situation in courts. **Andorra** and **San Marino**, two small states, do not have any monitoring systems. **Ireland**, **Luxembourg**, **San Marino** and **Ukraine** do not use monitor systems on the length of proceedings.

One of the relatively underrepresented systems is the monitoring for postponed cases. This system is applied in 35 states or entities. States which do not know yet this system are: **Andorra**, **Belgium**, **Croatia**, **Estonia**, **Iceland**, **Ireland**, **Norway**, **Portugal**, **San Marino**, **Serbia**, **Sweden** and **Ukraine**.

Some other elements are monitored in 22 states or entities. For instance, in **Albania**, the cases adjudicated by individual judges are also measured, and in **Poland** and the **Russian Federation** the “stability” of judgements is monitored (ratio of court decisions being annulled or reversed within appeal procedures). Often the number and type of criminal offences are evaluated (**France**, **Latvia**, **Turkey**, **UK–Scotland**) and in **Denmark**, the most violent types of offences are being monitored.

Figure 5.19 Systems measuring backlogs (Q80)



Andorra, Malta and Monaco have systems measuring backlogs in civil, criminal and administrative cases. **San Marino** has not supplied data.

A large majority of states or entities (36) use also a system to measure the backlogs in civil, criminal and administrative matters. In 5 states or entities: **Austria, Greece, Italy, Norway and UK-England and Wales**, the backlogs are measured in civil and criminal cases. Only **Iceland, Ireland and Ukraine** do not have any measurement system. In **Greece, Slovenia and the Russian Federation**, time-limits for backlogs are precisely defined by the law.

Not surprisingly, most of the time, the states that apply a measurement system for backlogs also monitor the length of proceedings (timeframes). This is not the case for **Andorra and Luxembourg**. Contrariwise, **Iceland** does not measure the backlogs, but uses a monitor system on timeframes.

However, considering the few answers given to question 95 (see Chapter 9), such systems deserve to be further developed, possibly with the support of the CEPEJ's SATURN Centre.

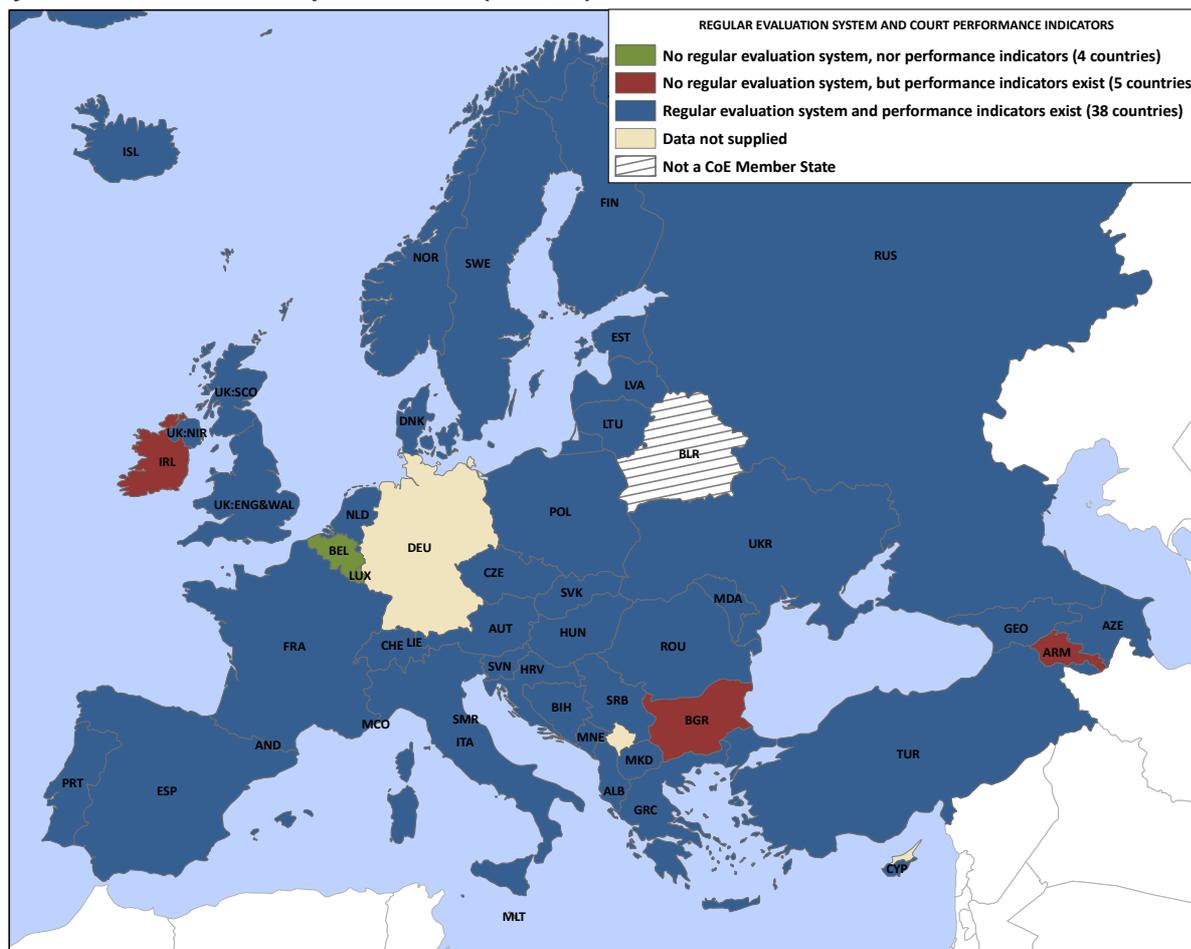
Table 5.20 States or entities that use a way of analysing the waiting time during court procedures (Q81)

Albania	
Azerbaijan	
Bosnia & Herzegovina	
Croatia	
Estonia	
Finland	
France	
Georgia	
Hungary	
Iceland	Andorra
Ireland	Armenia
Latvia	Austria
Lithuania	Belgium
Luxembourg	Bulgaria
Malta	Cyprus
Monaco	Czech Republic
Montenegro	Denmark
Netherlands	Greece
Poland	Italy
Russian Federation	Moldova
Slovenia	Norway
Spain	Portugal
Switzerland	Romania
FYROMacedonia	San Marino
Turkey	Serbia
Ukraine	Slovakia
UK-England and Wales	Sweden
UK-Scotland	UK-Northern Ireland
Yes (28 countries)	No (19 countries)
60%	40%

A lot of countries mentioned explicitly the use of management information systems for analysing the length of proceedings, backlogs, waiting times or other steps in the proceedings.

In **Finland**, the courts perform self-inspections each month. The same applies in **Switzerland**. In **Estonia**, the control is centralized by the Ministry of Justice which sends extracts of the courts information system to the court presidents. In other states, the Judicial Council (**Iceland** and "**the former Yugoslav Republic of Macedonia**"), the national court Administration (**Lithuania**) or the Ministry of Justice ("**the former Yugoslav Republic of Macedonia**") monitor backlogs and the length of proceedings. **Montenegro** informed about programmes for handling backlogs initiated and controlled by presidents of the courts (e.g. overtime work of judges, changes in internal organisation of the court).

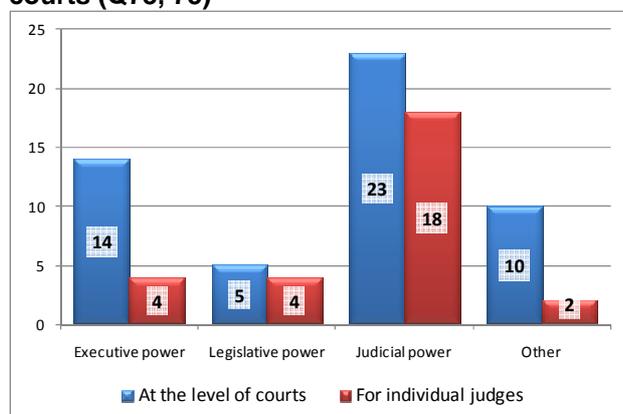
Figure 5.21 Defined performance indicators concerning court activities and regular evaluation systems of each court's performance (Q69, 70)



A great majority of the states or entities (38) have a regular evaluation system and court performance indicators. 5 states apply performance indicators, but do not have a regular evaluation system: **Andorra, Armenia, Bulgaria, Ireland and Monaco**. For several states, the indicators are not formally defined but are of use for different purposes. Only **Belgium, Luxembourg, Malta and San Marino** do not use any regular evaluation system and have not defined performance indicators.

5.4.3 Responsible authorities

Table 5.22 Authorities responsible for setting the targets for individual judges and at the level of courts (Q73, 75)



It is mainly the judicial power itself that sets up targets for individual judges (23 states or entities) and at the court level (18 states or entities). The executive power can also set targets for the courts (14 states or entities), but this should not interfere with the individual work of judges.

Table 5.23 Authorities responsible for the evaluation of the performances of the courts (Q77)

Country	High Council of judiciary	Ministry of Justice	Inspection authority	Supreme Court	External audit body	Other	Total number of authorities per country
Albania							2
Andorra							0
Armenia							0
Austria							2
Azerbaijan							1
Belgium							0
Bosnia and Herzegovina							2
Bulgaria							1
Croatia							3
Cyprus							1
Czech Republic							1
Denmark							1
Estonia							4
Finland							2
France							2
Georgia							1
Greece							1
Hungary							1
Iceland							2
Ireland							0
Italy							3
Latvia							3
Lithuania							1
Luxembourg							0
Malta							1
Moldova							2
Monaco							1
Montenegro							3
Netherlands							1
Norway							2
Poland							2
Portugal							1
Romania							1
Russian Federation							2
San Marino							0
Serbia							2
Slovakia							2
Slovenia							3
Spain							3
Sweden							1
Switzerland							3
FYROMacedonia							1
Turkey							1
Ukraine							2
UK-England and Wales							3
UK-Northern Ireland							2
UK-Scotland							3
TOTAL	21	15	10	13	2	15	Average= 2 authorities per country

5.5 Trends and conclusions

Considering the evolution of the number of first instance courts in Europe, it is difficult to draw a strong trend as regards the organisation of the judicial map. While a majority of states have not modified their court organisation between 2004 and 2008, some of them have decreased the number of courts and others have increased this number. Among those states which are modifying their judicial maps, the main trend for court organisation in Western and Northern European states would rather be in favour of limiting the number of courts, mainly for budgetary reasons, but sometimes also for seeking more efficiency by specializing and / or

increasing the court competences. On the contrary, the majority trend in the Eastern European states, which are embarked on major judicial reforms, goes towards the increase in the number of courts.

A positive evolution can be noted as regards ICT in courts. The development of e-justice and e-courts is a strong European trend, and states that were late in the previous surveys have recently invested in ICT. A lot of states informed about recent or ongoing reforms in fields such as electronic registers, databases for judicial decisions, electronic court files and electronic signature or case management systems. The results of reforms are clearly visible in the improvement of computer equipment for the direct assistance of judges and court clerk and for the communication between the court and the parties. It is a foreseeable tendency that ICT keep on being used in the judicial systems to increase effectiveness and quality and new interesting solutions will be implemented.

With respect to the operation of courts, there is a trend towards rationalisation and an increasing use of performance and quality indicators, in order to make justice more efficient.

Chapter 6. Alternative Dispute Resolution (ADR)

Since the importance of the use of ADR is growing in the various European states or entities, the CEPEJ has decided to present this topic in a separate chapter. The use of Alternative Dispute Resolution (ADR) can contribute to improve judicial efficiency by providing citizens alternatives to regular judicial proceedings.

The Committee of Ministers of the Council of Europe adopted several Recommendations on mediation. Recommendation (98)1 concerns mediation in family matters, particularly in the area of divorce matters (and custody cases of children). The aim of this Resolution is not only to reduce the workload of the courts, but it is also meant to create a better and more acceptable solution for the parties and (in the case of children) to better protect the welfare of children. Recommendation (99)19 for mediation in criminal matters aims to enhance the active participation of the victim and the offender in criminal proceedings. The recommendation seeks, on the one hand, to recognise the legitimate interest of victims to have a stronger voice in dealing with the consequences of their victimisation and to communicate with the offender, and on the other hand, to encourage the offenders' sense of responsibility by offering possibilities of reintegration and rehabilitation. Mediation in civil matters is addressed in Recommendation (2002)10, where a definition is given: "*a dispute resolution process whereby parties negotiate over the issues in dispute in order to reach an agreement with the assistance of one or more mediators*". This definition is used for the purpose of this report. Guidelines have been adopted by the CEPEJ in 2007 to aid proper implementation of these recommendations in the member states¹.

6.1 Different forms of ADR

In the various European countries the use of Alternative Dispute Resolution (ADR) has gained widespread acceptance among both the general public and the legal profession. It contributes to improve efficiency and effectiveness of the justice system by providing citizens alternatives to regular judicial proceedings.

Different kinds of ADR exist in the member states of the Council of Europe:

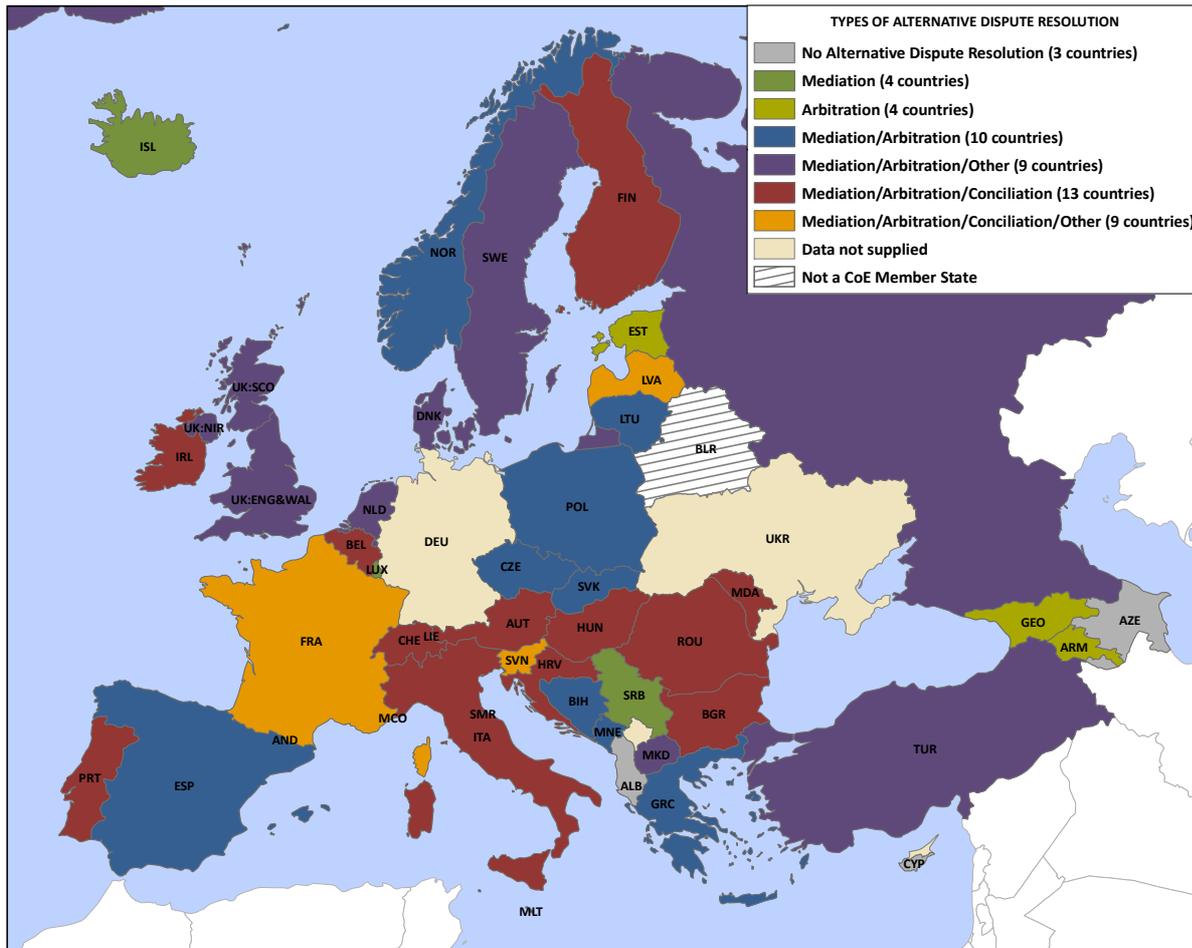
- *Mediation*: this is a voluntary, non-binding private dispute resolution process in which a neutral and independent person assists the parties in facilitating the discussion between the parties in order to help them resolve their difficulties and reach an agreement. It exists in civil, administrative and criminal matters.
- *Conciliation*: the conciliator's main goal is to conciliate, most of the time by seeking concessions. She/he can suggest to the parties proposals for the settlement of a dispute. Compared to a mediator, a conciliator has more power and is more proactive.
- *Arbitration*: parties select an impartial third party, known as an arbitrator, whose (final) decision is binding. Parties can present evidence and testimonies before the arbitrators. Sometimes there are several arbitrators selected who work as a court. Arbitration is most commonly used for the resolution of commercial disputes as it offers higher confidentiality.

Several member states reported offering also other forms of ADR.

The scope of the different forms of ADR may differ. For example, in **France**, the negotiations between a prosecutor and the defendant concerning the modality of the sanction is a form of mediation (**France**), while in other countries this is not the case (e.g. **the Netherlands**). Plus, the distinction between mediation and conciliation is not always evident. For this reason the following data and figures must be interpreted with care.

¹ See www.coe.int/cepej

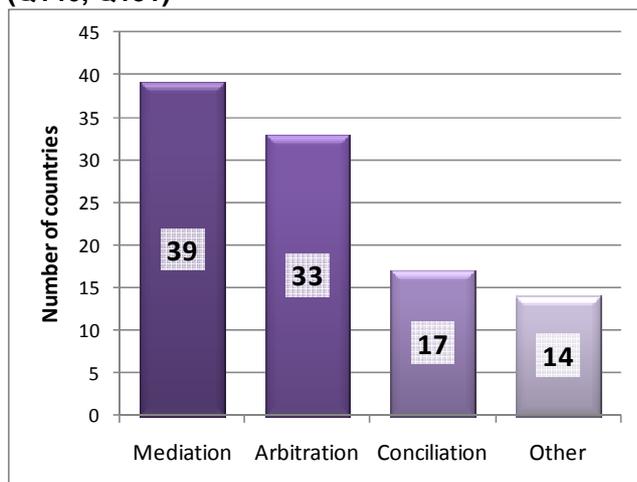
Figure 6.1 Types of Alternative Dispute Resolution applied in European states or entities in 2008 (Q146, Q151)



Andorra applies mediation, **Malta** mediation and arbitration, **Monaco** mediation, arbitration and conciliation and **San Marino** arbitration.

In a majority of states or entities there are at least 2 forms of ADR: *mediation* and *arbitration*. **Andorra**, **Iceland**, **Luxembourg** and **Serbia** apply only *mediation*. **Armenia**, **Estonia**, **Georgia** and **San Marino** apply only *arbitration*. Only three states (**Albania**, **Azerbaijan** and **Cyprus**) stated that they did not offer any form of Alternative Dispute Resolution.

Table 6.2 Types of Alternative Dispute Resolution applied in European states or entities in 2008 (Q146, Q151)



Mediation is the form of ADR which is used by the highest number of European states or entities (39 states or entities). Only 7 states or entities do not make it available: **Albania**, **Armenia**, **Azerbaijan**, **Cyprus**, **Estonia**, **Georgia** and **San Marino**.

6.2 Mediation

This chapter concerns *judicial* mediation. In this type of mediation, there is always the intervention of a judge or a public prosecutor who advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).

6.2.1 Authorities responsible for mediation

Table 6.3 Authorities responsible for mediation procedures in 2008 (Q147)

Country	Private mediation proposed by a judge or Court annexed mediation	Private mediator	Public authority (other than the court)	Judge or other court staff nominated as mediator	Prosecutor	Total per country
Andorra						1
Austria						3
Belgium						2
Bosnia and Herzegovina						2
Bulgaria						3
Croatia						5
Czech Republic						3
Denmark						3
Finland						4
France						4
Greece						1
Hungary						3
Iceland						1
Ireland						3
Italy						4
Latvia						2
Lithuania						4
Luxembourg						2
Malta						2
Moldova						1
Monaco						2
Montenegro						2
Netherlands						2
Norway						3
Poland						1
Portugal						2
Romania						1
Russian Federation						4
Serbia						
Slovakia						1
Slovenia						4
Spain						2
Sweden						4
Switzerland						1
FYROMacedonia						1
Turkey						2
UK-England and Wales						4
UK-Northern Ireland						3
UK-Scotland						2
TOTAL number of countries	26	29	23	12	4	Average: 2.5 per country

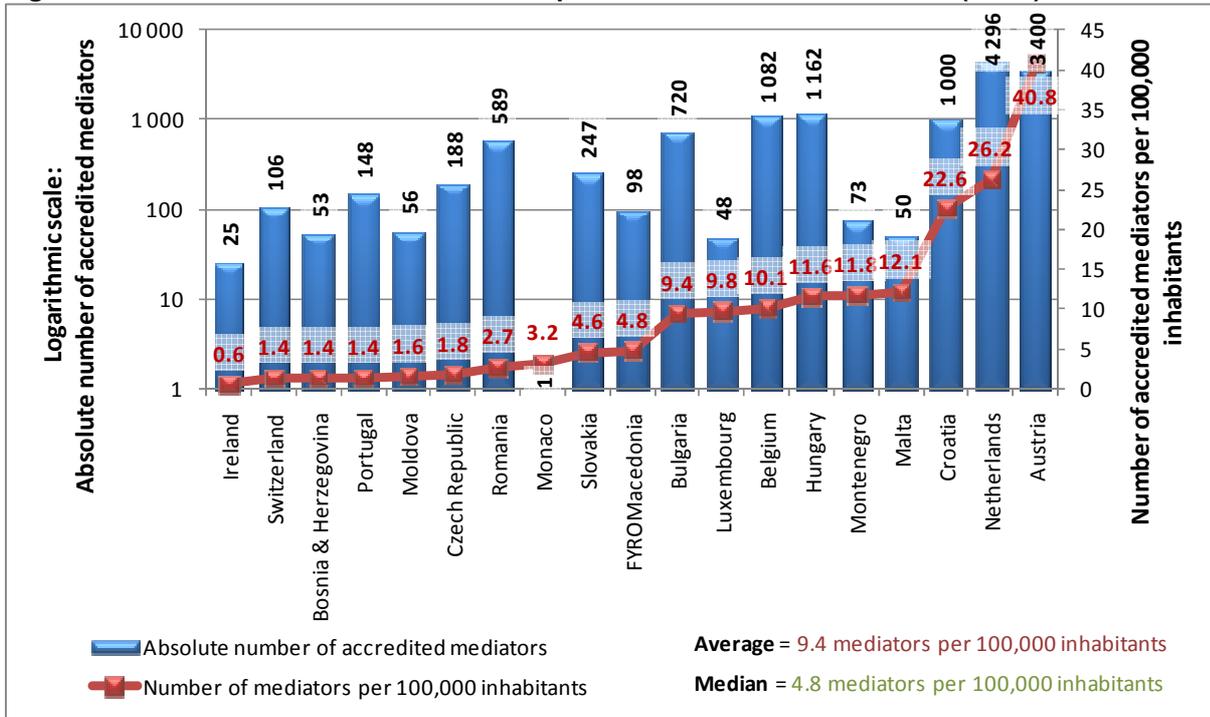
In table 6.3 are included 39 states or entities that provide for a system of mediation. Only **Serbia** did not provide any information.

Private mediation is currently the main system of mediation in European states or entities (29 states or entities). Private mediator can be specially trained professionals, certified lawyers or other private (legal) professionals hired by the parties. Private mediation proposed by a judge or a court annexed mediation is

present in 26 states or entities. The third most important type of mediation is the one performed by a public authority other than the court (23). Mediation by judges or court staff nominated as mediator ("*in-house*" service - the "*multi-door courthouse principle*") exists in a smaller group of states or entities (12). In 4 states, prosecutors can perform mediation duties such as arranging (financial) compensation for the victim of a crime. In **France** and **Slovenia**, prosecutors intervene only in criminal cases. In **Croatia** and the **Russian Federation**, prosecutors may also manage several categories of civil cases.

6.2.2 Accredited Mediators (number)

Figure 6.4 Number of accredited mediators per 100.000 inhabitants in 2008 (Q149)



Comments

Ireland: 25 qualified family mediators work for the State funded Family Mediation Service. A lot of lawyers and others persons have been trained and practice as mediators. Numbers for these are not available.

Slovenia: estimated number of 200 mediators.

Switzerland: number provided by 5 cantons.

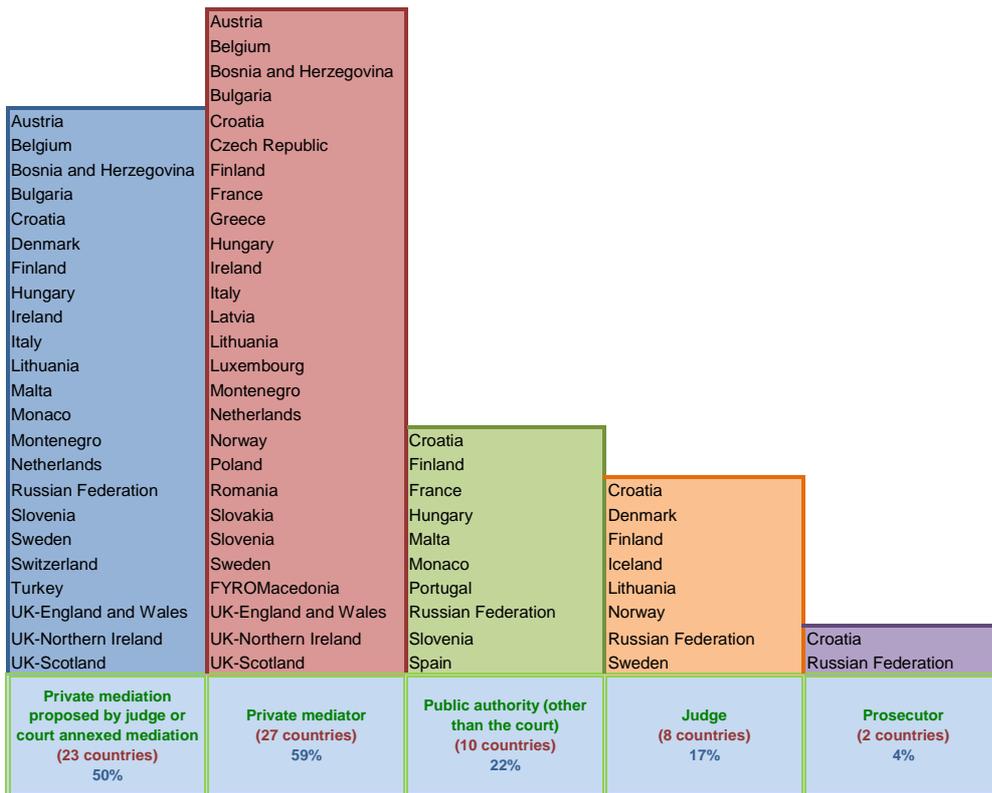
UK-England and Wales: about 700-1.000 individuals for family mediation.

Accreditation may be granted by the courts, a national authority or a NGO. Member states were asked to provide an official figure. As in 2008, only 19 states or entities were able to indicate a number of court accredited mediators and few have given details. The evaluation and comparison of the data is therefore compromised. The profession is sometimes self-regulated (**Latvia, Slovenia and UK-England and Wales**) and figures are hard to collect.

Croatia, the Netherlands and Austria have a relatively high number of mediators (over 20 per 100.000 inhabitants). The number of 3,2 mediators per 100.000 inhabitants for **Monaco** is not significant: only one mediator for 31.103 inhabitants.

6.2.3 Mediation proceedings (types and number) and legal aid

Table 6.5 Judicial mediation in civil and commercial cases in 2008 (Q147)



Mediation within a judicial process is largely provided in civil and commercial matters (36 states or entities). The highest number of states or entities applies these mediations through a private mediator (27 states or entities). The private mediation proposed by a judge or the court annexed mediation are overrepresented too when comparing to other possible authorities organising mediation.

Table 6.6 Judicial mediation in *family law* cases in 2008 (Q147)

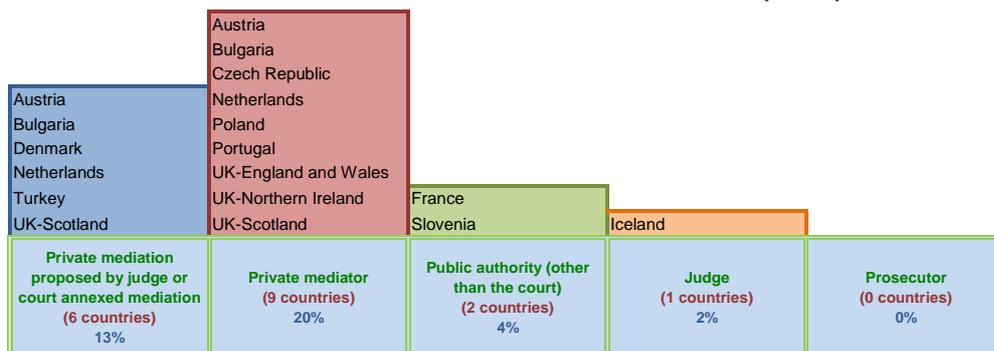
	Austria			
	Belgium			
	Bosnia and Herzegovina			
	Bulgaria			
Austria	Croatia			
Belgium	Czech Republic			
Bosnia and Herzegovina	Finland			
Bulgaria	France			
Denmark	Greece			
Finland	Hungary			
Hungary	Ireland			
Ireland	Latvia			
Italy	Lithuania	Denmark		
Lithuania	Luxembourg	Finland		
Luxembourg	Montenegro	France		
Malta	Netherlands	Hungary		
Monaco	Norway	Ireland	Andorra	
Montenegro	Poland	Lithuania	Denmark	
Netherlands	Romania	Monaco	Finland	
Russian Federation	Slovakia	Norway	Iceland	
Slovenia	Slovenia	Portugal	Italy	
Sweden	FYROMacedonia	Russian Federation	Lithuania	
Switzerland	Sweden	Slovenia	Norway	
UK-England and Wales	UK-England and Wales	Spain	Russian Federation	
UK-Northern Ireland	UK-Northern Ireland	UK-England and Wales	Sweden	
UK-Scotland	UK-Scotland	UK-Northern Ireland	UK-England and Wales	Russian Federation
Private mediation proposed by judge or court annexed mediation (22 countries) 48%	Private mediator (26 countries) 57%	Public authority (other than the court) (14 countries) 30%	Judge (10 countries) 22%	Prosecutor (1 country) 2%

Judicial mediation in family law cases and in employment dismissal cases are also reported by many states or entities (respectively 36 and 32 states or entities). Again, most of the time, private mediation is provided by a private mediator on proposal of a judge or by a court annexed mediation.

Table 6.7 Judicial mediation in *employment dismissal* cases in 2008 (Q147)

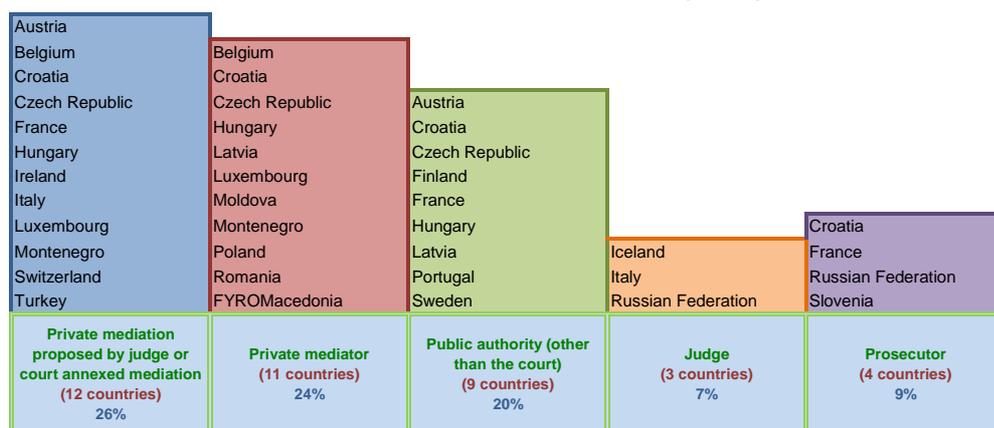
	Austria			
	Belgium			
	Bosnia and Herzegovina			
	Bulgaria			
Austria	Croatia			
Belgium	Czech Republic			
Bosnia and Herzegovina	Finland			
Bulgaria	France			
Croatia	Hungary			
Denmark	Latvia			
Finland	Lithuania			
France	Luxembourg			
Hungary	Netherlands	Bulgaria	Andorra	
Italy	Norway	Croatia	Croatia	
Lithuania	Poland	Finland	Finland	
Monaco	Romania	Hungary	Iceland	
Netherlands	Slovakia	Italy	Italy	
Russian Federation	Slovenia	Portugal	Lithuania	
Slovenia	Sweden	Russian Federation	Norway	
Sweden	FYROMacedonia	Slovenia	Russian Federation	
Switzerland	UK-England and Wales	Spain	Spain	
UK-Scotland	UK-Scotland	Turkey	Sweden	Croatia
			UK-England and Wales	Russian Federation
Private mediation proposed by judge or court annexed mediation (18 countries) 39%	Private mediator (22 countries) 48%	Public authority (other than the court) (10 countries) 22%	Judge (11 countries) 24%	Prosecutor (2 countries) 4%

Table 6.8 Judicial mediation in *administrative cases* in 2008 (Q147)



Mediation in administrative cases is only applied in a minority of member states or entities (13).

Table 6.9 Judicial mediation in *criminal cases* in 2008 (Q147)



23 states or entities apply mediation procedures in criminal cases. Private mediation proposed by a judge or court annexed mediation, private mediation and mediation by a public authority (other than the court) are performed in a rather equal number of states or entities.

Table 6.10 Types of cases concerned by judicial mediation in 2008 (Q147)

Country	Civil and commercial	Family law cases	Employment dismissal cases	Administrative cases	Criminal cases	Total (types) per country
Andorra						2
Austria						5
Belgium						4
Bosnia and Herzegovina						3
Bulgaria						4
Croatia						4
Czech Republic						5
Denmark						4
Finland						4
France						5
Greece						2
Hungary						4
Iceland						5
Ireland						3
Italy						4
Latvia						4
Lithuania						3
Luxembourg						4
Malta						2
Moldova						1
Monaco						3
Montenegro						3
Netherlands						4
Norway						3
Poland						5
Portugal						5
Romania						4
Russian Federation						4
Slovakia						3
Slovenia						5
Spain						3
Sweden						4
Switzerland						4
FYROMacedonia						4
Turkey						4
UK-England and Wales						3
UK-Northern Ireland						3
UK-Scotland						4
TOTAL number of countries	36	36	32	13	23	Average: 4 types / country

On average, mediation is applied for 4 types of disputes. However, **Moldova** provides mediation only in criminal cases, whereas mediation is available in all types of cases in **Austria, Czech Republic, France, Iceland, Poland** and **Portugal**. **Iceland** and **Slovenia** informed that mediation is a compulsory step in court proceedings (or prior to). Consent of the parties is always required.

Table 6.11 Number of judicial mediation procedures and number of accredited mediators in 2008 (Q149, Q150)

Country	Total number of mediation procedures	of which:					Number of accredited mediators	Average number of cases per mediator
		Civil cases	Family cases	Administrative cases	Employment dismissal cases	Criminal cases		
Bosnia & Herzegovina	82	75	0	NAP	7	NAP	53	1.55
Bulgaria	173	45	77	15	34	2	720	0.24
Czech Republic						25 465	188	
France			4 857	65 530		24 449		
Ireland	1 511		1 500	NAP	NAP	11	25	60.44
Latvia				NAP		1 140		
Luxembourg	2	1	1	NAP		0	48	0.04
Malta	1 433	4	1 429	NAP	NAP	NAP	50	28.66
Moldova	92	NAP	NAP	NAP	NAP	92	56	1.64
Montenegro	433	13	356	NAP	NAP	64	73	5.93

Country	Total number of mediation procedures	of which:					Number of accredited mediators	Average number of cases per mediator
		Civil cases	Family cases	Administrative cases	Employment dismissal cases	Criminal cases		
Netherlands	3 396		+/- 500	635	48	NAP	4 296	0.49
Norway		2 099		NAP		NAP		
Poland	5 263	1 455	473	36	109	3 190		
Portugal		5 925	80			95	148	
Slovenia		5 296						
Switzerland	264	62	33	3	36	130	106	2.49
FYROMacedonia	54	39	10	NAP	5	0	98	0.55

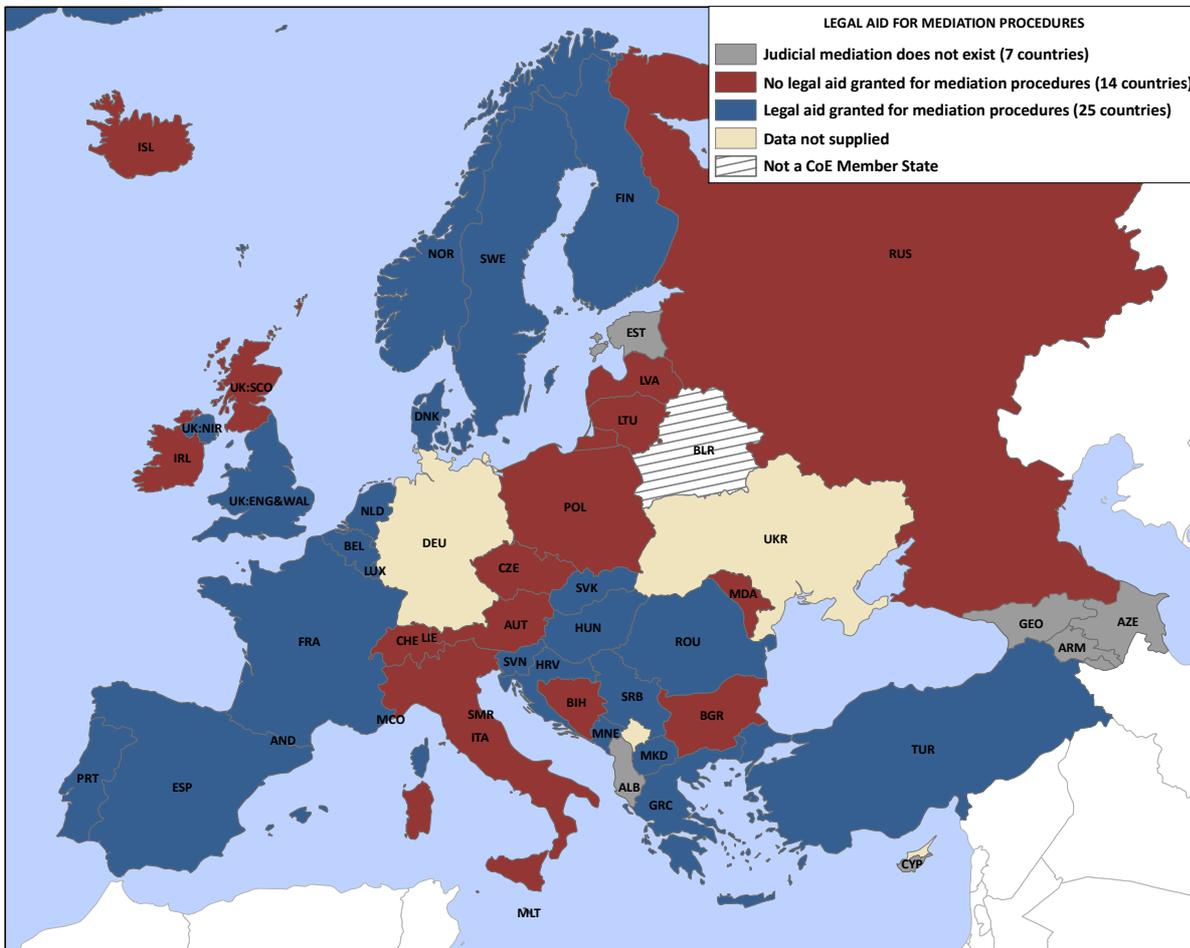
Comments

Ireland: 25 qualified family mediators work for the State funded Family Mediation Service.

Netherlands: about 80% of the mediation procedures concerned family cases.

18 states or entities were able to present figures on the number of mediation procedures. The data is quite fragmentary: only 10 states were able to provide a total. In **Ireland**, the average number of cases handled by a mediator is quite high (but only the number of qualified Family Mediators is provided), while in **Bulgaria, Luxembourg, the Netherlands** and "**the former Yugoslav Republic of Macedonia**", mediators are rarely entrusted with mediation within a judicial proceeding.

Figure 6.12 Legal aid for mediation procedures (Q148)



Andorra, Malta and **Monaco** grant legal aid for mediation procedures. In **San Marino**, judicial mediation does not exist.

25 states or entities grant legal aid for mediation in judicial proceedings. Since 2006, five more member states provide legal aid for mediation procedures: **Andorra, Hungary, Portugal, Romania** and **Slovakia**.

Is there a correlation between the number of mediation procedures (table 6.11) and the granting of legal aid? For example, **Montenegro**, with a high number of mediation procedures per 100.000 inhabitants (70), provides legal aid for these proceedings. However, this is not the case in **Ireland** which also has a relatively

high number of mediation procedures per 100.000 inhabitants (34) but which does not provide legal aid for such matters. The answer has to remain open.

6.3 Arbitration, conciliation and other forms of ADR

35 states or entities have indicated that *arbitration* is offered in their system. Arbitration concerns especially commercial and (intellectual) property disputes. On a less common basis, in **Malta**, arbitration is mandatory in cases related to traffic accidents and disputes regarding water and electricity bills. In **Hungary**, arbitration may also cover sport disputes, and in **Portugal**, administrative law. The organisation of arbitration can be very different from one country to another. Permanent arbitration tribunals are often attached to Commercial Chambers (**Croatia, Estonia, Hungary, Italy, Poland, Sweden** and "**the former Yugoslav Republic of Macedonia**") or offered by (lawyers') associations (**Austria** and **Slovenia**). In **Latvia**, a permanent arbitration court may be established by legal persons with the authorisation of the Ministry of Justice, whereas in **Portugal**, the Ministry of Justice financially supports Arbitration Centres. Arbitration is mostly regulated through special arbitration laws, but may also be introduced in the civil procedure codes (**Bulgaria, Estonia, Romania** and **Turkey**). It may be based under the UNCITRAL model-Law on International Commercial Arbitration (**Denmark**). Furthermore, some states have specified that the decision pronounced by an arbitrator is generally final and enforceable (**Bosnia and Herzegovina** and **Montenegro**). The decision can be challenged before the court on special grounds in **Slovakia**.

Conciliation is available in 16 states or entities. This procedure is performed in various areas, such as family law (**Monaco** and **UK-England and Wales**), (collective) labour disputes (**Bulgaria, Hungary, Moldova, Monaco** and **Romania**), rental disputes (**Austria, Monaco** and **San Marino**), consumer protection (**Bulgaria, Hungary** and **Sweden**), telecom (**Austria**) or insurance disputes (**Sweden**). **Bulgaria** allows some sort of conciliation in criminal cases.

14 states or entities also reported offering *other types of ADR*:

- the transaction or settlement in civil and sometimes criminal matters (**France, Latvia, "the former Yugoslav Republic of Macedonia", Turkey**),
- alternatives to prosecution (e.g. *composition pénale* in **France** that is reserved for first offenders and may lead to a fine, a specific obligation to do or not to do, or a requirement to attend a course),
- financial and debtor's advices (**Finland**),
- binding advices in consumer and insurance cases by the national Ombudsman (**the Netherlands**).

Sweden informed that in several sectors, private initiatives have set up special boards (e.g. Accident and Sickness Insurance Board, Life Assurance Terms Board). They are often free of charge and are paid by the companies involved.

6.4 Trends and conclusions

ADR continue to be developed in Europe.

Latvia, Lithuania, Slovenia, Spain and **UK-Scotland** have issued recently projects to change the legislation in order to make ADR more effective². Interesting and attractive forms of ADR have been described by several countries and may inspire other member states or entities.

To ensure access to justice in mediation proceedings, 25 states or entities grant legal aid for mediation in judicial proceedings. Since 2006, five more member states provide legal aid for mediation procedures: **Andorra, Hungary, Portugal, Romania** and **Slovakia**.

It is still difficult to get valuable information about the number of mediators and the number of performed mediations, as mediations are often organised and conducted outside the judicial system. For these reasons, it is very difficult to analyse the actual situation on mediation and to make comparisons.

² In Italy mediation will be mandatory in civil matters in 2011 (this reform will concern up to 1 million of cases a year).

Chapter 7. Judges

A judge is a person entrusted with giving or taking part in a judicial decision opposing parties who can be either natural or physical persons, during a trial. This definition should be viewed in the light of the European Convention of Human Rights and the case law of the European Court of Human Rights. More specifically, "the judge decides, according to the law and following organised proceedings, on any issue within his/her jurisdiction".

To better take into account the diversity in the status and functions which can be linked to the word "judge", three types of judges have been defined in the CEPEJ's scheme:

- *professional judges* are described in the explanatory note of the evaluation scheme (Q 49) as "those who have been trained and who are paid as such", and whose main function is to work as a judge and not as a prosecutor (see Chapter 10)
- *professional judges* sit in a court on an occasional basis and who are paid as such (Q50)
- *non-professional judges* are volunteers who are compensated for their expenses and who give binding decisions in courts (Q52).

For these three categories, and in order to better assess the real activity, member states have been requested to specify in full time equivalents (FTE) the number of professional judges' positions effectively occupied, whether they are practicing full time or on an occasional basis.

Table 7.1 Type and number of judges in 2008 (Q49, Q50 and Q52)

Country	Professional judges (FTE)		Professional judges sitting in courts occasionally (gross figures)		Non-professional judges (lay judges) (gross figures)		Number of non-professional judges per one professional judge
	Absolute number	Per 100,000 inhabitants	Absolute number	Per 100,000 inhabitants	Absolute number	Per 100,000 inhabitants	
Albania	391	12.3					
Andorra	23	27.2	2	2.4			
Armenia	216	6.8					
Austria	1 658	19.9					
Azerbaijan	494	5.7					
Belgium	1 626	15.2			2 712	25.4	1.7
Bosnia and Herzegovina	857	22.3	95	2.5	298	7.8	0.3
Bulgaria	2 166	28.3					
Croatia	1 883	42.5					
Cyprus	100	12.5					
Czech Republic	3 044	29.2			6 966	66.8	2.3
Denmark	380	6.9			28 766	525.3	75.7
Estonia	238	17.7			582	43.4	2.4
Finland	921	17.4			3 689	69.6	4.0
France	5 819	9.1	554	0.9	28 859	45.1	4.9
Georgia	282	6.4					
Greece	3 739	33.3					
Hungary	2 903	28.9			4 382	43.6	1.5
Iceland	47	14.7					
Ireland	145	3.3					
Italy	6 109	10.2			4 754	8.0	0.8
Latvia	473	20.8			595	26.2	1.3
Lithuania	755	22.5					
Luxembourg	184	37.4			NA		
Malta	36	8.7					
Moldova	460	12.9					
Monaco	20	64.3	15	48.2	118	379.4	5.9
Montenegro	246	39.7			148	23.9	0.6
Netherlands	2 176	13.3	around 900				
Norway	537	11.3	34	0.7	45 000	949.9	83.8
Poland	9 890	25.9	NA		43 613	114.4	4.4
Portugal	1 906	18.0			454	4.3	0.2
Romania	4 142	19.2					
Russian Federation	34 390	24.2					

	Professional judges (FTE)		Professional judges sitting in courts occasionally (gross figures)		Non-professional judges (lay judges) (gross figures)		
San Marino	19	60.8	6	19.2	NA		
Serbia	2 506	34.1					
Slovakia	1 388	25.7			NA		
Slovenia	1 083	53.5			4 065	200.7	3.8
Spain	4 836	10.7	1223	2.7	7 681	17.0	1.6
Sweden	1 039	11.3	174	1.9	8 228	89.6	7.9
Switzerland	1 089	14.1	502	6.5	2 535	32.9	2.3
FYROMacedonia	659	32.2			1 794	87.7	2.7
Turkey	7 198	10.1					
Ukraine	7 205	15.5					
UK-England and Wales	1 902	3.5	7831	14.4	29 500	54.2	15.5
UK-Northern Ireland*	123	7.0	123	7.0	239	13.6	1.9
UK-Scotland	181	3.5	103	2.0	450	8.7	2.5
Average		20.6		9.0		123.4	9.9
Median		17.4		2.6		43.6	2.4
Minimum		3.3		0.7		4.3	0.2
Maximum		64.3		48.2		949.9	83.8

Table 7.1 includes information on the number of professional judges sitting in court on a permanent basis, professional judges sitting in court on an occasional basis and non-professional judges. Where no data is included for these last two categories, this signifies either that those do not exist within the judicial system concerned or that the state concerned has not provided information concerning them.

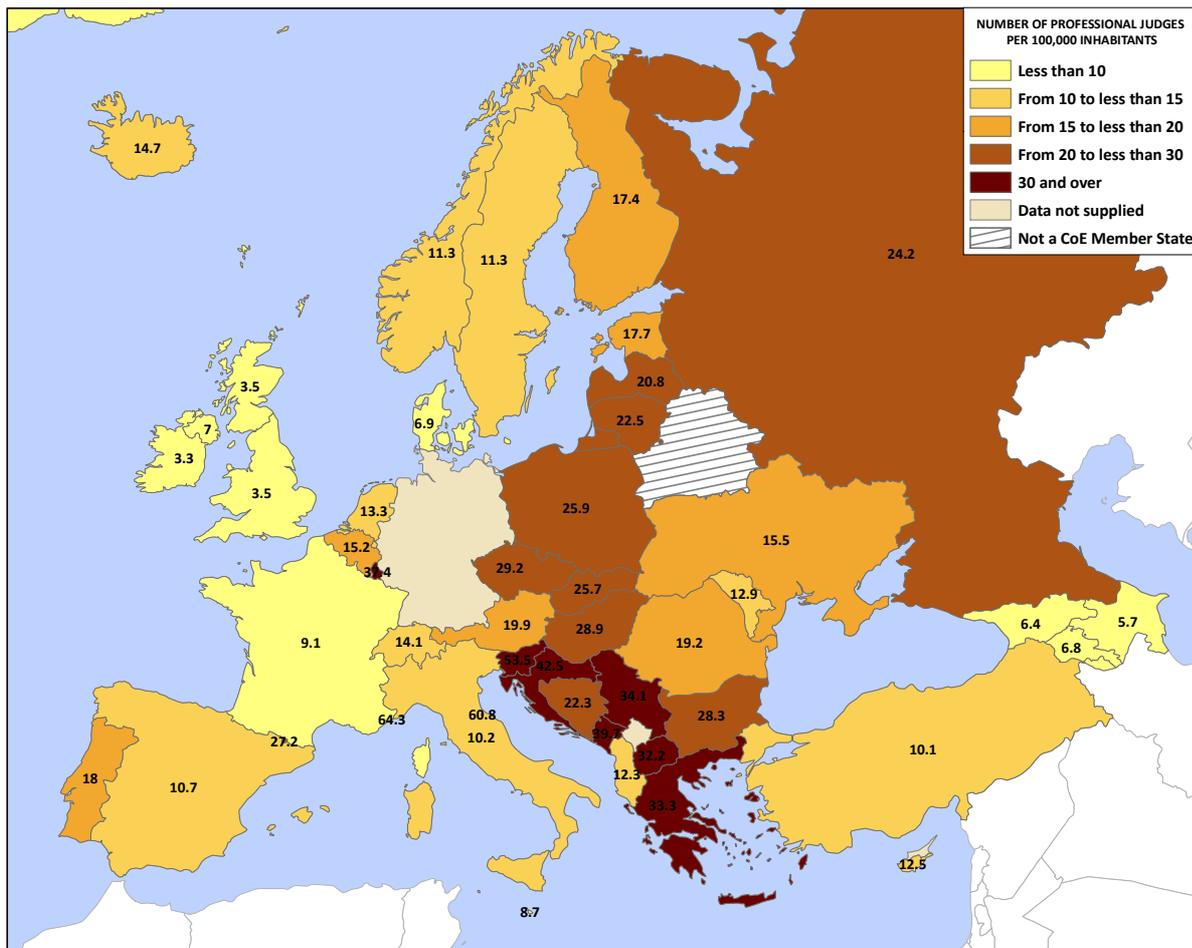
Only **Poland** indicated that the data on the number of judges sitting on an occasional basis is not available (“NA”) without specifying if this category of judges exists or not. **Luxembourg, San Marino and Slovakia** have not been able to provide information on non-professional judges’ posts.

7.1 Professional judges

Professional judges may be defined as judges who have been recruited and are paid to practice solely as a judge. This chapter does not deal with professional judges sitting on an occasional basis (see chapter 7.3).

Data provided should include only the judges who are currently discharging judicial functions (explanatory note – question 49). Only some states have indicated details (judges seconded to the ministries, judges in maternity leave, for instance): **Austria, Croatia, Slovenia, Slovakia, Turkey**.

Figure 7.2 Number of professional judges sitting in courts (FTE) for 100.000 inhabitants, in 2008 (Q49)



Comments

- Austria:** “substitute judges” (“Ersatzkräfte”) are included, but not “substituted judges” (“Ersatzfälle”).
- Azerbaijan:** the number of judges increased from 338 to 494 following a legislative reform in 2007.
- Bulgaria:** state bailiffs and judges to the registry Agency are not included.
- Croatia:** the figure indicated for this evaluation cycle was calculated according to the number of posts of judge, as for the previous evaluation cycles. The number of posts comes to 1785 if the number of judges is calculated on the basis of the number of working hours, so as not to take into account vacant posts because of illness or maternity leave in particular.
- Iceland:** it has been decided to add temporarily 5 more judges in first instance courts because of the financial crisis. In 2010, the number of judges will be 43 again.
- Italy:** the data is for the year 2009.
- Czech Republic:** constitutional judges who are appointed for a 10 year period and who can be re-appointed are included.
- Georgia:** data on 1 January 2009.
- Netherlands:** the figure indicated is given as of 31 December 2008.
- Norway:** 160 assistant judges based in first instance courts are not included. They are by definition judges, who exercise their duty in the same manner as permanent judges appointed by the King, but as they are appointed for a maximum period of 3 years by the Head of court, they are not counted. In addition, 94 judges and some 10 assistant judges of the « Land Consolidation Courts » are not included.
- Poland:** specialised judges are not counted (namely the judges of provincial administrative courts (365) and the judges of the Supreme Administrative Court (84) and the judges of the Supreme Court (86).
- Slovakia:** data given on 31 December 2008. The data includes judges who do not sit in courts but are seconded or on maternity leave, etc.
- Slovenia:** the figure indicated has been calculated according to the number of posts for judges, as was done for previous cycles. But the number of posts comes to 946 if the number of judges is calculated according to the number of working hours, so as not to take into account the vacant posts or the numbers on maternity leave in particular. The 7 judges who do not have judicial tasks are not included: the Secretary General of the Supreme Court, 5 judges of the clerk office of the Supreme Court and 1 judge of the High Judiciary Council.
- Sweden:** the 479 associated judges who sat in 2008 are not included.
- Turkey:** the figure indicated does not include the judges seconded to the Ministry of Justice.
- UK-Northern Ireland:** within the indicated figure, 68 judges work full time and 55 work part time.

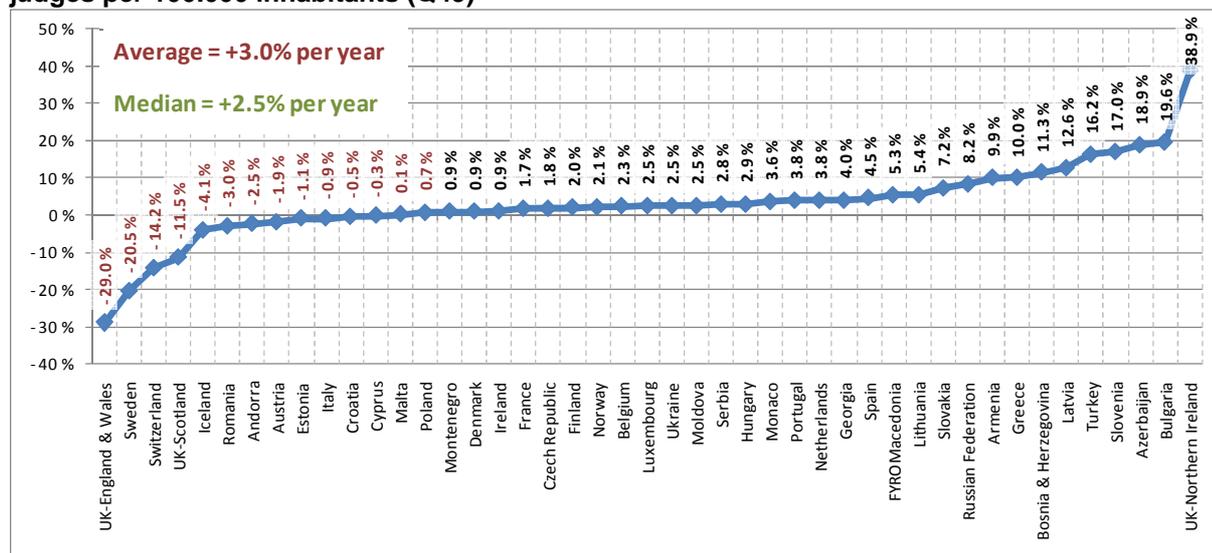
The European average is 20,6 judges per 100.000 inhabitants. But the number of professional judges sitting in courts varies considerably according to countries and judicial systems.

Generally speaking, an imbalance can be noticed between Western and Eastern European states or entities, there being more judges in Eastern Europe.

This difference can partly be explained because some systems rely completely on professional judges (**Albania, Andorra, Armenia, Austria, Azerbaijan, Cyprus, Croatia, Georgia, Greece, Ireland, Iceland, Malta, Moldova, Montenegro, the Netherlands, Romania, Russian Federation, Serbia, Turkey, Ukraine**) whereas other systems, such as in the **UK-England and Wales, UK-Northern Ireland, UK-Scotland** or in **Norway**, give a pre-eminent role to *lay judges / magistrates*.

The participating European states which have the highest number of professional judges (more than 30 judges per 100.000 inhabitants) can be found in South-eastern Europe such as **Greece** and the states coming from the former Yugoslavia (**Croatia, Montenegro, Serbia, Slovenia, "the former Yugoslav Republic of Macedonia"**). Data of **Luxembourg, Monaco** and **San Marino** must be related to the small number of inhabitants, which has an impact on the indicator given per 100.000 inhabitants, and to the cases concerned with economic activity. Among the systems where professional judges have a pre-eminent position, a low number of judges (less than 10 per 100 000 inhabitants) can be noted in **Armenia, Azerbaijan, Denmark** and **France**.

Figure 7.3 Average annual variation between 2004 and 2008 (in %) of the number of professional judges per 100.000 inhabitants (Q49)



This variation has been calculated for 44 states or entities which have indicated figures for the three cycles or at least given the 2006 and 2008 data. **Albania** and **San Marino** do not appear in this graph as they did not provide the 2006 data, likewise **Georgia** which did not indicate the 2008 data. For **Belgium, Bulgaria, Cyprus, France, Georgia, Switzerland** and **"the former Yugoslav Republic of Macedonia"** the trend between 2006 and 2008 only was measured. All data on professional judges for 2004, 2006 and 2008 appear in the Appendix.

When comparing the trend since 2004, it can be noted that in Europe, the number of professional judges per 100.000 inhabitants has increased in average by + 3.0% per year, and at the same time a trend towards relative stability in the number of judicial staff in the majority of European states or entities is discernible.

In 14 states or entities out of 44, essentially in Western Europe, the number of professional judges per 100.000 inhabitants has decreased. This trend must be interpreted in the light of the comments made by the member states which follow the table above. The analysis of the gross number of judges between 2004 and 2008 explains this trend as resulting essentially from demographic effects: the states concerned are small states where the general population has significantly increased, which constitutes the main explanation for the variation in the ratio. The number of judges has indeed increased in **Cyprus** and **Andorra**, remained static in **Iceland** and has only been slightly reduced in **Estonia** and **Austria**.

In several states or entities, a significant decrease can be noted (**UK-England and Wales, Sweden, Switzerland, UK-Scotland, Romania** and **Italy**). As regards **UK-England and Wales**, the method of

counting has changed, which explains this result: in the previous exercises there was no one single data source for this information and judges sitting in multiple jurisdictions were probably counted in each jurisdiction, which might explain the discrepancy. Some other states or entities may have modified their methods of calculation, but without providing the corresponding information. Structural reforms can result in the reduction of posts (**Romania**), some states or entities having chosen to increase the number of assistant judges or non professional judges (**Sweden**).

By contrast, some states in transition continue their reforms by increasing human resources devoted to the judicial function (**Azerbaijan, Bosnia and Herzegovina, Armenia, Russian Federation, "the former Yugoslav Republic of Macedonia"**). The influence of recent membership or application to the European Union may be an explanation for this trend of increasing numbers of judges (**Bulgaria, Slovenia, Latvia, Turkey, Slovakia, Lithuania**). The increase of 38.9% noted in **UK-Northern Ireland** over the three evaluation exercises must be seen in context and does not mean that the number of judges has recently increased, as a decrease can be noted between 2006 and 2008, from 371 to 123 judges.

7.2 Professional judges sitting occasionally

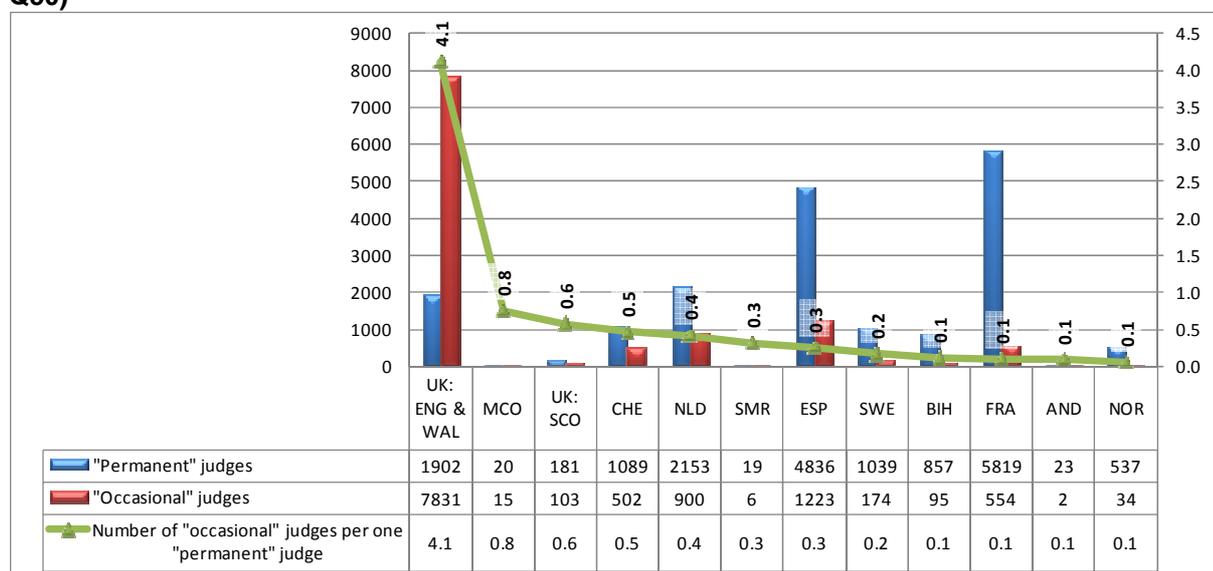
In order to tackle a legitimate demand from their citizens for *"neighbourhood"* and *"rapid"* justice, some states or entities have reinforced the number of judges by bringing in judges who occasionally preside over a case.

These professional judges are sometimes called *"non presiding judges"* or *"deputy judges"*. This option is available in particular in *Common-Law* states or entities to lawyers who are to become full-time judges. They are therefore experienced legal professionals who have a solid basis of legal training and who have already benefited from specific training to judicial functions.

Practicing as an occasional judge usually means a limited number of court sessions throughout the month: maximum 6 sessions of 4 days per month for the neighbourhood judges in **France** and between 15 and 30 days per year for **UK-England and Wales**.

These judges are working part-time, occasionally and generally paid according to the number of sessions they have undertaken throughout the month.

Table 7.4 Comparison between the number of full time and occasional professional judges (Q49 and Q50)



Comments

Bosnia and Herzegovina: this concerns the judges on a reserve list, appointed for a temporary period (maximum 2 years) by the High Judicial Council upon request of the Head of court. They assist the courts in reducing backlogs or temporarily replace judges who are on leave for a long period. They are full time appointees.

France: this concerns the judges of the peace (*juges de proximité*) (data as of 31 December 2008).

Luxembourg: an increase of 5 judges has been decided for the county court of Luxembourg.

Monaco: this figure concerns the Supreme Court, which has both administrative and constitutional powers, and which is composed of five members and two deputies, appointed by the Prince, for a four year period. The court meets in sessions and the judges are remunerated for their tasks and expenses. The figure also includes the Court of Revision, at the top of the judicial hierarchy, composed of eight judges.

Norway: the reference is to extraordinary judges, specifically appointed to sit part time in courts of appeal. Generally they are recently retired judges of first or second instance who can work up to 73 years maximum. A number of judges are also appointed for a short period to replace ill judges for instance.

Sweden: in 2008, 174 retired professional judges sit on an occasional basis.

UK-Scotland: they are part-time Sheriffs (78), temporary Senators (17) and retired Senators (8).

Data in the table above concerns 12 states or entities: **UK-England and Wales, Monaco, UK-Scotland, Switzerland, Netherlands, San Marino, Spain, Sweden, Bosnia and Herzegovina, France, Andorra and Norway.**

It can be noted that in the **Netherlands** and in **Switzerland**, occasional judges contribute in a significant way to the resolution of disputes. In **UK-England and Wales**, there are more occasional judges than professional judges (roughly 4 for 1), which is one of the specificities of the *Common-Law* systems (except **Ireland**).

12 states have explicitly indicated that they had no occasional judges: **Croatia, Cyprus, Estonia, Hungary, Italy, Malta, Moldova, Montenegro, Russian Federation, Serbia, Slovenia** and “**the former Yugoslav Republic of Macedonia**”. It may be deduced from the answers provided by the 21 other states that this arrangement does not exist in those states either.

Data of **UK-Northern Ireland**, which count full time judges as permanent judges and part-time judges as occasional judges, is certainly not comparable with data of other states that have better followed the definition of occasional judges appearing in the explanatory note. Generally, comparisons with professional judges must be made carefully as professional judges are counted as full-time equivalents, whereas occasional judges are counted as absolute values.

Among occasional judges, a distinction must be made between those judges who act when there is a need, to support permanent judges (**Bosnia and Herzegovina, Norway**) and those who sit in a specific court which does not operate permanently (**Monaco**). The purpose of the evaluation exercise concerns rather the judges of the first category because it illustrates the state's efforts to find specific, smooth and accurate solutions in particular to reduce court backlogs by seconding permanent professional judges.

7.3 Non professional judges

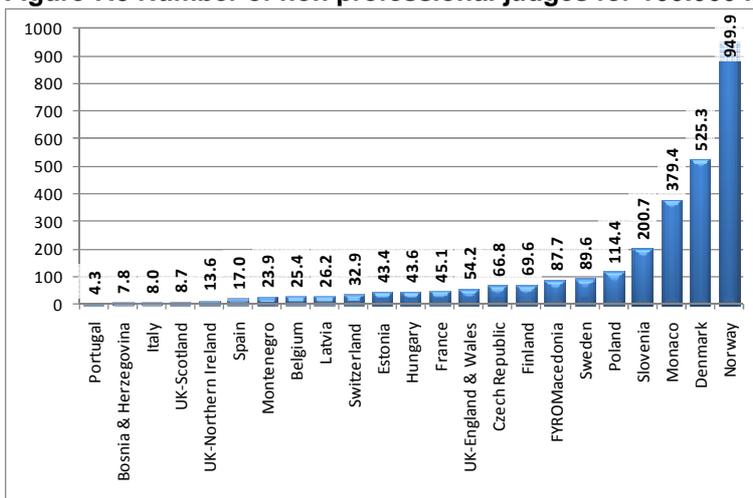
Non professional judges can be *lay judges*, without any legal training. *Lay judges* can be recruited (usually on a case-by-case basis) for their specific expertise or to ensure citizens' participation in legal activities. *Lay judges* often sit in colleges. In **UK-England and Wales** for example, in the *Magistrates' courts*, a college of *lay judges* has the power to rule on offences, for which the penalty is no more than 6 months imprisonment and/or 500€ fine. It is estimated that 95% of criminal offences are treated by non-professional judges. But there are cases when a *lay judge* sits as a single judge.

Another type of non-professional judge is the justice of the peace. These judges deal principally with the treatment of civil complaints of minor importance (or minor offences). In certain countries, the justice of the peace is a professional judge (even if he/she can be paid on an occasional basis), whereas, in other countries, he/she is considered to be a non-professional judge, as they are not paid but only their expenses are borne. In order to compare the courts' capacity to give judicial decisions, this element must be taken into consideration, as well as the number of court hearings and the number of cases they address. This level of detail cannot be given in such a general study, but deserves a specific study. The states or entities could not provide for each category the effective number of working days per month, as was requested of them (explanatory note to question 52).

Non-professional judges are primarily concerned with dealing with non-criminal cases. They intervene in cases related to labour and commercial law. They are sometimes elected by local or regional councils (**Czech Republic**) or by the members of their own sector of activity (courts specialised in labour law in **France, Luxembourg, Monaco, Romania**, and in commercial matters in **France and Monaco**). They also sit as assessors in some panels (**Czech Republic, Estonia, France, Northern Ireland (RU), Luxembourg, Poland, Portugal, Slovenia**).

This chapter does not deal with arbitrators or citizens sitting in a jury (see item 7.5) – which explains why **Monaco**, which has included them in this category, has not been considered here.

Figure 7.5 Number of non professional judges for 100.000 inhabitants (Q52) in 2008



Comments

Bosnia and Herzegovina: in principle, the new rules of procedure adopted in 2003 do not provide for the intervention of *lay judges*. However, considering the high court backlog, they remain essential. There are currently 298 *lay judges* in the courts of common jurisdiction.

Czech Republic: at first instance in criminal and labour cases, the panel is composed of one chairing judge and two *lay judges*.

Denmark: in 2008, *lay judges* were present in 14.383 cases.

Estonia: *lay judges* intervene only for criminal offence in first instance courts, within *County courts* composed of a panel of one chairing judge and two *lay judges*.

France: there are *juges consulaires* (commercial courts), *conseillers prud'homaux* (labour law) and assessors in the *tribunaux paritaires des baux ruraux*, minor courts, social security courts.

Hungary: the National Council for Justice decides on the number and tasks according to the courts' request. They are elected by local governments and sit in panels in civil and criminal matters.

Iceland: when necessary, a judge can appoint 2 experts in each case as non professional judges.

Italy: 2009 data. The figure indicated in the previous report (73321) seems to refer to the total number of non-professional judges and not to those who are discharging judicial duties. Non-professional judges are remunerated according to their attendances in court and the cases disposed of.

Luxembourg: non-professional judges work essentially, and even exclusively in social matters (labour law and social security law) where there is an equal representation of social partners. These courts are usually chaired by a professional judge.

Monaco: data include jurors (3 per case and 1 deputy when necessary) at the criminal court.

Montenegro: according to the Constitution, there are, next to professional judges, *lay judges* entrusted with the participation in hearings on some cases provided for by the law. The number of *judges* appointed is 211, among them 148 participated in proceedings in 2008.

Norway: there are *lay judges* in first and second instance criminal proceedings. The judge can also participate in civil matters, in particular when this is requested by the parties. They get small fees of 250 NOK/30€ per case and their expenses are borne.

Poland: *lay judges* are elected during the local elections. The figure mentioned is the result of the last local elections. They assist judges in the proceeding and cannot decide alone; they can work up to 12 days per year and are not paid.

Portugal: social judges are included. Appearing on a list published in the Official Gazette; they can be requested to participate in very specific procedures (tutorship, protection of juveniles in danger), where they decide together with a professional chairing judge. But it is not possible to indicate a precise figure for the number of non-professional judges who effectively participated in a procedure in 2008.

San Marino: non-professional judges get fees for their work.

Slovakia: the president of each *district court* determines the need in *lay judges* per district. They are elected for 4 years of the Municipal Council. Only in criminal matters, for cases provided for by the code of criminal procedure.

Slovenia: the figure indicated concerns the whole *lay judges* team (4.065 in total) appointed within the *Districts courts* (2.589) and the courts for social cases (1.476). They sit in a panel of judges but cannot sit alone or take a decision without the presence of a professional judge who verifies the procedure and draft the decision.

Spain: there are 7.681 *lay judges*, one per city which is not the seat of a first instance civil or criminal court. They are elected by the Municipal Council and appointed to a 4 year period by the High Judicial Council. Their jurisdiction is limited to civil disputes with less than 90 € at stake and to some contraventions. They are also entrusted with the management of the civil registry by the first instance court.

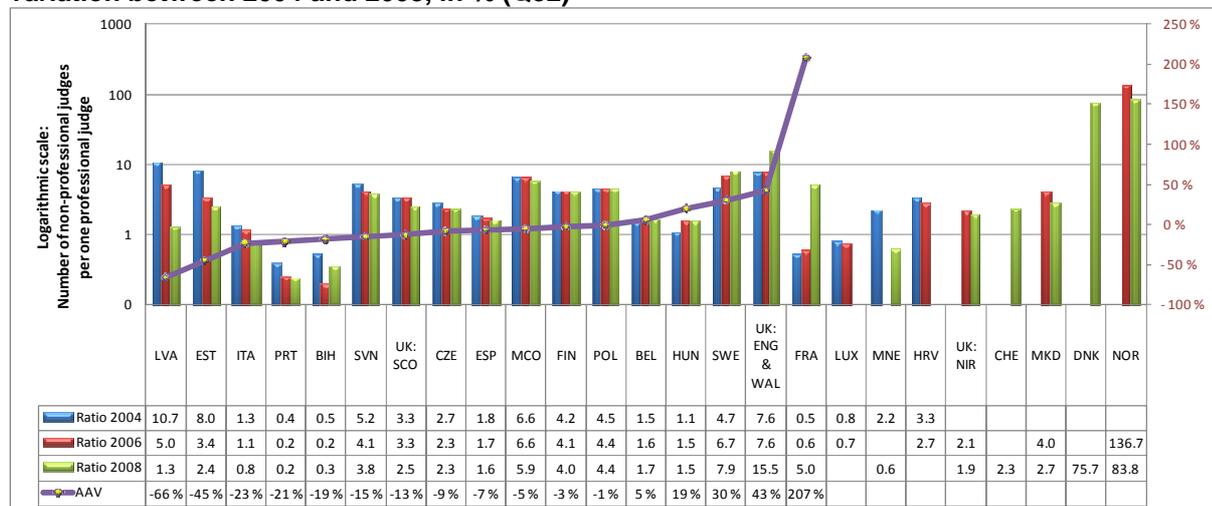
"the former Yugoslav Republic of Macedonia": *lay judges* have jurisdiction in cases as provided for by the Law on Courts and are elected by the Court Council which decides on their number per court, according to the proposals made by the first instance courts and courts of appeal.

UK-Northern Ireland: 239 *Magistrates* sit together with professional judges in family and minor courts. They are also entrusted with urgent measures of protection in family courts.

UK-Scotland: the *Offices of Justices of the Peace* have been established for 400 years. The *Justices of the Peace (JP)* do not belong to the corpus of judges and deal with small cases (for instance traffic offences). They are not paid but their expenses are borne. They are appointed by the Scottish Ministers.

UK-England and Wales: the number of 29.500 indicated for the *Magistrates (JPs)* is a rough number. They are volunteers and their expenses are borne.

Figure 7.6 Number of non professional judges per professional judge in 2008. Average annual variation between 2004 and 2008, in % (Q52)



This figure includes data from 25 states or entities. For 17 of them, it was possible to build the curve for the annual average variation ("AAV" in the figure above) between 2004 and 2008. 8 other states or entities appear in the figure (**Luxembourg, Montenegro, Croatia, UK-Northern Ireland, Switzerland, "the former Yugoslav Republic of Macedonia", Denmark and Norway**) even when one of the annual values, corresponding to the ratio of non-professional judges to professional judges is missing.

The figures above show the great disparity between the states or entities where the judicial corpus is predominantly professional, with less than 10 non-professional judges per 100.000 inhabitants (**Portugal, Bosnia and Herzegovina, Italy, UK-Scotland and UK-Northern Ireland**) and the states or entities which have chosen, either recently or by tradition (**Slovenia, Denmark, Norway**) to entrust non-professionals with other expertise or appearing as closer to the court users, to render justice in small or specific cases, or to participate regularly in a court chaired by a professional judge.

The reader must be very cautious when interpreting the ratio of non-professional judges to professional judges. Indeed, professional judges are usually indicated in Full Time Equivalents, whereas non-professional judges are indicated in gross numbers. As it was mentioned in the explanatory note, it might happen that a non-professional judge works only a few hours a year whereas others can sit very regularly. The figures cannot be used to compare the states or entities, but one can notice diverging trends among the states or entities. For example, in some states such as **Norway and Denmark**, the judiciary is composed of a high number of non-professional judges. In contrast, the judicial system may be exclusively professional such as in **the Netherlands, the Russian Federation and Serbia** or use only very few non-professional judges, like in **Portugal, Bosnia and Herzegovina, Montenegro**.

The variation of the ratio between non professional judges and professional judges in several periods, for the same state or entity, can be interesting to highlight evolutions in the judicial organisation. For 12 of the 17 states or entities for which it has been possible to calculate the annual average variation between 2004 and 2008, the trend is an increasing professionalisation of the judiciary. A trend towards a higher increase in the number of *lay judges* can be noted in 5 states or entities. For **France**, the very strong variation (+ 205,2 %) seems to highlight a change in the way of calculating data provided.

7.4 Trial by jury and participation of citizens

This part examines mechanisms for the appointment of citizens (mainly drawn at random) to participate in a jury entrusted with deciding on criminal cases. **Serbia and UK-England and Wales** indicated that they have juries also in civil law matters.

UK-Scotland: for serious criminal offences at the *High Court* and the *Sheriff Courts*, for examining evidences. At the *High Court*, this concerns murders, rapes and serious aggressions. A jury can also be set up at the *Court of Session* to define compensations for civil damages and slandering.

UK-England and Wales: Criminal, civil and coroner cases.

21 states or entities have explicitly mentioned the use of juries as defined above, that is to say with citizen juries. Only 10 of them were able to indicate the number of citizens who participated in a jury in 2008.

The map shows the distribution in Europe between states with and those without the mechanism providing for the participation of citizen jurors. The map shows a core of states or entities of Central and Eastern Europe in which the jury system is unknown. This system is now a characteristic of the Western European states or entities, together with **Azerbaijan** and the **Russian Federation**.

Within this latter category, the extent of the use of citizen-jurors is not the same state by state: in **Italy** and **Sweden**, the number of citizens in a jury in 2008 is 1 per 100.000 inhabitants. In contrast, in **Croatia**, the number rises to 107,7 citizens per 100.000 inhabitants, in **UK-England and Wales:** 337,1 and **UK-Northern Ireland:** 1419,1 citizens per 100.000 inhabitants.

7.5 Trends and conclusions

In general, the judicial systems of the member states of Central and Eastern Europe operate with a ratio of judges to inhabitants higher than in the states or entities of Western Europe.

There is a trend in the majority of European states or entities towards stability in the number of judges in the period 2004 - 2008, although structural or organisational reforms in some member states tend to reduce the proportion of permanent professional judges in some member states of the Council of Europe (**Sweden, Switzerland, UK-Scotland, France**). Conversely, some states in transition continue their reforms by increasing human resources devoted to the judicial function (**Azerbaijan, Bosnia and Herzegovina, Armenia, Russian Federation, "the former Yugoslav Republic of Macedonia"**). The influence of recent membership or application to the European Union may be an explanation for this trend of increasing numbers of judges (**Bulgaria, Slovenia, Latvia, Turkey, Slovakia, Lithuania**).

The composition of the judiciary as between professional judges, occasional judges and lay judges features strongly in different types of judicial systems. Some systems are fully professionalised, or rarely use lay judges, while other systems (Northern Europe) rely heavily on lay judges who can either intervene in autonomy or as members of panels chaired by professional judges. For states experiencing the coexistence of professional and lay judges, the evolution tends mainly towards an emphasis of the professionalisation of the judiciary. Sometimes occasional judges may assist permanent judges in order to cope with the increase in the caseload.

Some member states (**Netherlands**) use occasional judges to overcome specific (vacancies) or structural (judicial backlogs difficult to eliminate) difficulties, but this does not constitute a strong trend.

Europe is divided on the use of juries, and a fairly clear division can be noted between Western Europe (with **Azerbaijan** and the **Russian Federation**), supporting such a system for specific types of cases (mainly serious criminal offences), and Central and Eastern Europe, whose states do not provide such a system - or turned away from such systems which could appear as a feature of the judicial systems as they used to be before the transition to democracy.

The composition of the judiciary, more or less professionalised, affects strongly the budgets dedicated to courts, including the allocation of budget items, largely spent on salaries in systems focusing on professional judges and relatively limited in the states or entities relying on *Magistrates* like in the **UK- England and Wales, UK-Scotland** and **UK-Northern Ireland** (see chapter 2).

Chapter 8. Non-judge staff

The existence, alongside judges, of competent staff with defined roles and a recognised status is an essential condition for the efficient functioning of the judicial system.

A distinction is made between four types of non-judge staff:

- the “*Rechtspfleger*” function, which is inspired by the German system. In model of the European Union of *Rechtspfleger*, the *Rechtspfleger* is defined as follows: “an independent judicial body, defined by the tasks that are attributed to it by law. As a judicial body, the *Rechtspfleger* is anchored in the constitution of the countries”. They may carry out various tasks, for example, in the areas of family and guardianship law, the law of succession, the law of land registry, commercial registers, decisions about the granting of nationality, payment orders, execution of court decisions, auctions of immovable goods, criminal cases, the enforcement of judgments in criminal cases (with the issue of arrest warrants), orders enforcing non-custodial sentences or community service orders, prosecution in district courts, decisions concerning legal aid, etc. The *Rechtspfleger* does not assist the judge: he/she is competent for his/her own judicial decisions and independent in his/her decisions.
- non-judge staff whose task is to assist judges directly. They may be referred to as judicial advisors or registrars. For the most part, they play a role, in hearings, assisting judges or panels of judges; they provide assistance in the drafting of judgments or they research case law.
- staff responsible for different administrative matters, as well as court management. Thus for example, heads of the administrative units of the courts, financial departments or information-technology departments would fall into this category. Administrative staff responsible for the registration of cases or the filing of cases is also included in this category.
- technical staff. For example personnel responsible for IT-equipment, security and cleaning.

The *European Union of Rechtspfleger and Court Clerks* (EUR) has been consulted for elaborating this chapter.

8.1 Non-judge staff: number and distribution

45 states or entities (except **Bulgaria** and **Ukraine**) provided the total number of non-judge staff working in courts. **France** was not able to give separate figures for the staff working for judges and the staff working for prosecutors; its figure includes both and has not been taken into account when calculating European averages and medians.

Only 29 states have been able to communicate detailed figures on the non-judge staff according to the proposed categories. **Spain**, for instance, reported that it was not possible to allocate the staff among the proposed categories, as they do not fully coincide with the description and in some cases their court staff performs functions that would correspond to several categories. Furthermore, not all the countries have interpreted the different categories the same way (e.g. **Austria** and **Montenegro** regarding “staff in charge of administrative tasks and management” and “technical staff”). Several countries have not included the total number of the staff employed in courts (**Luxembourg**, **Moldova**, **Montenegro**) or indicated estimated (**Denmark**) or average figures (the **Netherlands**). The figure provided by **France** includes together the staff working for judges and for prosecutors. The figure for **Hungary** of 3.795 corresponds to the merged categories of “staff in charge of administrative tasks & management of the courts” and “technical staff” (in order to ensure the comparability, this value was excluded from the calculation of the average and median European values). In addition, some tasks performed by court officials in some states are carried out by private companies on contract basis (hardware maintenance, security and building maintenance, etc.). These elements should be reflected in the allocation of budget items of the courts, between staff and cost of external services (see above chapter 2).

All these elements have to be considered when analysing the data provided in this chapter.

Table 8.1 Distribution of non-judge staff in courts (Q55, Q56)

Country	Total number of non-judge staff working in courts	Non-judge staff (Rechtspfleger or similar body)		Non-judge staff whose task is to assist the judge such as registrars		Staff in charge of administrative tasks & management of the courts		Technical staff	
		Absolute number	%	Absolute number	%	Absolute number	%	Absolute number	%
Albania	723	NAP		386	53.4	167	23.1	170	23.5
Andorra	102	17	16.7	67	65.7	16	15.7	2	2.0
Armenia	951								
Austria	4 637.87	745.17	16.1	31.31	0.7	3 795.35	81.8	66.04	1.4
Azerbaijan	1 753								
Belgium	5 885.95	NAP		1 811	30.8	3 167	53.8	907.95	15.4
Bosnia and Herzegovina	2 739	129	4.7	989	36.1	1 226	44.8	395	14.4
Croatia	6 822	227	3.3	5 515	80.8	350	5.1	730	10.7
Cyprus	402	NAP		139	34.6	129	32.1	134	33.3
Czech Republic	9 226	1 448	15.7	4 453	48.3	2 388	25.9	937	10.2
Denmark	2 000	300	15.0	1 450	72.5	150	7.5	100	5.0
Estonia	990	83	8.4	479	48.4	334	33.7	94	9.5
Finland	2 514	NAP							
France *	(18 586)	NAP		(16 839)	(90.6)	(811)	(4.4)	(936)	(5.0)
Georgia	1 484	NAP		565	38.1	724	48.8	195	13.1
Greece *	(6 544)	NAP							
Hungary	7 913	591	7.5	3 527	44.6	3 795			48.0
Iceland	60	NAP		39	65.0	21	35.0		
Ireland	1 080	37	3.4	849	78.6	194	18.0		
Italy	25 385	NAP							
Latvia	1 534	NAP		947	61.7	418	27.2	169	11.0
Lithuania	2 707	NAP		1 267	46.8	388	14.3	1 052	38.9
Luxembourg	246			127	51.6	112	45.5	7	2.8
Malta	381	NAP		281	73.8	100	26.2		
Moldova	1 635	NAP		973	59.5	202	12.4	460	28.1
Monaco	46	NAP		19	41.3	27	58.7	6	13.0
Montenegro	854	NAP		102	11.9	15	1.8	737	86.3
Netherlands	5 129	NAP							
Norway	792	NAP							
Poland	32 038	1 765	5.5	19 778	61.7	6 919	21.6	3 576	11.2
Portugal	6 787	NAP		6 140	90.5	357	5.3	290	4.3
Romania	8 648	NAP		5 131	59.3	1 608	18.6	1 909	22.1
Russian Federation	99 109	NAP							
San Marino	58	NAP		6	10.3	11	19.0	41	70.7
Serbia	9 789	1 007	10.3	3 847	39.3	1 307	13.4	3 628	37.1
Slovakia	4 133	822	19.9	2 154	52.1	1 157	28.0		
Slovenia	3 000	403	13.4						
Spain	45 733	3 924	8.6						
Sweden	3 418	NAP							
Switzerland	4 601								
FYROMacedonia	2 251	NAP		1 894	84.1	173	7.7	184	8.2
Turkey	28 091	NAP		26 492	94.3	606	2.2	993	3.5
UK-England and Wales	19 103								
UK-Northern Ireland	795	29	3.6	35	4.4	731	91.9		
UK-Scotland	1 329								
Average			10.1		51.3		28.2		19.8
Median			8.6		51.9		23.1		12.1
Minimum			2.7		0.7		1.8		1.4
Maximum			19.9		94.3		91.9		86.3

* Staff working with judges and prosecutors; these data were not taken into account in calculating the average, median, maximum and minimum.

Comments

Belgium: the lower figure for the “technical staff” for 2008 compared to 2006 is explained by an administrative regularisation. Employees, who fulfil administrative tasks, are now counted as “staff in charge of administrative tasks and management”.

Denmark: the provided figures are estimations.

Estonia: courts of first and second instance 900, Supreme Court 90.

Finland: the figure includes 1.654 office staff, 268 summoners, 164 trainee district judges, 25 junior district judges and 403 referendaries.

France: besides the number of officials employed in courts (working for judges and prosecutors), the use of other staff should be noted: 263 full-time non-permanent staff assigned to assist judges in decision making and 427 full time collaborators, generally non-permanent staff (seasonal or temporary), employed in operational roles. These data concern the assistance to judges and prosecutors.

Greece: these data concern the assistance to judges and to prosecutors.

Iceland: in district courts 38, in Supreme Court 11.

Italy: the categories cannot be mentioned in the table because of the different breakdown applied. The categories of staff are as follow: non-judge court staff: 10.510; IT staff: 366 and "other": 14.509.

Latvia: the number indicates non-judge staff, who is working in District (city) courts, Administrative district court, Administrative regional court, Regional courts and Supreme Court.

Luxembourg: not shown in the statistics, are neither the staff of the State Information Technology Centre providing IT services for the Department of Justice nor external staff, particularly in IT, assisting the FIS. There is an additional technical staff of about 60 men and women (working part time) and a varying number of temporary employees.

Moldova: the figures do not include the non-judicial staff of the military tribunal.

Monaco: numbers have not changed since 2006, but in 2006 some staff members were not included.

Montenegro: besides the 854 court officers and employees mentioned, 175 trainees (graduate lawyers who are employed for the first time for the purpose of training) worked in the courts. A trainee is employed for the period of two years.

Netherlands: this number is the average establishment at 31.12.2007 and 31.12.2008 (full time equivalents).

Russian Federation: the figure includes 85.174 non-judge staff of the courts of general jurisdiction, 2.644 administrators of the courts of general jurisdiction, 956 non-judge staff of the Supreme Court of the Russian Federation, 9.971 non-judge staff of the commercial courts and 364 non-judge staff of the Supreme Commercial Court of the Russian Federation.

Slovenia: the number contains the following categories: 23 secretaries of courts, 276 senior judicial advisers, 210 land register court clerks in local courts, 162 enforcement court clerks in local courts, 31 commercial register clerks in district courts and 2.298 other court staff.

Spain: non-judge staff who work in courts amounts to 41.809, of whom 33.453 correspond to Autonomous Communities with transferred competences and 8.356 to the central, not transferred, area. The number of *Secretarios Judiciales (Rechtspfleger)* who work in courts with quasi-judicial tasks has been added to this figure.

Switzerland: the figures cover all the 26 cantons; however 2 cantons have provided the figures from 2006.

UK-Northern Ireland: the figure includes staff who works part-time hours. The total figure includes staff who work in support services including finance and legal aid departments.

Figure 8.2 Parts of the categories of non-judge staff, in % (Q56)

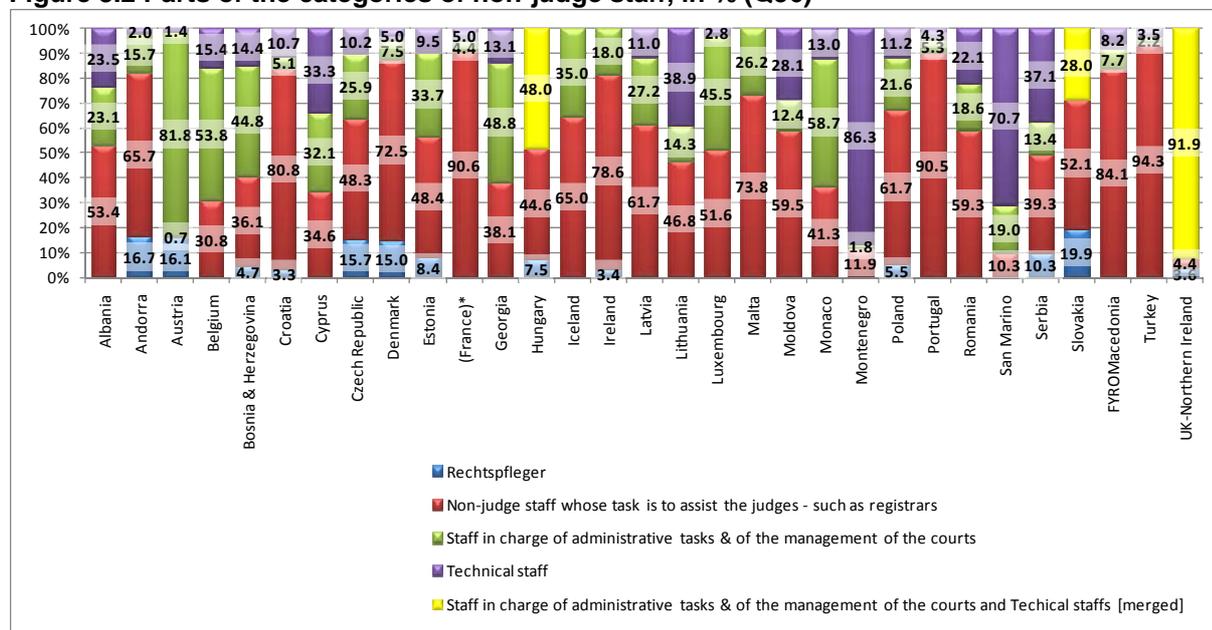


Figure 8.2 takes into account 31 states or entities.

Major disparities between the states can be discerned regarding the non-judge staff in courts (other than *Rechtspfleger*).

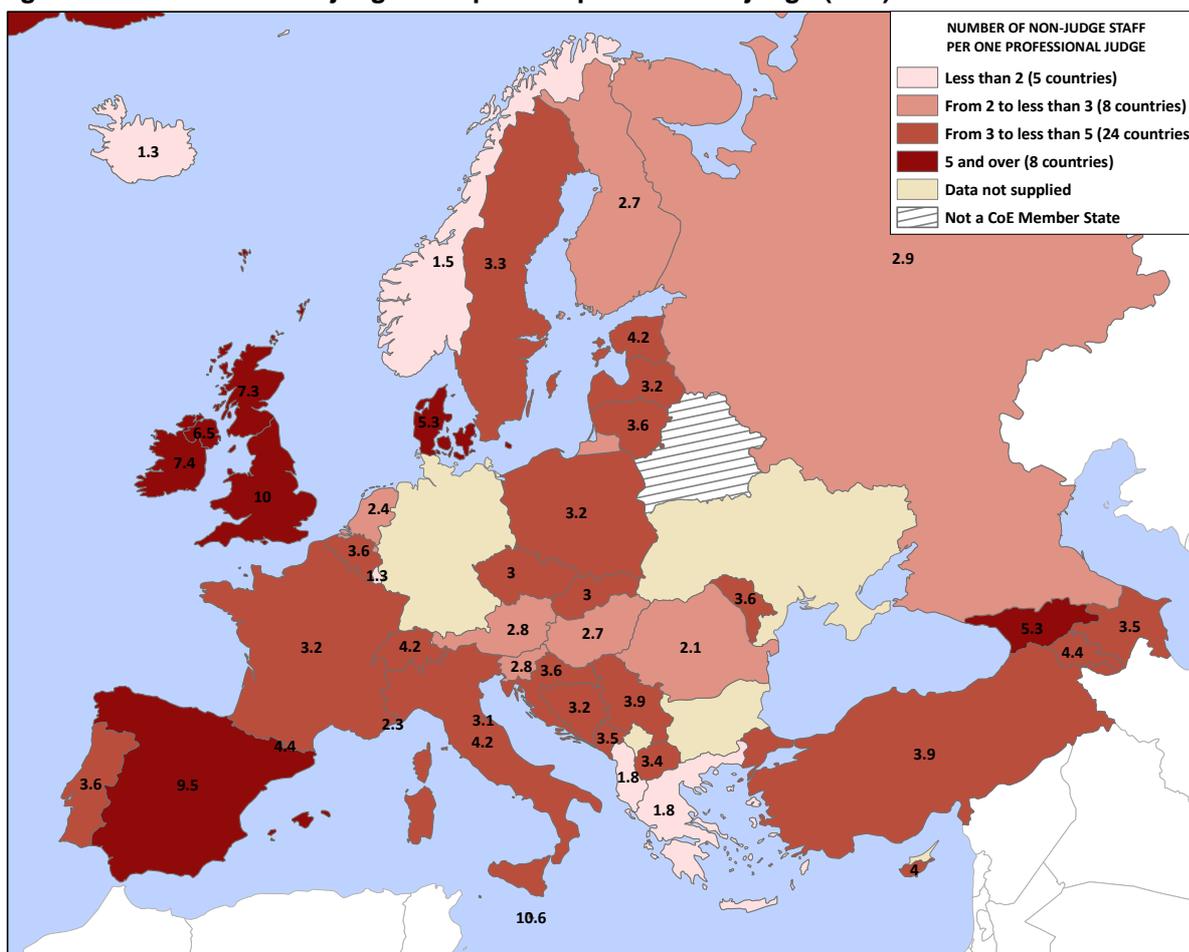
In most of the European states or entities, the majority of the non-judge staff working in courts is entrusted with the direct assistance of judges. In **Turkey**, this category represents 94,4% of the non-judge staff, 90,5% in **Portugal**, 84,1% in "**the former Yugoslav Republic of Macedonia**" and 80,8% in **Croatia**. However, a small number of non-judge staff members (less than 15% of the whole of the non-judge staff working in

courts) are entrusted with assisting the judge in **UK-Northern Ireland** (4,4%), **Montenegro** (11,9%), **San Marino** (10,3%). The very low figure of **Austria** (0,7%) is not significant as judges are assisted by *Rechtspfleger* (who represent 16,1% of the non judge staff).

Similar disparities are frequent in the case of staff in charge of administrative tasks and management and technical staff. 81,8% of the non-judge staff in **Austria** is entrusted with administrative tasks and management and 1,4% are technical staff, whereas in **Turkey**, only 2,2% and 3,5% respectively of the non judge staff have such duties.

Such differences illustrate the various approaches to court organisation among European judicial systems. However, it does not allow any conclusions about the efficiency of the court work.

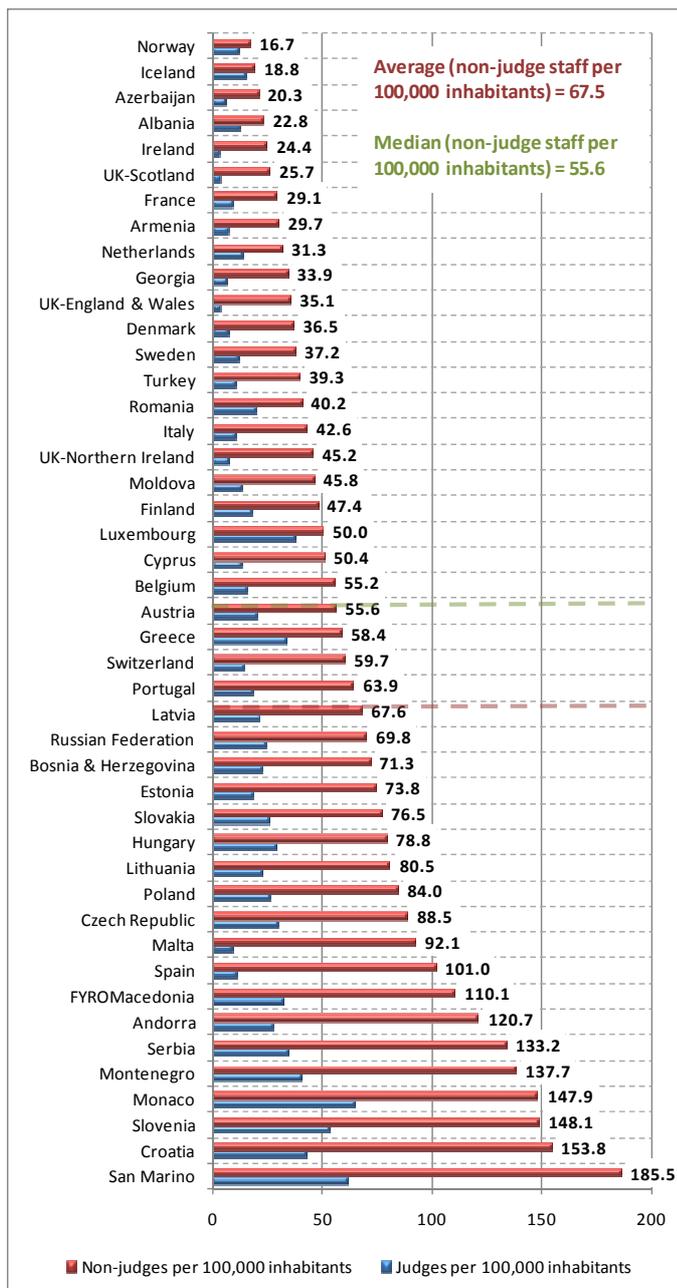
Figure 8.3 Number of non-judge staff per one professional judge (Q55)



France and Greece: number of non-judge and non-prosecutor staff per judge or prosecutor.

In a majority of states or entities (24 out of 44), 3 to less than 5 non-judge staff are working for one professional judge. The highest ratio (5 and over) can be mostly found in **Ireland, UK-England and Wales, UK-Northern Ireland, UK-Scotland**, but also in **Denmark and Spain**. In **Iceland, Luxembourg, Norway, Greece and Albania**, less than 2 non-judge staff work for one professional judge. The fact that the ratio applies only to professional judges overstates the percentage of *Common Law* states where a large proportion of non-judge staff assist non-professional judges.

Figure 8.4 Number of professional judges vs. number of non-judge staff per 100.000 inhabitants in 2008 (Q49, Q55)

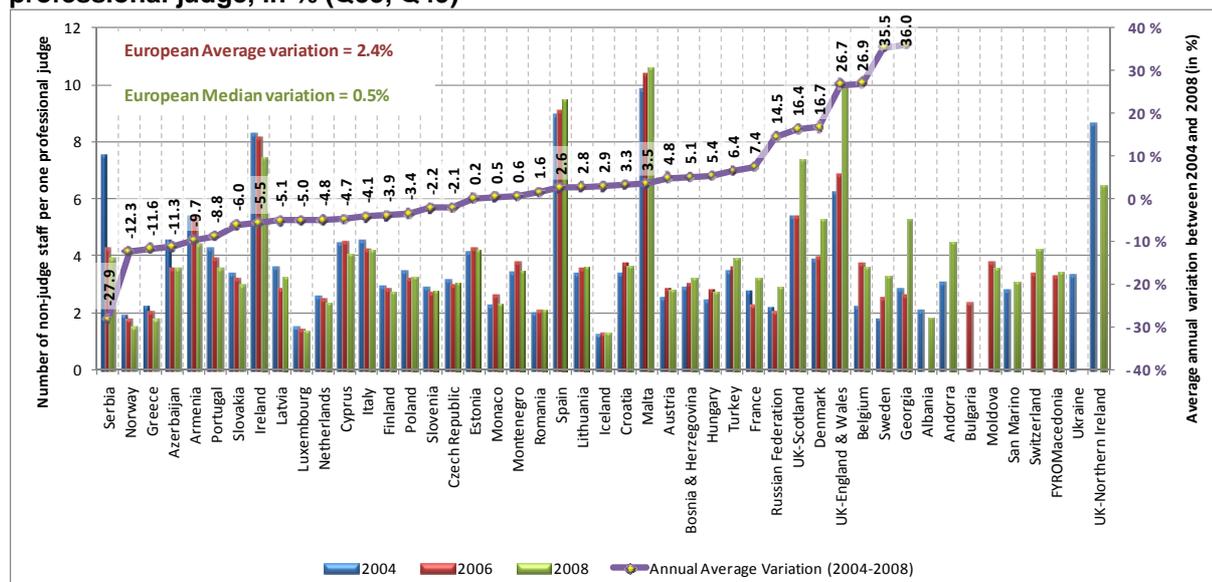


France and Greece: number of professional judges or prosecutors vs. number of non-judge and non-prosecutor staff.

The European median being 55,6 non-judge staff per 100.000 inhabitants, with extreme positions such as, **Norway and Iceland** (less than 20 non-judge staff per 100.000 inhabitants), indicating non-judge staff ratios falling considerably short of the median, and **Serbia, Montenegro, Slovenia and Croatia** (more than 130 non-judge staff per 100.000 inhabitants) indicating ratios considerably higher than the median. The latter 4 states present also a high number of judges per 100.000 inhabitants and there seems to be a correlation: a high number of judges work with a high number of staff; the contrary is also true (for instance for **the four common law entities**). However, the same relation cannot be observed for all the states: in **Spain**, a high number of non-judge staff is supported by a relatively low number of judges.

Once again, data for **Monaco and San Marino** have to be interpreted very carefully, given their small population sizes.

Figure 8.5 Average annual variation between 2004 and 2008 of the number of non-judge staff per one professional judge, in % (Q55, Q49)



France and **Greece**: concerns together the non-judge and non-prosecutor staff reported to the total of judges and prosecutors.

For 37 states or entities, it was possible to calculate the average annual variation indicator between 2004 and 2008 (**Albania**, **San Marino**, "**the former Yugoslav Republic of Macedonia**", **Switzerland**, **Andorra**, **UK-Northern Ireland** are reported only for information as data were missing and cannot be considered as reliable enough).

In many states or entities, a variation can be noted, but it is impossible to stress a general positive or negative trend (the European average variation is 2% and the European median 0.5%). For example, in **Azerbaijan**, **Slovenia**, **Czech Republic**, **Romania**, **Iceland**, **Austria** and **Monaco**, the ratio of non-judge staff to professional judges remained the same between 2006 and 2008. Nevertheless, over three reference years (2004, 2006 and 2008), several different changes can be highlighted: a significant reduction of the ratio of non-judge staff to professional judges in **Serbia** and a substantial increase in **UK-England and Wales**, **Belgium**, **Denmark** and **Sweden**. The trend in **Serbia** is mostly due to a significant decrease of the absolute numbers of staff, and the increasing trend in **Belgium**, **Denmark** and **Sweden** by an effective increase in the staff. However, in **UK-England and Wales**, the absolute number of staff decreased in reality, but not as much as the absolute numbers of professional judges (-29%, see figure 8.5).

However, once again, the variations observed must be interpreted very cautiously. In fact, from a methodological point of view, there is no certainty that the responding states have a common understanding of the various categories of non-judge staff.

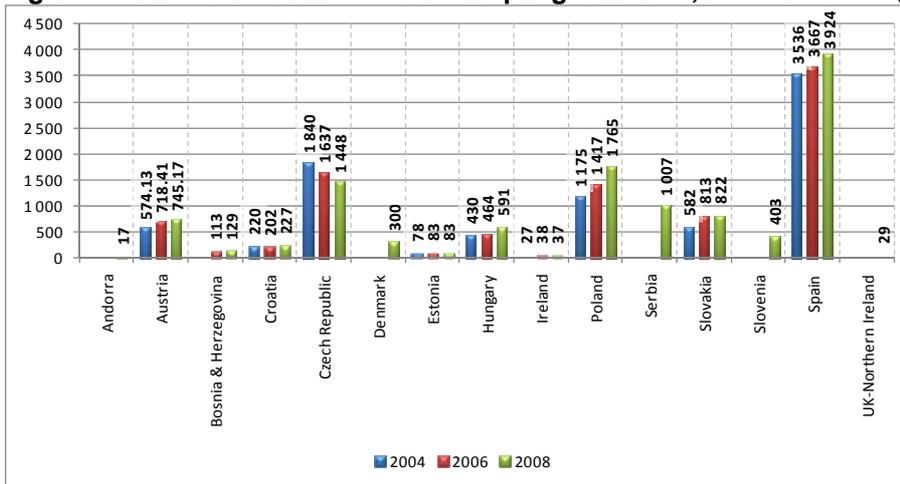
8.2 Rechtspfleger

15 European countries indicated that they have a *Rechtspfleger* system (or a system operating with staff having powers and status close to the so-called *Rechtspfleger*): **Andorra**, **Austria**, **Bosnia and Herzegovina**, **Croatia**, **Czech Republic**, **Denmark**, **Estonia**, **Hungary**, **Ireland**, **Poland**, **Serbia**, **Slovakia**, **Slovenia** and **Spain**. In **Switzerland**, only 4 cantons (out of 26) have the function of a *Rechtspfleger*¹.

Bosnia and Herzegovina reported that in December 2008 the Republika Srpska Constitutional Court declared unconstitutional the provisions of Republika Srpska legislation giving the judicial associates (similar to *Rechtspfleger*) authority to decide cases themselves. The Constitutional Court found that those legal provisions were repugnant to the Republika Srpska Constitution, which prescribes that only judges can perform judicial functions. However, the judicial associates in the courts of first instance in the Federation of **Bosnia and Herzegovina** have not been relieved of their power to decide cases on their own.

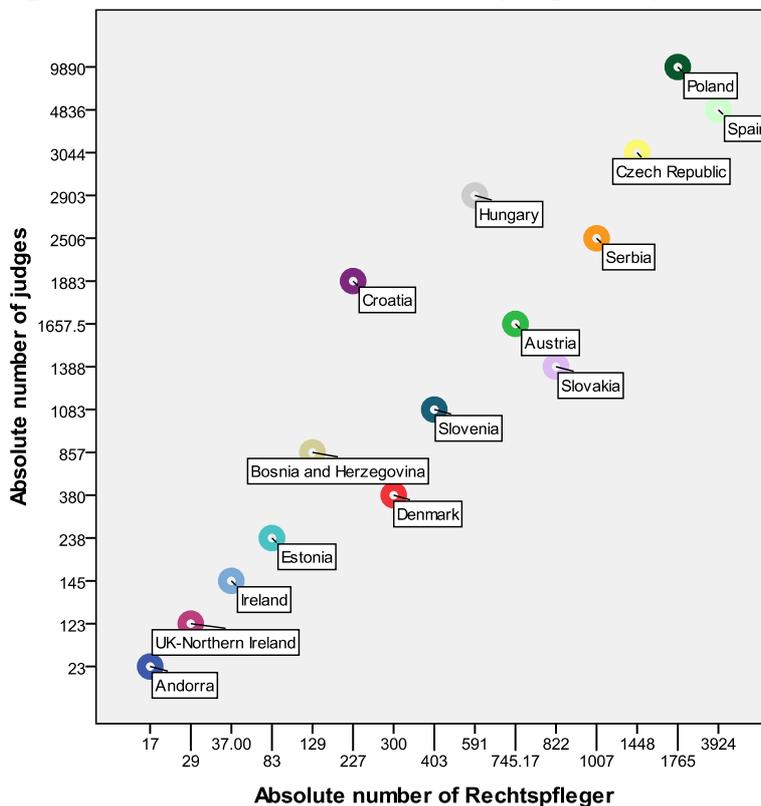
¹ **Germany** has *Rechtspfleger* too, but has not participated in this survey.

Figure 8.6 Absolute numbers of Rechtspfleger in 2004, 2006 and 2008 (Q56)



It can be observed that the absolute number of the *Rechtspfleger* (or staff executing similar functions) is quite comparable from year to year. The only country with a clearly observable decreasing trend is **Czech Republic**.

Figure 8.7 Absolute numbers of Rechtspfleger and professional judges in 2008 (Q56, Q49)



In figure 8.7 are presented 15 states or entities that provided the number of *Rechtspfleger* (or staff executing similar functions) in 2008.

It is important to stress the linear relationship of *Rechtspfleger* and judge numbers in this group of states or entities: where the number of professional judges is low, the number of *Rechtspfleger* is low too. The opposite is also true. This allows to conclude that *Rechtspfleger* in these states or entities are correctly employed as a support for the judges' work. No specific disproportion in absolute numbers can be observed.

8.3 Trends and conclusions

Two categories of duties of non-judge staff are evident in the court systems of member states or entities. The first and most significant category is legal professional and consists either in assisting the judge in the procedural acts or in the decision-making process, or in the exercise of fulfilling quasi-judicial tasks at the agent's own initiative (*Rechtspfleger*). The second category of duties is essentially administrative and technical, and indirect support to the judiciary.

Generally speaking, data on non judge-staff in courts were stable between 2004 and 2008. This is true both for the absolute numbers of staff and for the distribution of the different categories of staff within the courts and the ratio of staff numbers to the number of judges. Further analyses of a possible relationship between the organisation of the courts and the number of courts may be worth investigating.

Chapter 9. Fair trial and court activity

One of the essential elements for the smooth functioning of courts is the safeguarding of the fundamental principle of fair trial within a reasonable time (Article 6 of the European Convention on Human Rights). This principle must be fully taken into account when managing the workload of a court, the duration of the proceedings and specific measures to reduce their length and improve their efficiency and effectiveness. As part of the survey, states and entities were asked to provide information concerning cases brought before the European Court of Human Rights under Article 6, cases brought before national courts and measures designed to promote effective court proceedings.

Basic facts and figures on the performance of courts are given in this chapter. Most of the figures provided primarily relate to first instance courts. For the other courts (appeal and supreme courts), the relevant tables can be found in the Appendix. In the last part of the chapter, examples are given of possible measures that may increase the efficiency and quality of justice. These vary from the introduction of simplified procedures, to procedures for urgent cases, to specific procedural arrangements between judges and lawyers.

Detailed case information is also given in this chapter on the court activity related to land register cases, business register cases, administrative law cases and enforcement cases. The definition of civil cases and the calculation of their number remain difficult. However, a distinction has been made between litigious cases on the one hand, and non-litigious and registers' cases, on the other hand. Such distinction allows to separate categories which can be easily identified, in every different system.

The same can be said about the distinction between severe criminal cases and minor criminal offences. Again, given the different legal categories of offences depending on the state, the CEPEJ has chosen to rely on the Anglo-Saxon distinction between *petty offences* and *crimes* which allows common reference in a majority of states or entities. Nevertheless, the problem of comparability of data remains. As a matter of fact, the data are addressed here in an identical manner to those of the *European Sourcebook* of the Council of Europe which was the methodological reference of the report regarding the categories of criminal cases.

The CEPEJ has chosen to develop *performance indicators* of courts at a European level. The GOJUST Guidelines¹ invite the member states to organise their data collection system so as to be able to provide the relevant information for calculating such indicators. The first indicator is the *clearance rate*. This allows a useful comparison even though the parameters of the cases concerned are not identical in all respects. This indicator can be used to see if the courts are keeping up with the number of incoming cases without increasing the backlog of cases. The second indicator is the *calculated disposition time*. By making use of a specific calculation method, it is possible to generate data concerning the estimated time that is needed to bring a case to an end. This method can provide relevant information on the overall functioning of the courts of a state or entity. Gradually, the report of the CEPEJ will enable a comparative evaluation of the functioning of judicial systems in dealing with case flows coming in and going out of the courts.

Clearance rate

The clearance rate, expressed as a percentage, is obtained when the number of resolved cases is divided by the number of incoming cases and the result is multiplied by 100:

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

A clearance rate close to 100 % indicates the ability of the court or of a judicial system to resolve more or less as many cases as the number of incoming cases within the given time period. A clearance rate above 100 % indicates the ability of the system to resolve more cases than received, thus reducing any potential backlog. Finally, if the number of incoming cases is higher than the number of resolved cases, the clearance rate will fall below 100 percent. When a clearance rate goes below 100 %, the number of unresolved cases at the end of a reporting period (backlog) will rise.

Essentially, a clearance rate shows how the court or judicial system is coping with the in-flow of cases.

¹ CEPEJ(2008)11

Disposition time

Apart from the clearance rate indicator, a case turnover ratio and a disposition time indicator provide further insight into how a judicial system manages its flow of cases. Generally, a case turnover ratio and disposition 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 case to be resolved.

The relationship between the number of cases that are resolved during an observed period and the number of unresolved cases at the end of the period can be expressed in two ways. The first measures the proportion of resolved cases from the same category within the remaining backlog. The case turnover ratio is calculated as follows:

$$\text{Case Turnover Ratio} = \frac{\text{Number of Resolved Cases}}{\text{Number of Unresolved Cases at the End}}$$

The second possibility, which relies on the first data, determines the number of days necessary for a pending case to be solved in court. This prospective indicator, which is of direct interest for the users, is an indicator of timeframe, more precisely of disposition time, which is calculated by dividing 365 days in a year by the case turnover ratio as follows:

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

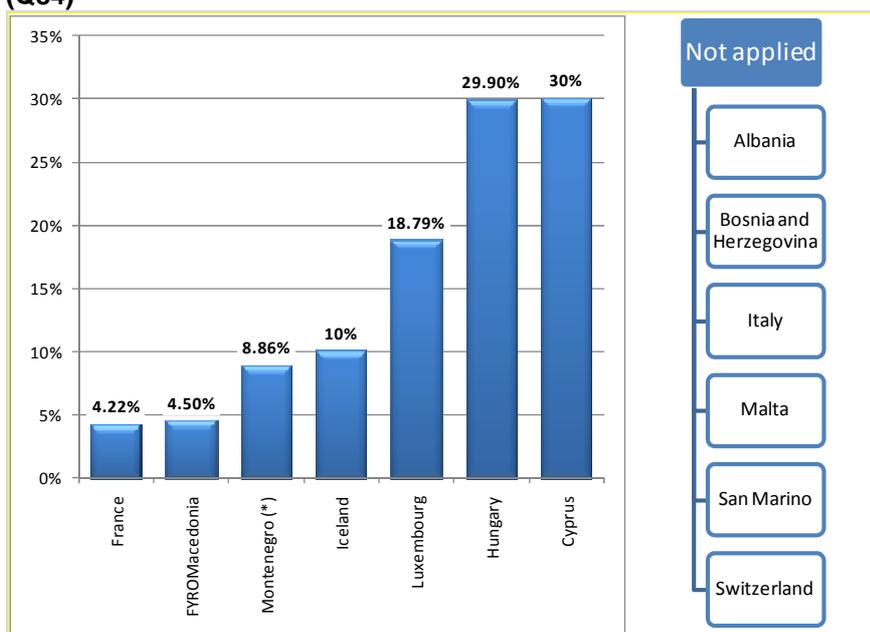
The translation of the result into days simplifies the understanding of what this relationship entails. For example, a lengthening of a judicial disposition time from 57 days to 72 days is much easier to grasp than a decline in case turnover ratio from 6,4 to 5,1. This conversion into days also makes it more relevant to compare a judicial system's turnover with the projected overall length of proceedings or established standards for the duration of proceedings.

9.1 Legal representation in court

One aspect of the principle of a fair trial according to Article 6 of the European Convention on Human Rights concerns legal representation of the parties before a court. In certain situations, users may not be present at a court hearing. The European Court of Human Rights considers (see *Krombach vs France*, 2001) that even when absent, a person may always be represented by a lawyer. The percentage of criminal cases tried in the presence of the accused is an indicator of the quality and efficiency of a system: the accused person can present a defense to the charge in front of the judge, the judgment is better understood and notified in the presence of the persons concerned, which promotes respect for the decision and facilitates its enforcement.

In the following table, information is given on the percentage of first instance judgments in criminal cases where the accused person is absent from the court hearing or not represented by a legal professional (default cases).

Figure 9.1 Percentage of 1st instance judgements in criminal matters where the accused person does not attend in person or is not represented by a legal professional during the court session in 2008 (Q84)



Comment

Montenegro: in cases of *in absentia* judgements, defence lawyers were present.

Unfortunately, only 7 states were able to provide information whereas 11 did so in the previous report. The values provided vary between 4 % for **France** and 30% in **Cyprus**. 6 member states explicitly stated that such procedure does not apply to their judicial systems.

9.2 Possibility to challenge a judge

The principle of fair trial implies as well that the parties can request a judge to be challenged if they have suspicion on his/her impartiality.

Table 9.2 Number of successful challenges of a judge in 2008 (Q85)

Country	Number of successful challenges
Cyprus	0
Luxembourg	0
Monaco	0
San Marino	1
Russian Federation	4
Netherlands	39
Bosnia and Herzegovina	52
Serbia	82
Montenegro	224
Poland	961
FYROMacedonia	1 395
Hungary	2 282

Almost all the states and entities replied that they have a procedure to effectively challenge a judge. Only **Denmark** stated that there is no specific procedure. 12 states were able to provide the number of successful challenges.

Comments

Russian Federation: the low number concerns the cases heard by commercial courts.

Netherlands: 39 successful procedures of *wraking* (challenge) were applied - there is an increase compared to 2007, when 17 successful challenges were registered.

Serbia: the total number of challenges include 6 demands granted by the Supreme Court and 76 demands granted by the High Commercial Court, 4 of which at the request of the trial judge.

9.3 Cases related to Article 6 of the European Convention on Human Rights

The Council of Europe and its European Court of Human Rights pay specific attention to the "reasonable time" of judicial proceedings and the effective execution of judicial decisions. The countries were asked to provide information for civil and criminal cases regarding duration of proceedings and/or non-execution of decisions on: the number of cases declared inadmissible by the European Court, the number of friendly settlements, the number of cases concluded by a judgement of violation or non violation of Article 6 of the European Convention on Human Rights.

Compared to the previous editions of the report, it may be emphasized with satisfaction that 34 states or entities are now able to give data on the cases related to Article 6 ECHR before the Court in Strasbourg. Such developments in the statistical systems, which have been encouraged by the CEPEJ in the previous reports, must be welcomed, as they are an essential tool for remedying to the dysfunctions highlighted by the Court and preventing further violations of the Convention.

Note: contrary to the general approach taken by the CEPEJ to prepare this report (i.e. no correction of data without the agreement of the responding state or entity), an exception has been made in preparing the following table, as official statistics are available at the European Court of Human Rights. Therefore, as regards only the column dealing with the number of judgements establishing a violation of the reasonable time of a judicial proceeding, the following table has been completed (or corrected) with the official statistics given by the European Court of Human Rights in its 2008 annual report.

Table 9.3. Number of cases regarding Article 6 of the European Convention of Human Rights: length of proceedings, in 2008 (Q86)

Country	Cases declared inadmissible by the Court				Friendly settlements				Judgements establishing a violation				Judgements establishing a non violation					
	Civil proceedings		Criminal proceedings		Civil proceedings		Criminal proceedings		Civil proceedings		Criminal proceedings		Civil proceedings		Criminal proceedings		Total	
		Total		Per 100 000 inhabitants		Total		Per 100 000 inhabitants		Total		Per 100 000 inhabitants		Total		Per 100 000 inhabitants		Total
Albania	3	3	0	0.09	2	2	0	0.06	0	0	0	0	0	1	2	3	0.09	3
Andorra	0	0	0		0	0	0		0	0	0		0	0	0	0		0
Austria	0	1	1	0.01	0	3	3	0.04						0	0	0	0.08	7
Azerbaijan		NA				NA	NA									2	0.02	2
Belgium		NA				NA	NA									9	0.08	9
Bosnia-Herzegovina		NA				NA	NA									0		0
Bulgaria		NA				NA	NA									25	0.33	25
Croatia	3	3	0	0.07	7	7	0	0.16	NA	NA	NA	NA	8	8	0	0.25	8	
Cyprus	0	0	0		0	0	0		NA	NA	NA	NA	2	2	2	0.25	4	
Czech Republic	100	109	9	1.05	1	1	0	0.01	0	0	0	0	0	0	0	0.04	0	
Denmark	2	2	0	0.04	0	0	0		0	2	2	0.04	0	0	0		0	
Estonia	0	0	0		0	0	0		0	0	0		0	0	0		0	
Finland		NA				8	0.15		2	1	3	0.06	0	0	0		0	
France	0	2	2	0.003	0	2	2	0.00			1	0.002	0	0	0		0	
Georgia		NA				NA					1	0.02					NA	
Greece	0	3	3	0.03	2	1	3	0.03	41	12	53	0.47	2	2	4	0.04	4	
Hungary		NA				NA					39	0.39					NA	
Ireland		NA				NA			0	0	0						NA	
Iceland		NA				NA			0	0	0						NA	
Italy	7	15	8	0.03		NA			53	1	54	0.09	0	0	0		NA	
Latvia		NA				NA					1	0.04					NA	
Lithuania	0	1	1	0.03	0	0	0		1	0	1	0.03	0	1	1	0.03	1	
Luxembourg	0	0	0		1	1	1	0.20	2	2	4	0.81	0	1	1	0.20	1	
Malta		NA				NA					1	0.24					NA	
Moldova		NA			1	1	2	0.06	3	0	3	0.08					NA	
Monaco	0	0	0			NA			0	0	0			0	0		0	
Netherlands	2	2	0	0.01	2	2	2	0.01	0	0	0			0	0		0	
Norway	0	0	0		0	0	0		0	0	0			0	0		0	
Poland		NA			21	NA	NA				63	0.17					NA	
Portugal	1	1	1	0.01		NA	NA		1	1	1	0.01					NA	
Romania	2	NA	NA		6	1	7	0.03	20	5	25	0.12	1	NA	NA	0.12	NA	
Russian Federation	1	0	1	0.001		NA	NA		0	3	3	0.002	0	0	0	0.002	0	
San Marino	0	0	0		0	0	0		0	0	0			0	0		0	
Serbia	1	15	16	0.22		NA	NA				3	0.04	1	1	1	0.04	1	
Slovakia	4	4	0	0.07	11	0	11	0.20	10	1	11	0.20	0	0	0	0.20	0	

Country	Cases declared inadmissible by the Court			Friendly settlements			Judgements establishing a violation			Judgements establishing a non violation			
	Civil proceedings	Criminal proceedings	Total	Civil proceedings	Criminal proceedings	Total	Civil proceedings	Criminal proceedings	Total	Civil proceedings	Criminal proceedings	Total	Per 100 000 inhabitants
Slovenia	9	0	9	103	0	103	7	0	7	0	0	0	0.35
Spain	0	0	0	0	0	0	0	0	0	0	0	0	
Sweden	0	0	0	0	3	3	1	0	1	0	0	0	0.01
Switzerland	0	0	0			NA	0	0	0	0	0	0	
Turkey			NA			NA			64			0	0.09
FYROMacedonia			NA	32	2	34	10	0	10				0.49
Ukraine			NA			NA	23	10	33			0	0.07
UK-England and Wales	2	0	2			NA	0	0	0	0	0	0	

Note: The table above should be considered as a dashboard to monitor cases relating to Article 6 ECHR brought before the European Court of Human Rights. These data do not reflect the number of cases lodged in 2008 concerning the length of procedure, nor the number of cases pending in the matter by state or entity. Indeed, from the time the application is submitted and when a decision or a decision is adopted, it generally takes more than a year. In addition, the Committees of the Court shall declare each year many cases inadmissible, including those relating to length of procedure, when clearly inadmissible without even informing the states concerned.

The introduction by a state of a new domestic remedy, or the existence of a pilot proceeding giving the state a deadline for introducing a domestic remedy concerning length of proceedings, may also affect significantly the figures in a given year.

Therefore, it is not possible to draw from this snapshot conclusions about the extent of the difficulties encountered by a state as regards "fair trials within a reasonable time."

Furthermore, the number of relevant cases should be reported to the population of each state.

Concerning Article 6 ECHR, the number of cases addressed by the Court might give an indication on the level of dissatisfaction of the users vis-à-vis the judicial system. However, this does not reveal as such effective dysfunctions within the judicial system. Indeed, a high number of cases declared inadmissible by the Court can be noticed as regards the **Czech Republic** (109), and, to a lesser extent, in **Serbia** (16) and **Italy** (15), which means that the court users complained about the functioning of the system. For the **Czech Republic**, the high number of cases is linked to a specific momentum and reflects an accumulation of cases in previous years that were declared inadmissible in the year 2008 after the introduction by the respondent state of an effective domestic remedy which allowed for the length of proceedings cases to be brought back to the national level. Generally speaking, a complaint does not automatically involve an effective dysfunction. When looking at the judgements, it can be stressed that, in 2008, no judgement established a violation in the **Czech Republic**, and 3 judgements resulted in a declaration of violation for **Serbia**. **Italy** was condemned 54 times in 2008, which reveals that the structural difficulties of this state have not been solved so far. Although data must be interpreted considering the number of inhabitants in the states or entities, the 2008 data show specific difficulties vis-à-vis excessive lengths of proceedings in **Turkey** (64 violations), **Poland** (63 violations), **Greece** (53 violations), **Hungary** (39 violations), **Ukraine** (33 violations), **Bulgaria** (25 violations), **Romania** (25 violations) and in **Slovenia** where the majority of cases (103) were concluded by friendly settlements (7 violations), as it was the case for "**the former Yugoslav Republic of Macedonia**" (34 friendly settlements and 10 violations). Most of the excessive lengths of proceedings concern civil law cases.

Another indicator of the smooth functioning of the judicial system is the effective execution of court decisions. 30 states or entities were able to identify the statistics on this specific issue at the European Court of Human Rights.

Note: As this statistic is not officially given by the Court, the following table is only based on the information given by the states or entities.

Table 9.4 Number of cases regarding Article 6 of the European Convention of Human Rights: civil proceedings – non-execution of court decisions, in 2008 (Q86)

Country	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Albania	1	0	0	0
Andorra	0	0	1	0
Austria	0	0	0	0
Bosnia & Herzegovina	2		1	
Croatia	0	0	1	1
Cyprus	0	0	0	0
Czech Republic	0	0	0	0
Denmark	0	0	0	0
Estonia	0	0	0	0
Finland	NA	0	0	0
France	1	0	0	0
Greece			2	
Italy	0	NA	1	0
Moldova	2	14	7	NA
Monaco	0		0	0
Netherlands	0	0	0	0
Norway	0	0	0	0
Poland	NA	15	1	2
Romania	5	8	38	NA
Russian Federation	8		3	0
San Marino	0	0	0	0
Serbia		15	NA	
Slovakia	0	0	0	0
Slovenia	0	0	0	0
Spain	0	0	0	0
Sweden	0	0	0	0
Switzerland	0	NA	0	0
FYROMacedonia			2	
Ukraine	NA	1	53	0
UK-England and Wales	0	NA	0	0

Structural problems as regards the execution of court decisions in non-criminal matters appear in particular in **Ukraine** (53 violations), **Romania** (38 violations and 8 friendly settlements) and **Moldova** (7 violations and 14 friendly settlements).

9.4 Civil (and commercial) litigious and non-litigious cases at first instance courts

Countries have been invited to supply information on civil litigious and non-litigious cases and the number of administrative law cases (if applicable). For each of the main types of cases, the number of pending cases at the beginning of the year (1 January 2008), the number of incoming cases, the number of judgments and pending cases at the end of the year (31 December 2008) have been asked.

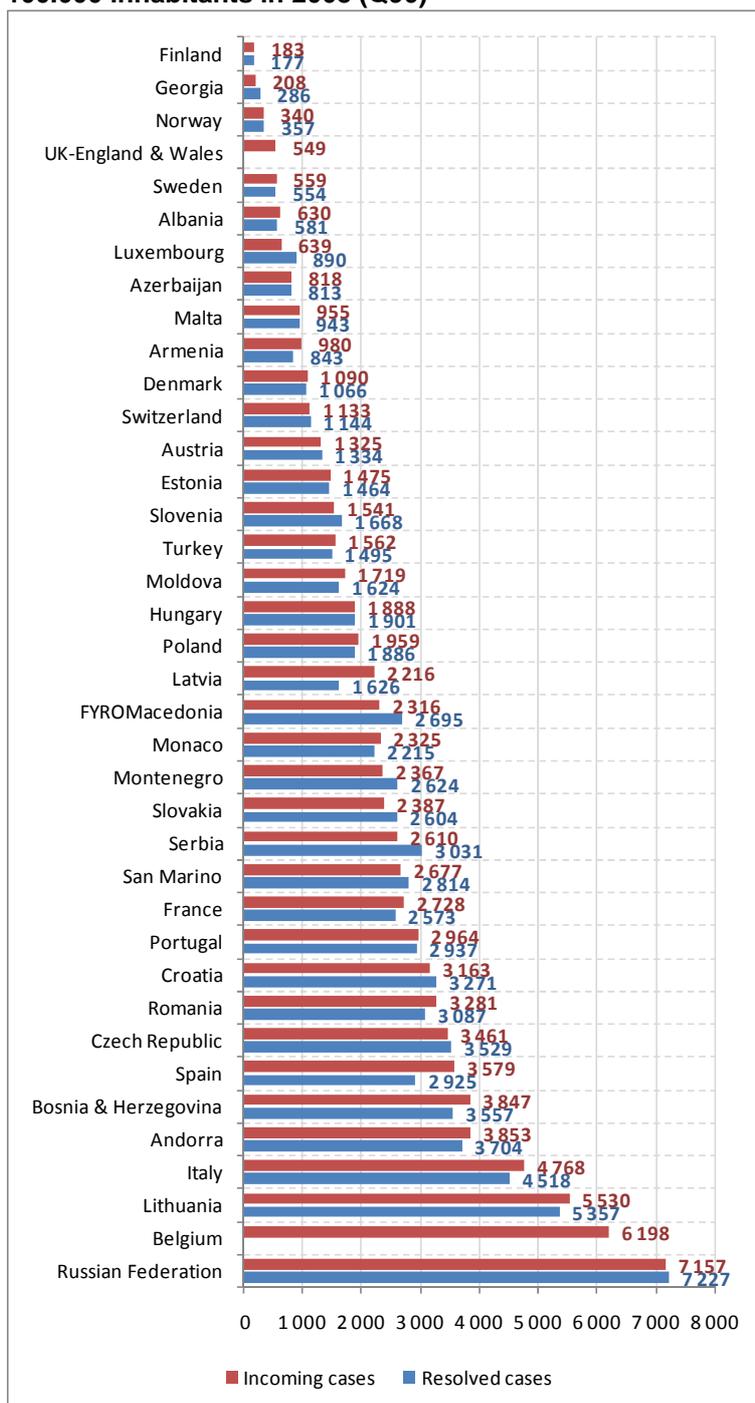
To give a comparative view of the different judicial systems in Europe, separate tables are generated for civil litigious and civil non-litigious cases. The reason for this separation is that there are states where non-litigious cases, for example land register cases or business register cases, form a major part of the workload of the courts, whilst in other states these tasks are addressed to other instances.

9.4.1 Litigious civil (and commercial) cases

The absolute numbers of civil (commercial) litigious cases at first instance courts in 2008 appear in the Appendix. The highest numbers can naturally be found in the largest states (**Russian Federation, Turkey, France, Spain, Italy**).

Beyond the absolute numbers, more accurate analyses can be carried out on the basis of the following figures and tables.

Figure 9.5 Number of 1st instance incoming and resolved civil (and commercial) litigious cases per 100.000 inhabitants in 2008 (Q90)



Comment

Switzerland: the values are based on a representative sample of 19 cantons.

In the above figure, can be noticed significant elements on the number of incoming and resolved cases by first instance courts in the judicial systems of 39 European states or entities.

On average, at the European level in 2008, the first instance courts were able to resolve more or less (slightly more) the same number of cases than the number of new incoming cases: in average 2.203 incoming cases per 100.000 inhabitants and 2.289 resolved cases per 100.000 inhabitants. Nevertheless, at the state or entity level, main variations can be highlighted.

The number of incoming cases per 100.000 inhabitants is lower than the number of resolved cases in **Montenegro** (difference of quite 10%), **Serbia** (16%), **"the former Yugoslav Republic of Macedonia"** (16%), **Georgia** (37%) and **Luxembourg** (39.2%). These states were able to reduce their previous backlogs in 2008, at the state (entity) level.

The opposite trends are also visible in this figure and highlight the states or entities which have increased the backlogs at the state (entity) level: **Latvia** (there are 27% more incoming cases than resolved cases), **Spain** (18%), **Armenia** (14%). Other states or entities are closer to a balance between incoming and resolved cases. In **Spain**, this increase is linked to a prolonged strike of personnel of the justice administration which took place during 2008.

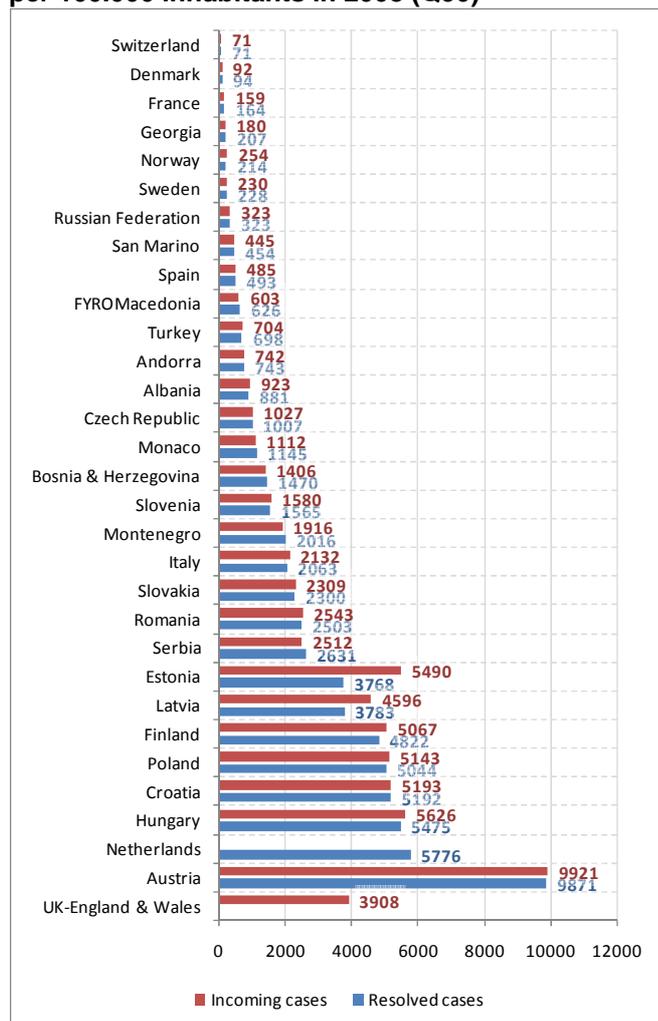
When considering the volume of civil (commercial) cases addressed by first instance courts, serious discrepancies can be noticed according to the member states. Citizens seem to be more prone to go to court to solve disputes (more than 3000 new cases per 100.000 inhabitants) in the Central and Eastern European states (**Russian Federation, Lithuania, Czech Republic, Croatia**), South-eastern European states (**Bosnia and Herzegovina, Romania, Serbia**) and in the countries of the South of Europe (**Italy, Portugal, Spain**) than in the countries of the North of Europe (**Finland, Norway, Sweden**) and the states of the Caucasus (**Georgia, Azerbaijan, Armenia**) where less than 1.000 new cases were filed per 100.000 inhabitants per year. This report is not the place for a sociological analysis of these trends, but it might be useful to exploit this information for in-depth researches.

In addition, since 2008, some of these states (**Spain**) started to suffer a significant comparative increase in the number of first instance incoming civil and commercial cases (respectively 19,5 % and 26,7 % for **Spain**) as a result of the first effects of the financial and economic crisis (see Chapter 2.1.3).

9.4.2 Non litigious civil (and commercial) cases

The absolute numbers of civil (commercial) non-litigious cases at first instance courts in 2008 appear in the Appendix.

Figure 9.6 Number of 1st instance incoming and resolved civil (and commercial) non-litigious cases per 100.000 inhabitants in 2008 (Q90)



The above figure presents the results for 31 states or entities. Three states explicitly stated that the category of “non-litigious” civil cases did not apply: **Azerbaijan, Belgium and Malta**. For the other states or entities, data was not available.

The strong differences, between member states or entities, in the number of non-litigious cases can be explained in particular by the existence or non-existence, within the courts, of land and commercial registers, as it is necessary to pay to be registered which generates significant financial resources for the judicial systems concerned (cf. supra 3.5).

On average, at the European level in 2008, the first instance courts were able to address more or less (slightly more) the same number of non-litigious civil cases than the number of new incoming non-litigious cases: on average 2.188 incoming cases per 100.000 inhabitants and 2.223 resolved cases per 100.000 inhabitants. These average indicators are very similar to those of litigious cases. Nevertheless, at the state or entity level, variations can be highlighted.

In several states, the number of incoming non-litigious cases is higher than the number of resolved cases, which in effect lead to a backlog: **Estonia** (31% more incoming cases than resolved cases), **Latvia** (18%), **Norway** (16%), **Finland** (5%) and **Albania** (5%). On the opposite hand, 4 states are reducing the already existing backlog from previous years: **Georgia** (there are 15% more resolved than incoming cases), **Bosnia and Herzegovina** (5%), **Serbia** (5%), **Montenegro** (5%). The other states or entities have reached a balance.

The states where the courts perform tasks related to registers are confronted with large numbers of non-litigious civil cases. This is especially true for: **Austria, Netherlands, Hungary, Estonia, Croatia, Poland, Finland**. The activity of registers might be a source of income for the courts (see Chapter 3.5 above).

9.4.3 Litigious and non-litigious civil (commercial) cases compared

The figure below provides information for 33 states or entities for which data on litigious and non-litigious cases were available. When data on litigious and non-litigious civil cases are compared among the states or entities, it appears that, at first instance, the court workload is heavily influenced by non-litigious cases in some states (entities), whilst in other states (entities), litigious cases constitute the main work of first instance courts; in these previously mentioned states, the part of activity which is directly assigned to the judges – solving a dispute - is much higher.

Figure 9.7 Part of 1st instance incoming civil (and commercial) litigious vs. non-litigious cases in 2008 (Q90)

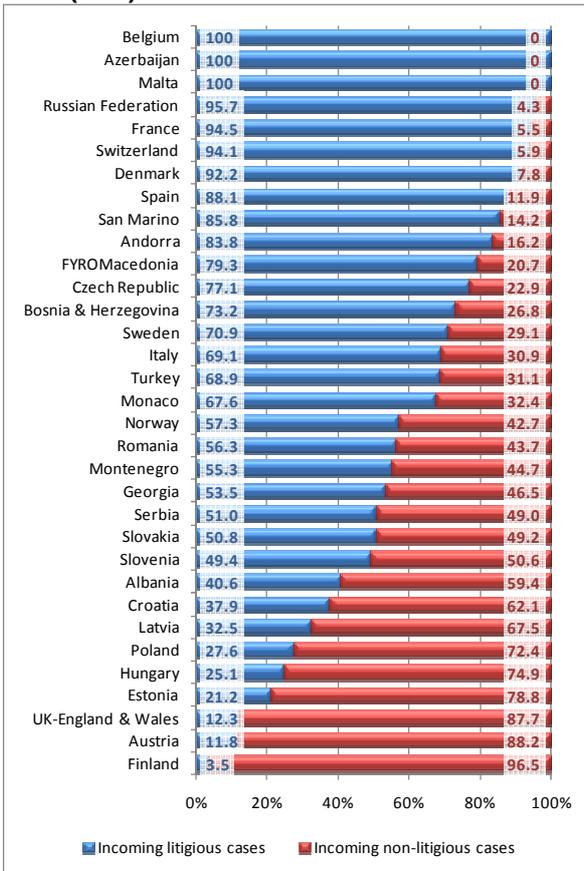
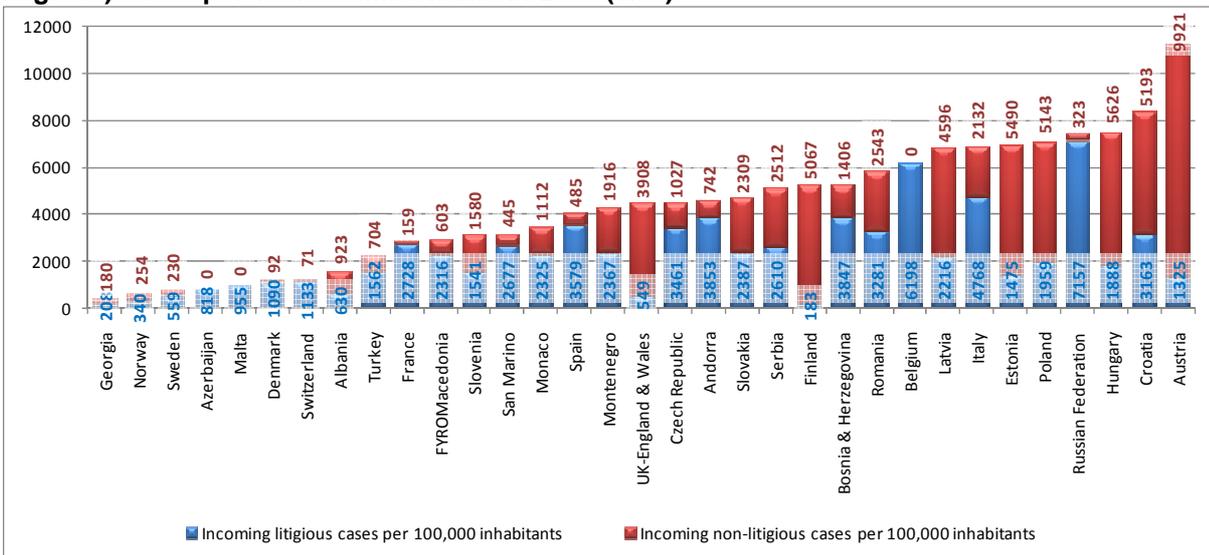


Figure 9.8 Number of 1st instance incoming civil (and commercial) litigious vs. non-litigious cases per 100.000 inhabitants. Part of *non-litigious* cases in the total number of civil (litigious and non-litigious) cases per 100.000 inhabitants in 2008 (Q90)



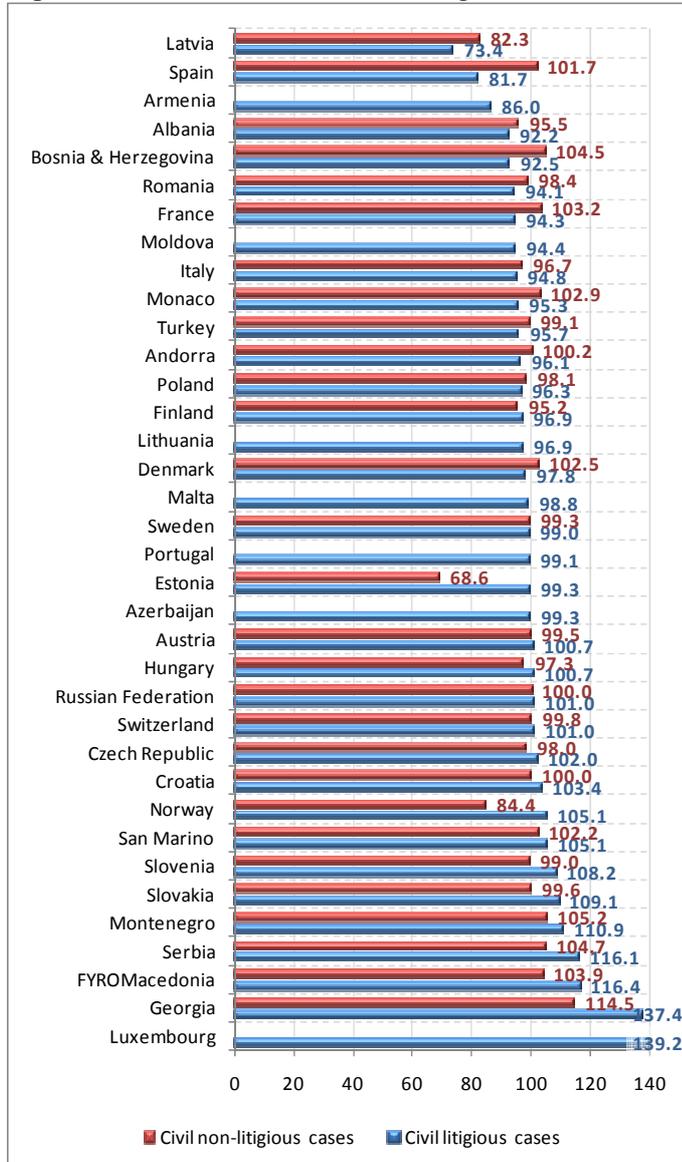
For 10 states or entities, the activity of the first instance court, as regards the volume of cases, mainly comes from non-litigious civil (and commercial) cases: **Finland, Austria, UK- England and Wales, Estonia, Hungary, Poland, Latvia, Croatia, Albania** and **Slovenia**. In other states, the significant volume of cases (more than 6.000 per 100.000 inhabitants) is mainly (**Italy**) or almost (**Russian Federation**) exclusively (**Belgium**) due to litigious cases.

Clearance rate

Calculating the clearance rate may enable to analyse the consequences of the volume and the allocation of civil (and commercial) cases on court activity (see the introduction of this chapter above).

The figure below is produced on the basis of data from 36 states or entities.

Figure 9.9 Clearance rate of civil *litigious* and *non-litigious* cases in 2008, in% (Q90)



12 states or entities have a clearance rate very close to or higher than 100 % for both litigious and non-litigious cases, which means that the first instance courts can cope yearly with the volume of pending cases both in litigious and non litigious matters. It is worth mentioning that **Croatia**, **Montenegro**, "**the former Yugoslav Republic of Macedonia**", **Serbia**, and **Slovenia** are all among these states; it might be interesting to study more in depth whether the fact that they used to have a common judicial system might be part of the explanation of these good performances. The positive court performance of the **Russian Federation** can be explained by the legal framework which determines deadlines for judicial proceedings and by the significant budgetary efforts invested in the judicial system within the last ten years to modernise it (see chapter 2 above). The performance of the courts in **Georgia**, **Slovakia**, **Switzerland** and **Sweden** can also be highlighted, while stressing the low volume of cases addressed by these courts, which can explain these results. The performance of **Austria** follows the same pattern, although **Austria** has to deal with a much higher volume of non-litigious cases. The noteworthy data from **San Marino** must be interpreted while keeping in mind the small number of inhabitants.

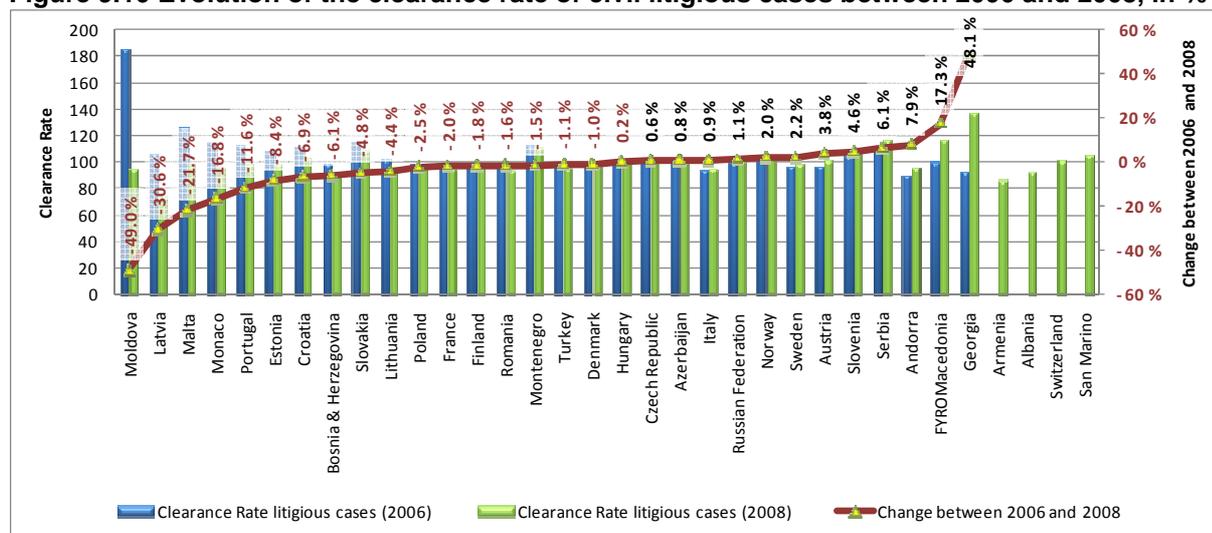
It must be noted that having a significant number of cases (litigious and non-litigious) does not automatically hamper the court performances. For **Austria** and **Croatia**, it might be concluded that having to address a

large volume of non-litigious cases does not impede the courts' performance. In the **Russian Federation**, where the first instance courts have to deal mainly with litigious cases, the court system remains productive as well. On the contrary, other judicial systems seem to suffer more from the volume of cases to address (in particular **Italy** or **Poland**).

Some judicial systems are more productive while addressing non-litigious cases than litigious cases, which seems natural as non-litigious cases do not have usually to follow complex procedures and can often be resolved quickly (**Bosnia and Herzegovina, France, Monaco, Denmark, Spain, Andorra**). It must also be noted that both the volume of non-litigious cases and the proportion of non-litigious cases in the volume of total civil (commercial) cases to be addressed by the courts remain limited in these states.

In **Norway** and mainly **Estonia**, first instance courts are more productive in addressing litigious cases than non-litigious cases. In **Norway**, this can be explained by the fact that the non-litigious cases are more time consuming than litigious cases, and in **Estonia**, by the fact that almost 80 % of the court case-load is made of non-litigious cases.

Figure 9.10 Evolution of the clearance rate of civil litigious cases between 2006 and 2008, in % (Q90)



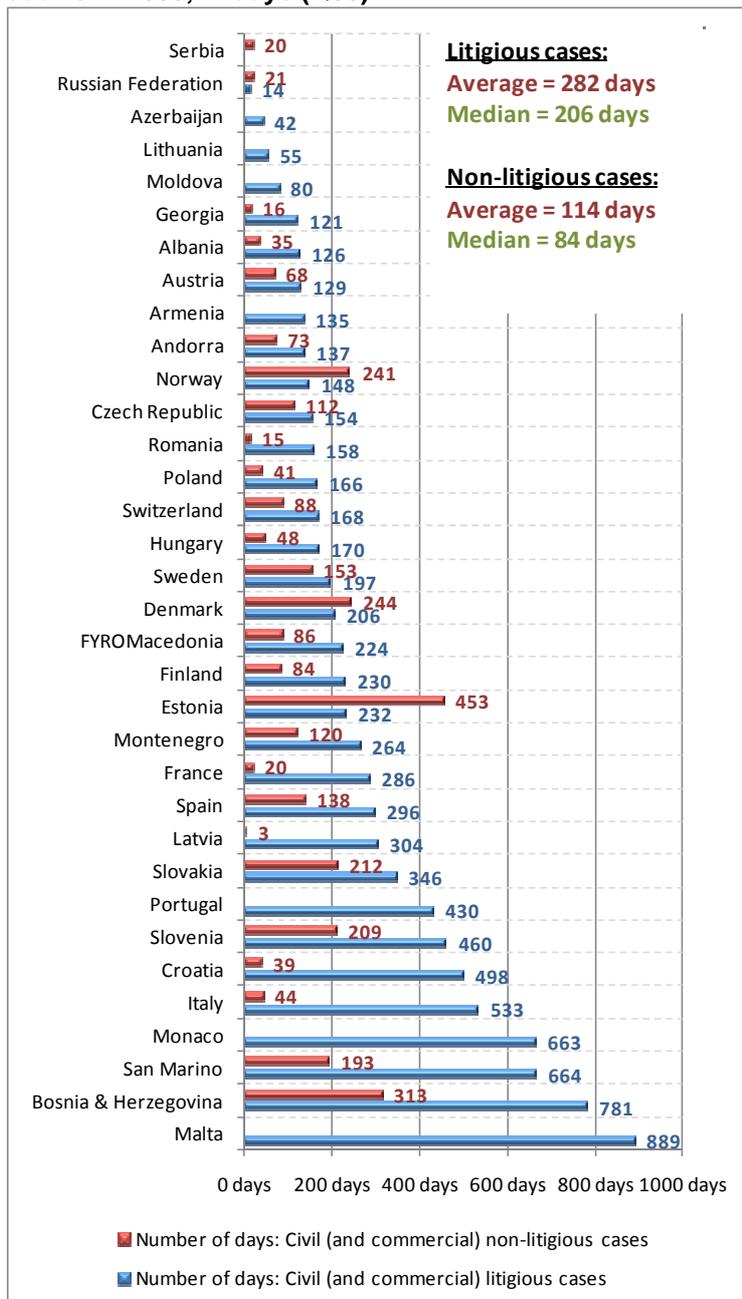
Considering the data available, it is possible to highlight the evolution of the clearance rate for litigious civil (commercial) law cases between 2006 and 2008 in 30 states.

In 18 of the 30 states concerned, the clearance rate of civil litigious cases in first instance remained relatively stable ($\pm 5\%$) when comparing 2006 and 2008 values. Other trends to be observed can be divided in two quite equal groups: negative trends can be noted in 18 states and positive trends are characteristic of 13 states. Major improvements of the first instance courts' performance in civil matters can be noticed in particular in **Georgia**, which might be explained by the implementation of structural reforms in the judicial systems. On the contrary, the trend has strongly decreased in **Moldova**, although the clearance rate (94,4%) remains better than in **Latvia** (73.4 %) which experienced significant negative trends as well. This can also be noted, to a lesser extent, for **Bosnia and Herzegovina** and **Lithuania**. In **Malta, Portugal, Estonia, Croatia, Slovakia**, the trend is decreasing, which might alter the performance of the relevant bodies, but the clearance rates remain positive (or very close to 100 %).

Calculated disposition time at first instance courts

The calculated disposition time measures how quickly the judicial system (or a court) disposes of received cases. It determines the number of days that are necessary to resolve the cases pending in first instance courts (see the specific definition in the introduction of this chapter).

Figure 9.11 Disposition time of litigious and non-litigious civil (and commercial) cases in 1st instance courts in 2008, in days (Q90)

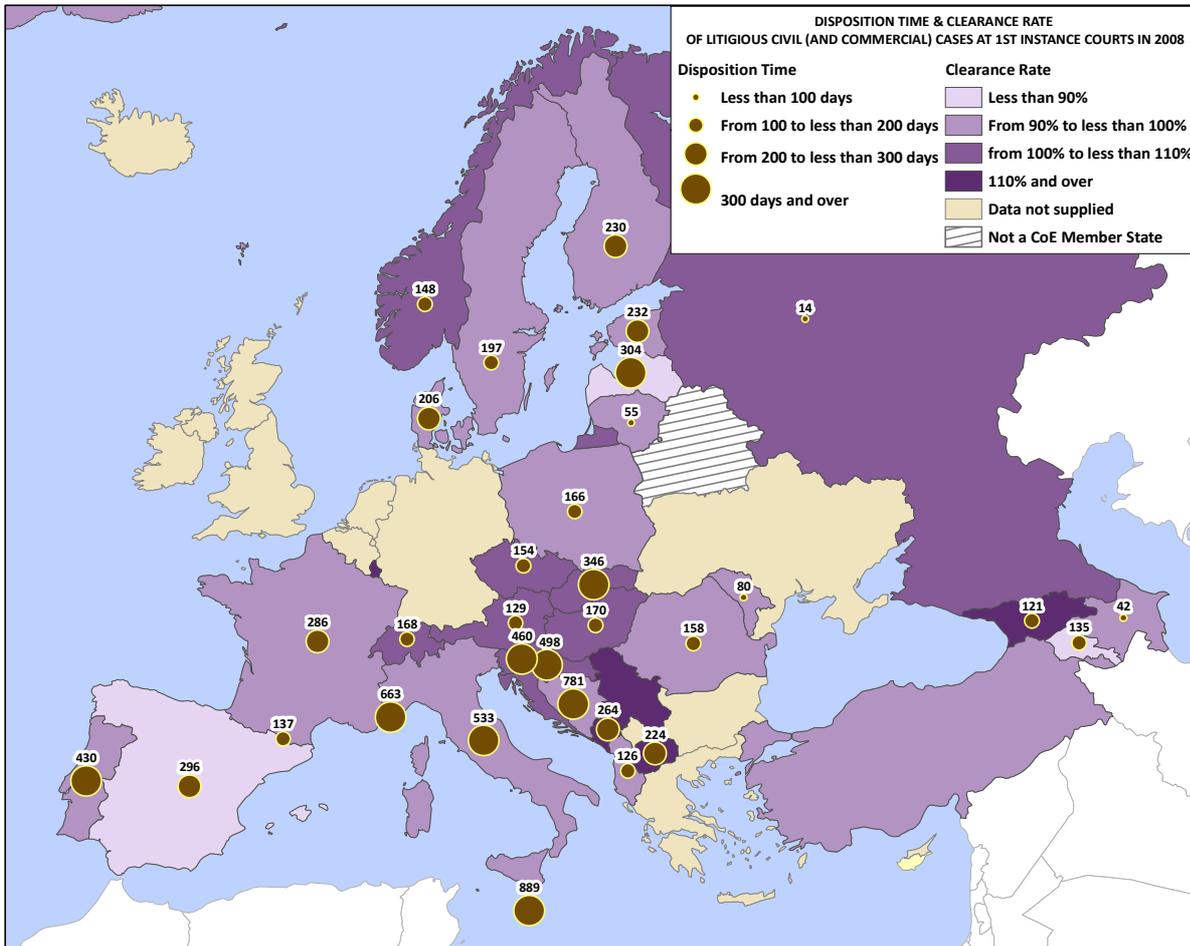


The figure above presents the disposition time (calculated in days) for 34 states. Important differences can be observed among the states. The number of days needed for resolving the totality of litigious cases in the 1st instance courts in 2008 varies from 14 days in the **Russian Federation** to 889 days in **Malta**. The states which have the highest indicators of disposition time for litigious cases (more than a year) are: **Portugal, Slovenia, Croatia, Italy, Monaco, San Marino, Bosnia and Herzegovina** and **Malta**. Apart from very few exceptions, the lowest indicators of disposition time for litigious cases can be observed in Eastern European states.

Logically, non-litigious cases are usually quickly resolved (generally at least twice as low than litigious cases). Exceptions can be observed in **Estonia, Denmark, Norway** and in the **Russian Federation**, where the time requested to resolve non-litigious cases is longer than for litigious cases. The same explanations as those given for the clearance rate (see above) can be given for **Denmark** and **Norway** (few litigious cases are addressed by the first instance courts) and **Estonia** (almost 80 % of the court case-load is made of non-litigious cases).

In the map below are presented the clearance rates for 36 states and the disposition time for 32 states. Numerical values displayed on the map represent the number of days (disposition time), for each state, needed to resolve the totality of litigious civil cases by the courts.

Figure 9.12 Disposition time and Clearance Rate of litigious civil (and commercial) cases at 1st instance courts in 2008 (Q90)



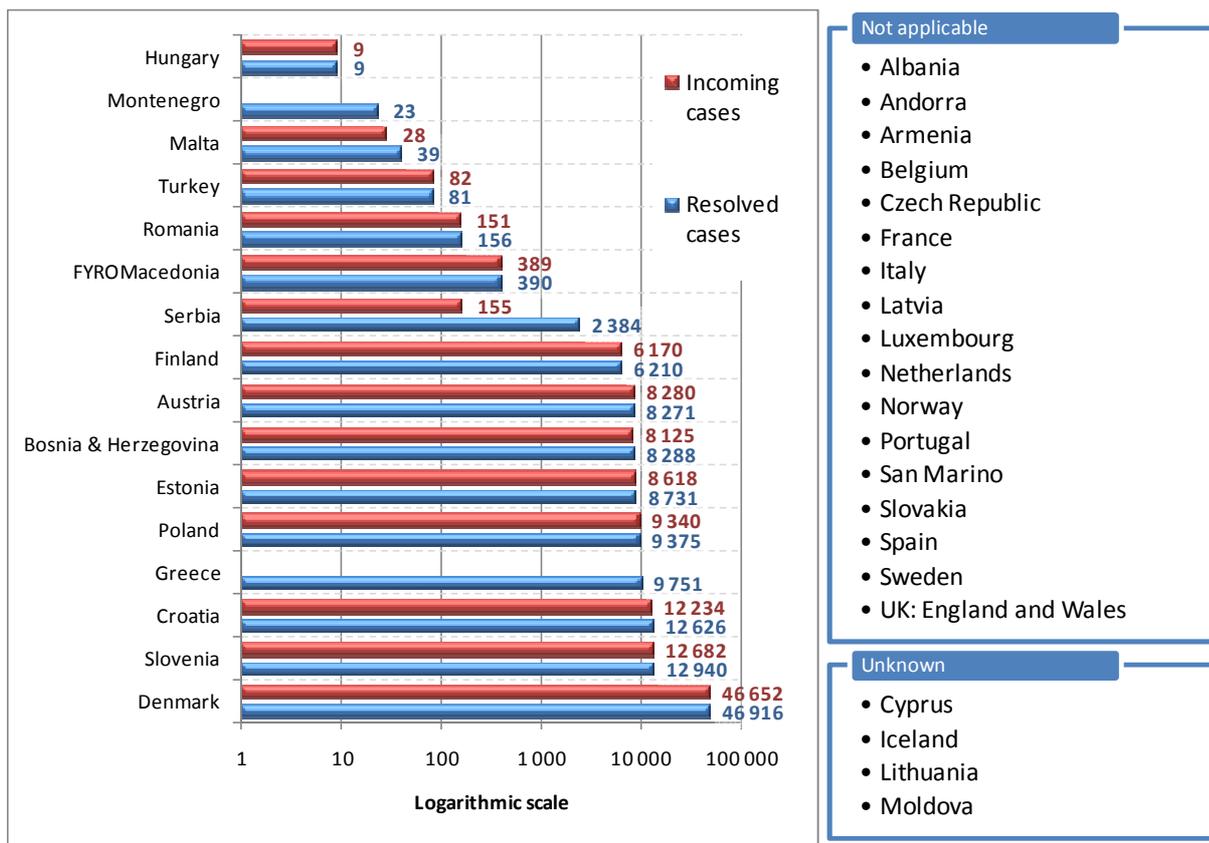
When reading the results presented in this map, the most productive civil (and commercial) first instance court systems, which do not generate backlogs (clearance rate equal to or higher than 100 %) and can quickly resolve a filed case, can be found in the **Russian Federation** and **Georgia**. The indicators show that **Azerbaijan, Austria, Norway, Czech Republic, Switzerland, Hungary** and **Sweden** have relatively productive first instance civil (commercial) courts. On the contrary, the first instance courts have more difficulties in resolving the incoming cases in **Latvia** and **Spain**. Regarding **Spain**, although the rates for 2008 increased by 6,4% and 6,9% respectively for civil and commercial cases when compared to 2007, such positive evolution was not sufficient to cover the effects of a prolonged strike of court staff that took place in 2008 in an environment of significant increase in incoming civil (19,5%) and commercial cases (26,7%) running parallel with the beginning of the economic crisis, which required additional measures.

Of the 9 states which have the highest disposition rates, only 3 (**Slovakia, Slovenia** and **Croatia**) have clearance rates equal to or higher than 100%. 6 other states (**Latvia, Portugal, Italy, Monaco, Bosnia and Herzegovina** and **Malta**) have not reached a 100% clearance rate for civil litigious cases.

9.5 Land register cases

The absolute numbers of land register cases at first instance courts in 2008 appear in the Appendix.

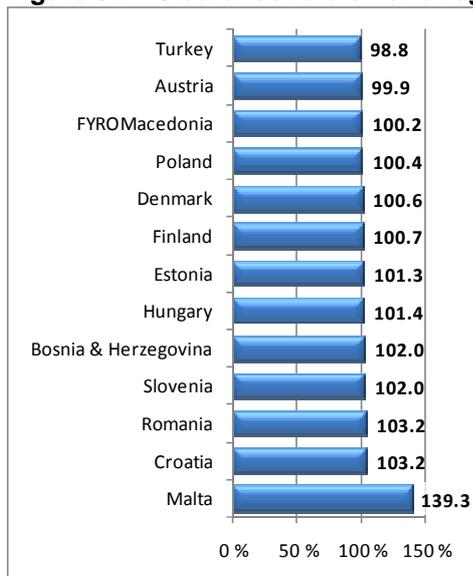
Figure 9.13 Number of 1st instance incoming and resolved land register cases per 100 000 inhabitants in 2008 (Q90)



16 states were able to specify data on land register cases. 17 other states or entities explicitly stated that this category of cases was not to be dealt by first instance courts.

For **Hungary, Montenegro, Malta, Turkey, Romania, "the former Yugoslav Republic of Macedonia"**, land register cases only constitute a small share of civil courts' activity. They are an important proportion of the court case-load in **Denmark**.

Figure 9.14 Clearance rate of land register cases in 2008 (Q90)



Comment

Serbia: data was excluded from these calculations, as it seems there could be a problem of validity of one of the (incoming or resolved) values.

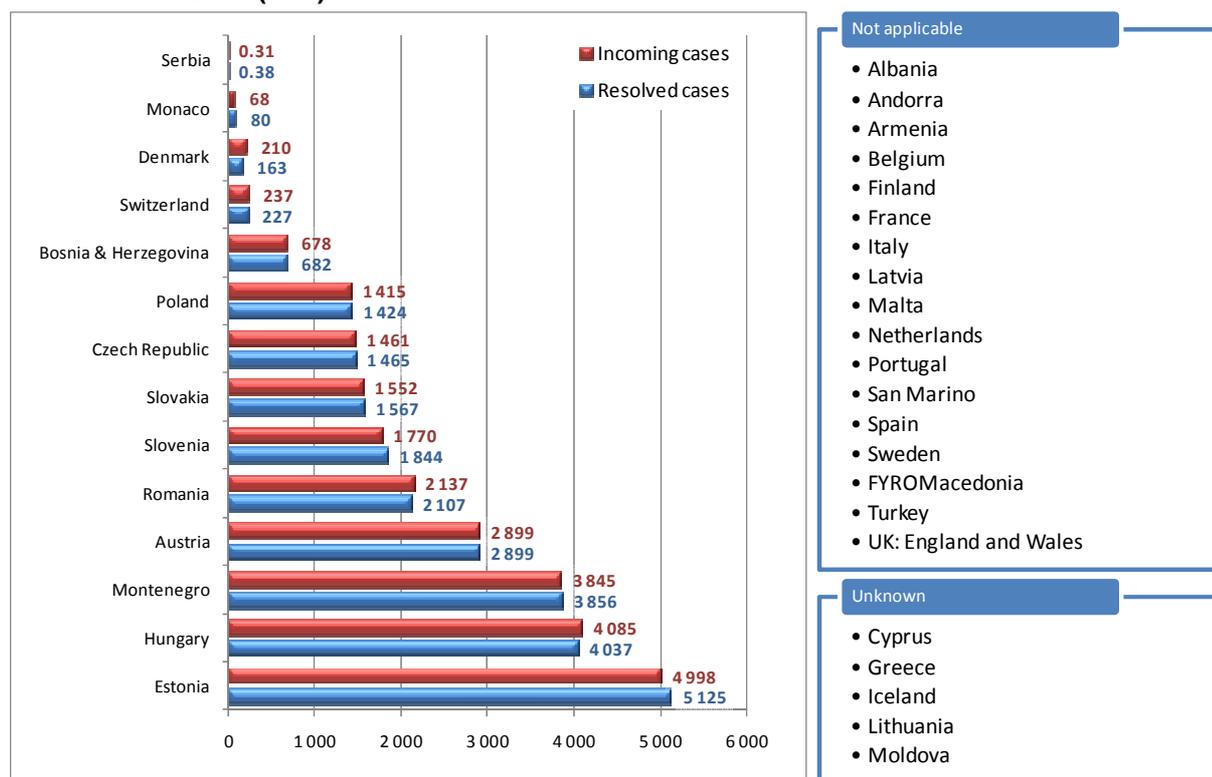
This information enables to measure the importance of land register cases in the court activity and, therefore, the number of non-judge staff allocated to such duties.

The case-load composed of land register cases is not a problem for the responding states, as all the courts are able to cope with the volume of cases (the clearance rate is very close to or higher than 100 %), which is normal as this concerns essentially the registration of property titles and the delivering of certificates in systems which are increasingly computerised. It is important for citizens that such files be addressed promptly. The high value for **Malta** (clearance rate of 139%) should be related to the low absolute number of land register cases (117 incoming and 163 resolved).

9.6 Business register cases

The absolute numbers of business register cases at first instance courts in 2008 appear in the Appendix.

Figure 9.15 Number of 1st instance incoming and resolved business register cases per 100.000 inhabitants in 2008 (Q90)



Comment

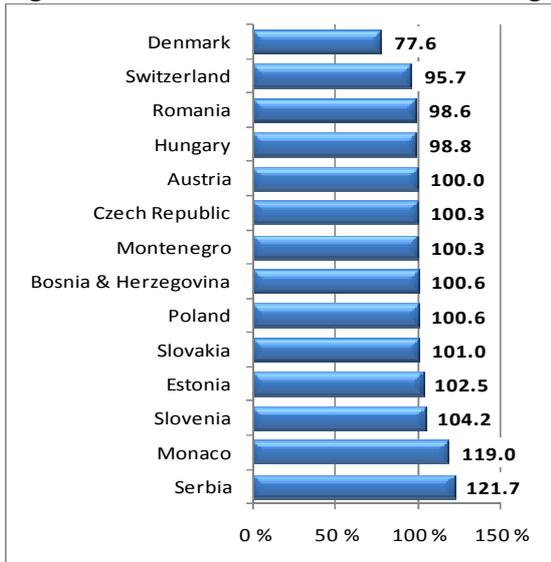
Switzerland: civil courts deal only with disputes regarding the commercial registry; mutations in the registry (registration, modification, deletion) are transactions that do not concern the courts but the administration of the commercial registry which depends on the Department of Justice (Federal Office of Justice).

14 states were able to specify data on business register cases. 17 other states or entities explicitly stated that this category of cases was not to be dealt by first instance courts.

This concerns essentially registering cases and the delivery of certificates, which are increasingly managed electronically. The timeframes must improve, as this issue is at stake for contractors and for the development of economy. More and more states are abandoning paper (land and commercial) registers for electronic registers (@justice programmes). This evolution currently leads to important changes in several Eastern European states.

For **Serbia, Denmark, Switzerland**, business register cases do not constitute an important proportion of the civil courts' activity. They are a major share of the court activity in **Estonia, Hungary, Montenegro**.

Figure 9.16 Clearance rate of business register cases in 2008, in % (Q90)

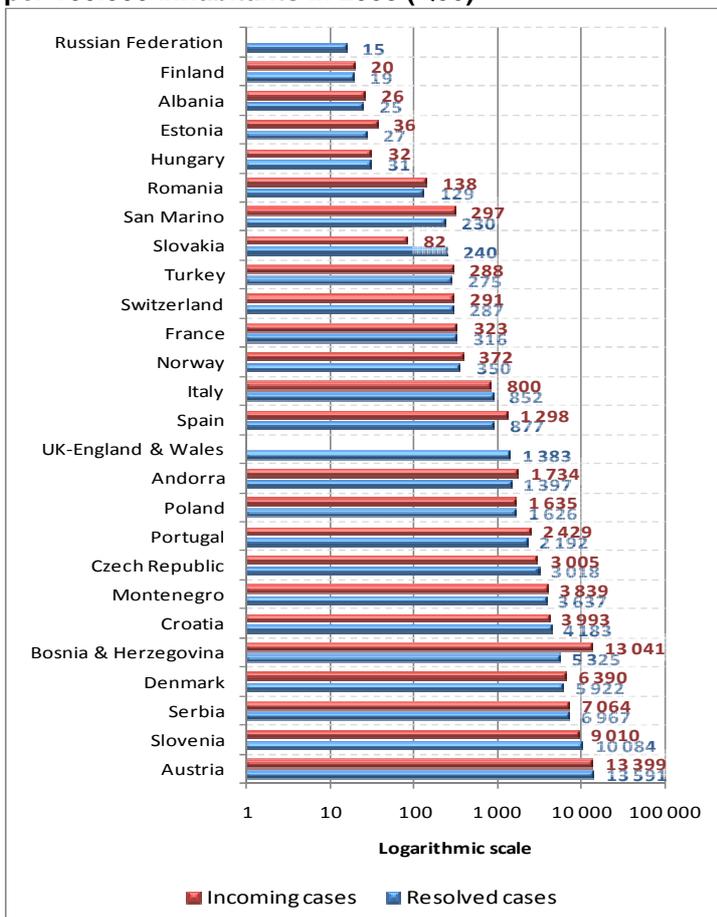


For most of the responding states, business registers' cases are not a problem for first instance courts. The exception of **Denmark** can be stressed; however, this information is not significant considering the very low number of cases addressed.

9.7 Enforcement cases (non-criminal litigious cases)

The absolute numbers of enforcement cases (in non-criminal matters) at first instance courts in 2008 appear in the Appendix.

Figure 9.17 Number of 1st instance incoming and resolved enforcement cases (non-criminal matters) per 100.000 inhabitants in 2008 (Q90)



Comment

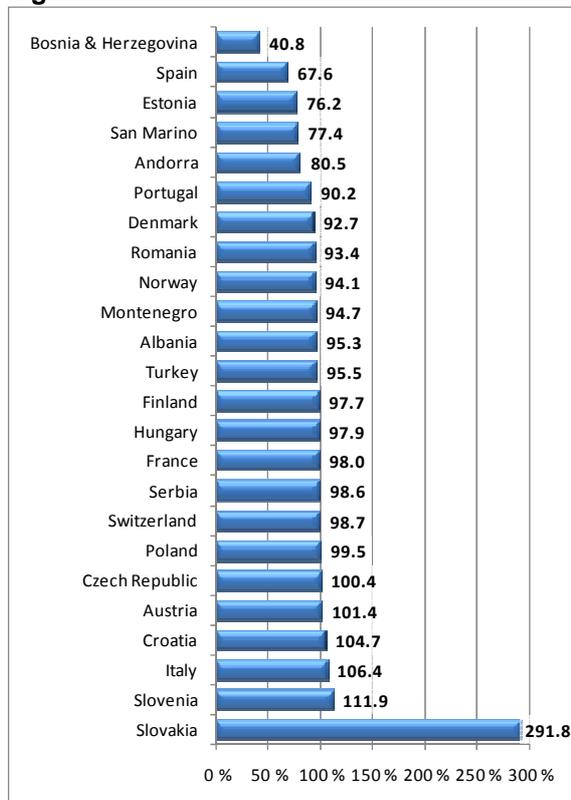
"the former Yugoslav Republic of Macedonia": data has been excluded from the figure presented above. The reason for this exclusion is that, during 2008, a system of bailiffs (execution agents) was introduced in this state. Consequently, a large proportion of the enforcement cases has been forwarded to these agents. Courts continued to deal with a small proportion of old pending enforcement cases. In order to ensure the accuracy of the comparisons, the rate of incoming cases (78 per 100.000 inhabitants) and resolved cases (7.313 per 100.000 inhabitants) have been removed from the figure. Moreover, it was stated that there is a project to forward the totality of enforcement cases from courts to the enforcement agents before 1 July 2011.

27 states or entities were able to specify data on enforcement cases.

Differences between the states or entities can namely be explained by significant differences in the legislations, which may or may not facilitate judicial review against the principle according to which a first instance judicial decision can be immediately enforced, and/or which may or may not favour mandatory timeframes before enforcement by force.

For the **Russian Federation, Finland, Albania, Estonia, Hungary**, enforcement cases do not constitute a main component of the activity of the civil courts. They are a main proportion of the court activity in several states of central Europe and South-eastern Europe (**Austria, Bosnia and Herzegovina, Slovenia, Serbia**).

Figure 9.18 Clearance rate of enforcement cases (non-criminal matters) in 2008, in % (Q90)



Clearance rate was calculated for 25 states. On average, this indicator is 100% for the group of states presented in the figure. Addressing in due time the volume of cases is a difficulty in several states, where the backlogs are increasing. The low clearance rate in **Bosnia and Herzegovina** seems to be due to a massive increase in incoming cases, which might be explained by changes in the legal framework; the CEPEJ does not have information to identify whether this is due to a coincidence of factors or to structural change. A low clearance rate can also be noticed in particular in **Spain** and **Estonia** (however, data is not relevant regarding the low number of cases concerned in **Estonia** and considering the disruption caused by a strike in personnel of the justice administration in **Spain**), and the majority of the responding states have experienced an increasing backlog in this field. The very high rate of **Slovakia** must be related to the very low number of cases concerned, and no useful conclusion can be drawn (the same situation was already observed in 2006).

The clearance rate of enforcement cases in "the former Yugoslav Republic of Macedonia" in 2008 was about 9.365%. This value was excluded from the figure, because of the particular transitory situation (enforcement cases managed by the courts are forwarded *en masse* to the enforcement agents), therefore

courts continued to deal with a very small part of incoming cases, and completed a significant proportion of the old pending cases.

In order to isolate the first instance court performance as regards the specific workload tied with registers and enforcement cases, a specific table shows the disposition time indicator for these three case categories, for 27 states for which relevant data is available.

Table 9.19 Disposition time of enforcement, land register and business register cases at 1st instance courts in 2008, in days (Q90)

Country	Enforcement cases	Land register cases	Business register cases
Albania	88	NAP	NAP
Andorra	573	NAP	NAP
Austria	88	8	
Bosnia and Herzegovina	2 668	71	37
Croatia	208	69	
Czech Republic	17	NAP	11
Denmark	104		207
Estonia	260	12	75
Finland	122	14	NAP
France	89	NAP	NAP
Hungary	105	123	10
Italy	368	NAP	NAP
Malta		1 870	NAP
Monaco			234
Montenegro	266		1
Norway	187		
Poland	54	58	14
Portugal	1 588	NAP	NAP
Romania	140	201	6
San Marino	740	NAP	NAP
Serbia	291	107	52
Slovakia	214	NAP	39
Slovenia	503	84	5
Spain	1 176	NAP	NAP
Switzerland	59		61
Turkey	119	515	NAP
Average	418 days	261 days	58 days
Median	197 days	78 days	37 days

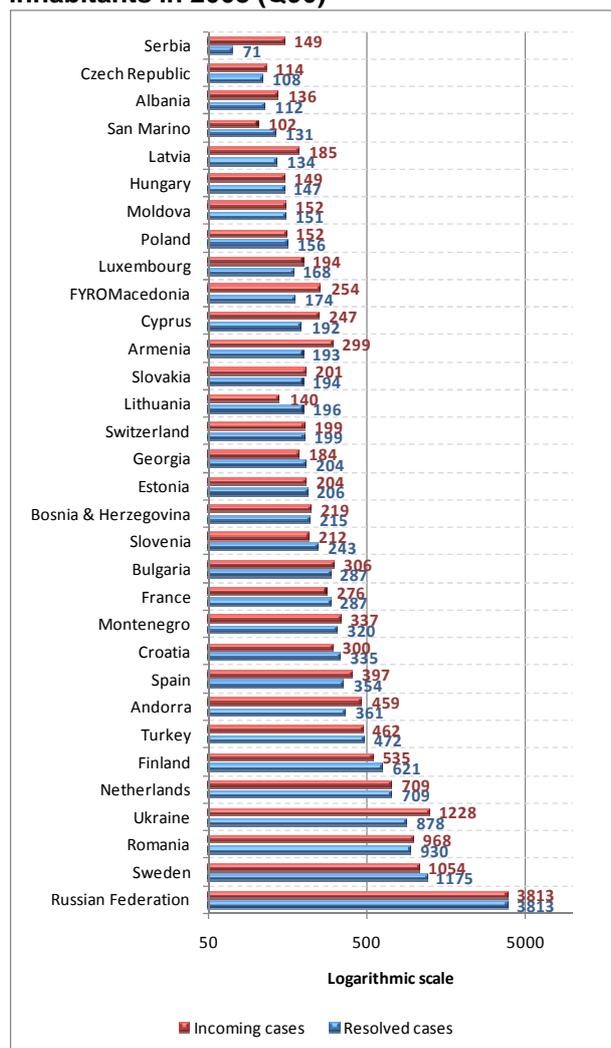
Significant discrepancies can be noted between the states concerned. Half of the 27 responding states take more than 208 days for resolving an enforcement case, more than 78 days for resolving a land register case and more than 37 days for resolving a business register case. Very high figures for enforcement cases can be highlighted for **Bosnia and Herzegovina**, **Portugal** and **Spain** and for Land register cases in the case of **Malta**. Regarding **Spain**, this is linked to a prolonged strike of court personnel that took place in 2008. For **Malta**, the resolving rate is very positive, but the number of pending cases at the end of the period is five times higher than the number of resolved cases (163 and 835 respectively).

9.8 Administrative law cases

Disputes between a citizen and the government can be settled as civil law proceedings. However, in a number of states, administrative law is a separate area of law. The settlement of these disputes can be within the competence of specialised administrative law tribunals or units within a court of general jurisdiction. Administrative law cases are addressed here separately in order to take into account the systems which have either a specific judicial order or specific ways of addressing administrative cases within the ordinary courts.

The absolute numbers of administrative law cases at first instance level in 2008 appear in the Appendix.

Figure 9.20 Number of 1st instance incoming and resolved administrative law cases per 100.000 inhabitants in 2008 (Q90)



Comments

Bosnia and Herzegovina: most of the administrative law cases of first instance are dealt with by 2nd instance courts. There is only *one* 1st instance court in Bosnia and Herzegovina assigned to resolve administrative cases in first instance, whereas there are 15 second instance courts competent to deal with such cases. Therefore, in the figure above have been used the number of cases treated by the 2nd instance courts which are in charge of 1st instance administrative law cases.

Malta: the administrative tribunal was set up in 2009.

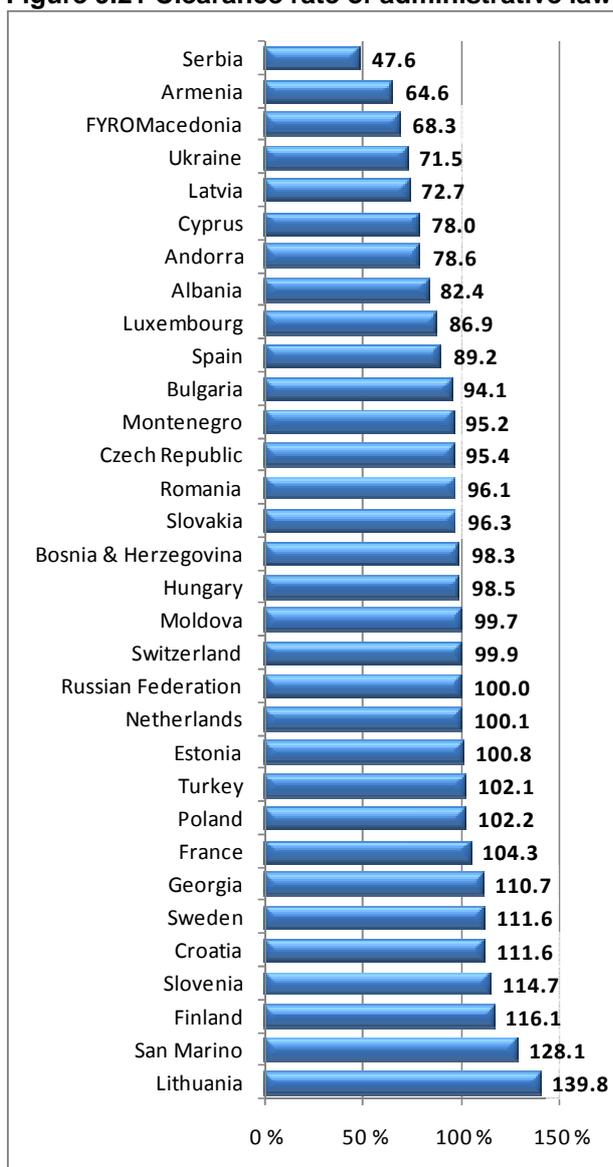
32 states were able to specify data on administrative law cases. 4 states or entities stated that administrative law cases were not gathered into a separate category: **Austria, Italy, Ireland and UK-England and Wales.**

The case load of administrative law cases differ according to the states concerned:

- in 4 states the courts address more than 1.000 cases per 100.000 inhabitants: **Russian Federation, Sweden, Romania and Ukraine,**
- high rates (between 200 and 1.000 cases per 100.000 inhabitants) can also be observed in the **Netherlands, Finland, Turkey, Andorra, Spain, Croatia, Montenegro, France, Bulgaria, Slovenia, Estonia, Georgia, Switzerland, Lithuania, Slovakia, Armenia, Cyprus** and "the former Yugoslav Republic of Macedonia",
- the volume of administrative law cases is much more limited (less than 200 cases per 100.000 inhabitants) in **Luxembourg, Poland, Moldova, Hungary, Latvia, San Marino, Albania, Czech Republic, Serbia,** where administrative law cases are limited to specific types of disputes between public authorities and individuals,
- **Bosnia and Herzegovina** experiences a very high number of administrative law cases, which might be explained by the structural features of the courts. It is possible that a proportion of the cases included among first instance cases are in fact second instance cases. Nevertheless, there is no special

information on the cases actually considered as first instance, because the second instance courts are also competent in dealing with these cases.

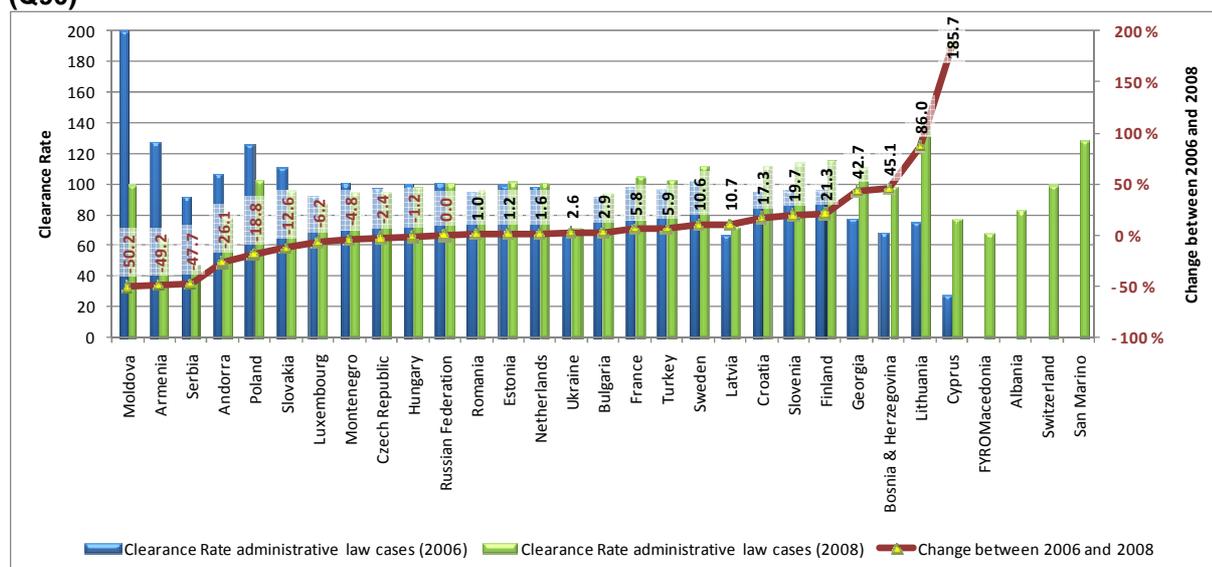
Figure 9.21 Clearance rate of administrative law cases in 2008, in % (Q90)



In half of the responding states, backlogs are increasing in first instance courts dealing with administrative law cases. The very low data for **Serbia** are not significant considering the very low absolute number of cases concerned. The states with positive clearance rates are mainly those which experience significant volumes of cases addressed by the courts.

A more precise analysis should take into account the specificities of the judicial systems for administrative law, specifying those states which have specific judicial orders for administrative law (namely **Armenia, Bulgaria, Croatia, Czech Republic, Finland, France, Lithuania, Luxembourg, Poland, Sweden, Switzerland, Turkey**), and the other states where administrative law cases are addressed by ordinary courts. Most of the states which have a specific judicial order have a positive clearance rate; among this group, a clearance rate below 100 % can be noted only in **Bulgaria, Czech Republic** and **Luxembourg**. In **Armenia**, the new administrative court system started only on 1 January 2008. The states which experience difficulties to cope with the volume of cases are mainly found within the categories of states which do not have specific judicial orders for administrative law. However, it cannot be concluded that a system would be more productive than another one: some of these states are able to cope with large volumes of administrative law cases, such as the **Russian Federation**.

Figure 9.22 Evolution of the clearance rate of administrative law cases between 2006 and 2008, in % (Q90)



It was possible to measure the evolution of the clearance rate for administrative law cases between 2006 and 2008 in 27 states. The values for **Albania**, **San Marino**, "the former Yugoslav Republic of **Macedonia**" and **Switzerland** are presented only for information purposes, because 2006 data is missing.

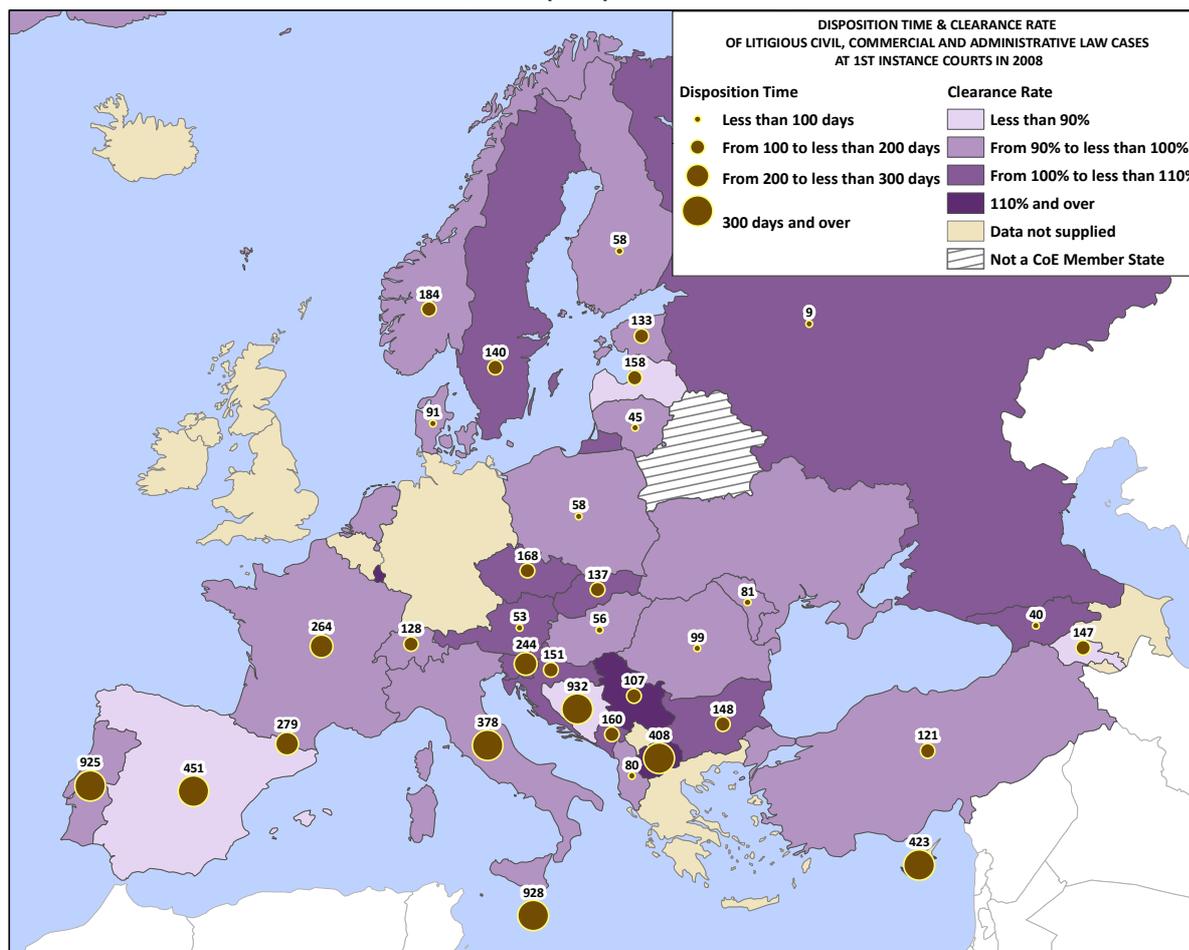
When analysing the results from the figure above, important variations can be noticed in the trend of this clearance rate. A decreasing clearance rate can be noted in 11 of the responding states: this trend can be considered as problematic as regards the functioning of the court system in **Slovakia**, **Luxembourg**, **Montenegro**, **Czech Republic**. In **Armenia**, this trend might be explained by the new system of administrative courts which started in January 2008. In spite of the negative trend, the clearance rate remains positive (or close to 100 %) and can be considered as meriting continued attention in the case of **Moldova**, **Andorra**, **Poland**, **Hungary**. The ratios are not significant as regards **Serbia**, considering the low absolute numbers of cases considered. Positive trends can be observed in 17 states. Important evolutions can be highlighted in **Cyprus**, where the clearance rate rose from 27.3% in 2006 to 78% in 2008, while remaining a difficulty for the court systems, as backlogs are still increasing, though less rapidly. This encouraging trend is similar, to a lesser extent, in **Ukraine**, **Bulgaria** and **Latvia**. **Georgia** and **Lithuania** are considerably improving the clearance rates of administrative law cases.

9.9 Clearance rate for the total number of non-criminal cases

The figure below shows how the first instance non-criminal courts in Europe are able to cope with case flows in civil, commercial and administrative law matters.

The figure concerns 39 states, as data is missing for **Azerbaijan**, **Belgium**, **Greece**, **Iceland**, **Ireland**, **UK-England and Wales**, **UK-Northern Ireland** and **UK-Scotland**.

Figure 9.23 Clearance rate and disposition time of the total number of 1st instance civil, commercial and administrative law cases in 2008, in % (Q90)



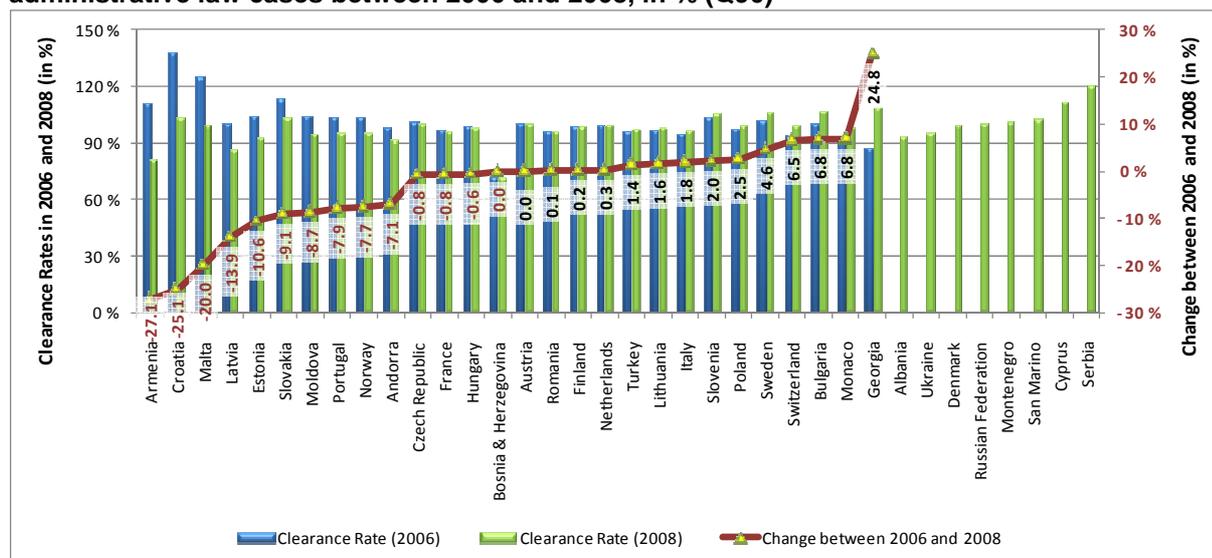
Denmark: land register cases are not included in the calculation of the Clearance Rate neither in the calculation of the Disposition Time.

On average, at the European scale, first instance courts are able to deal with the volume of other than criminal cases. The average clearance rate value for the 39 responding state is about 106%, and the median value is about 100%.

The high value given for "**the former Yugoslav Republic of Macedonia**" (257%) can be explained by a specific transitional period and results from changes in the way of addressing enforcement cases (during the transition period between two systems, only a few new cases were filed before the courts). The value indicated for **Luxembourg** (clearance rate of 242%) must be interpreted with caution, as the CEPEJ does not have information enabling to explain it.

A majority of European states, taken individually, are able to cope with the volume of non-criminal cases at first instance. The main difficulties can be highlighted in **Bosnia and Herzegovina** (clearance rate of 71.4%), **Spain** (80,7%), **Armenia** (81%) and **Latvia** (86,5 %). This does not necessarily reflect a lower productivity of courts: for example, in **Spain**, where the percentage of resolved non-criminal cases increased, there was also a high increase in the incoming cases and the impact of a prolonged strike of court staff during 2008. In **Portugal**, the disposition time in non-criminal law is mainly influenced by the enforcement cases.

Figure 9.24 Evolution of the clearance rates of the total number of 1st instance civil, commercial and administrative law cases between 2006 and 2008, in % (Q90)



The evolution of the clearance rate between 2006 and 2008 was measured for 28 states. 9 other states are presented only for information purposes, as no trend can be calculated due to the lack of reliable 2006 data. **"The former Yugoslav Republic of Macedonia"** experienced an increase of 150% between 2006 and 2008, and, as already mentioned above, some important changes in the counting method probably were made. The clearance rate for this state amounted to 257% in 2008. In order to ensure the accuracy of the comparisons among other states, and because of the lack of additional information on the changes in the counting rules, this value was excluded from the figure.

The clearance rate is decreasing in 14 of the 29 responding states. For some of them, this decrease might be explained by exceptional measures taken previously to cope with court backlogs, like in **Croatia**. This negative trend can be considered only as requiring continued observation in those states which nevertheless keep a clearance rate close to or higher than 100 %: **Croatia, Malta, Slovakia, Czech Republic, Hungary**. This trend must be considered more seriously in the other states which experience a negative trend, in particular in **Armenia, Latvia, and Estonia** where the decrease is higher than 10 %.

Among the group of states with positive trends, it must be noted that this encouraging trend remains insufficient to prevent backlogs in **Bosnia and Herzegovina, Romania, Turkey** and **Italy**. "Green lights" can be seen in the other states, in particular **Georgia**, where the structural reforms of the judicial systems seem to give results.

9.10 Criminal law cases (severe criminal offences) and misdemeanour cases (minor offences) at 1st instance courts

In the Evaluation scheme, states or entities were asked to submit information concerning criminal law cases. These cases are categorized by the CEPEJ into two types corresponding to the way of classifying in a majority of member states or entities: *severe criminal cases* and *minor offences (misdemeanours)*. Examples of severe criminal cases are: murder, rape, organised crime, fraud, drugs trafficking, trafficking of human beings, etc. Minor offences may be shoplifting, certain categories of driving offences, disturbance of the public order, etc. However, it should be noted that for both types of cases there is a possibility that states classify criminal law cases in a different manner. For instance, there may be states where small traffic offences are not part of the criminal law, but are dealt with by administrative law. Furthermore, what is defined as a minor offence or a misdemeanour in a given state or entity can be a severe criminal case in other states or entities.

The CEPEJ has decided to use the same terminology and definitions as used in the "European Sourcebook of Crimes and Criminal justice". The total number of criminal offences includes all offences defined as criminal by any law, including traffic offences (mostly dangerous and drink driving). Criminal offences include acts which are normally prosecuted by the public prosecutor, whereas offences which are prosecuted directly by the police, such as minor traffic offences and certain breaches of public order are not included.

Due to the high variation in the classifications used in criminal cases by the various states, the data presented should be interpreted with care, since the figures provided may not reflect the real situation in a

state. However, to better understand the main trends in Europe, a distinction between minor criminal offences and severe criminal acts is necessary, since for minor criminal offences, shorter court proceedings and/or other details of the treatment of a case (the imposition of an administrative fine, a sanction imposed by a public prosecutor without the intervention of a judge, police sanctions, etc) may be used, compared with severe criminal cases. Special tribunals, courts or judges can also be competent for small criminal offences (for example, misdemeanour courts, police courts or police judges, administrative tribunals). In addition, there may be the possibility to use mediation for minor criminal offences.

The absolute numbers of criminal cases at first instance level in 2008 appear in the Appendix.

This figure provides information for 31 states or entities. For several states, it was impossible to calculate the rate per 100.000 inhabitants because the categorisation in severe criminal offences and misdemeanour cases cannot be applied (this is the case of **Bulgaria, Czech Republic, Finland, Ireland, Lithuania, Moldova, Norway and Slovakia**).

Figure 9.25 Number of incoming criminal cases (severe criminal offences) and misdemeanour cases (minor offences) in first instance courts. Absolute figures and per 100.000 inhabitants, in 2008 (Q90)

Country	Total number of criminal cases	Number of severe criminal offences' cases	Number of misdemeanour and/or minor offences' cases	Per 100,000 inhabitants		
				Total	Severe criminal offences	Misdemeanour and/or minor offences
Albania	7 365	83	7 282	232.3	2.6	229.7
Andorra	4 590	257	4 333	5433.0	304.2	5128.8
Armenia	2 994	1 321	1 673	93.6	41.3	52.3
Austria	59 812	24 782	35 030	717.5	297.3	420.2
Azerbaijan	14 910	1 752	13 158	172.8	20.3	152.5
Belgium		44 015			412.6	
Bosnia and Herzegovina	242 057	83 962	158 095	6299.9	2185.2	4114.6
Bulgaria	26 295			344.2		
Croatia	365 311	41 012	324 299	8237.9	924.8	7313.1
Cyprus	93 170			11691.6		
Czech Republic	103 329			990.7		
Denmark	106 720	14 525	92 195	1948.9	265.3	1683.7
Estonia	33 550	19 984	13 566	2502.0	1490.3	1011.7
Finland	65 244			1230.9		
France	1 124 074	610 674	513 400	1758.1	955.1	803.0
Georgia	15 184	1 986	13 198	346.5	45.3	301.2
Hungary	262 113	137 541	124 572	2609.3	1369.2	1240.1
Italy	1 504 521	1 280 282	224 239	2523.5	2147.4	376.1
Latvia	38 085	12 394	25 689	1677.1	545.8	1131.2
Lithuania	16 472			490.0		
Luxembourg	49 441			10049.0		
Malta	15 373	25	15 348	3716.8	6.0	3710.8
Moldova	9 912			277.4		
Monaco	891	40	851	2864.7	128.6	2736.1
Montenegro	26 025	8 501	17 524	4196.6	1370.8	2825.8
Netherlands	499 847	220 634	279 213	3046.8	1344.9	1702.0
Norway	15 673			330.9		
Poland	961 869	496 855	465 014	2522.2	1302.9	1219.4
Portugal	144 852	116 178	28 674	1364.3	1094.2	270.1
Romania	171 119			794.8		
Russian Federation	1 124 000	347 000	776 000	791.5	244.4	546.4
San Marino		524			1675.8	
Serbia	60 447	6 049	54 398	822.4	82.3	740.1
Slovakia	37 593			696.0		
Slovenia	97 885	19 386	78 499	4831.8	956.9	3874.8
Spain	1 266 284	345 707	920 577	2796.4	763.4	2032.9
Sweden	83 037			904.3		
Switzerland	79 166	17 966	61 200	1027.9	233.3	794.6
FYROMacedonia	141 039	14 885	126 154	6896.2	727.8	6168.4
Turkey	1 716 821	796 920	919 901	2400.6	1114.3	1286.3
Ukraine	522 332			1127.2		
UK-England and Wales		131 696			241.9	
UK-Scotland	112 804	6 130	106 674	2182.5	118.6	2063.9

Country	Total number of criminal cases	Number of severe criminal offences' cases	Number of misdemeanour and/or minor offences' cases	Per 100,000 inhabitants		
				Total	Severe criminal offences	Misdemeanour and/or minor offences
Average				2573.5	723.0	1926.1
Median				1717.6	545.8	1229.7
Minimum				93.6	2.6	52.3
Maximum				11691.6	2185.2	7313.1

Comments

Albania: minor offences cases are cases with pecuniary penalties or prison up to a maximum of 2 years; all other cases are severe criminal cases.

Austria: from the 24.630 decisions on the merits in severe criminal cases, 20.496 had written verdicts. From the 40.908 decisions on the merits in misdemeanour cases, 23.192 had written verdicts.

Belgium: severe criminal cases do not include cases related to the protection of minors and the cases addressed by the advisory chambers. The resolved cases are the cases terminated for at least one individual concerned. Misdemeanour cases concern cases addressed by police courts.

Bosnia and Herzegovina: minor offences are violations of public order or regulations on economic and financial operations punished by fines, deferred sentences, reprimands, and protective measures. Small traffic offences are also included.

Estonia: the number for criminal and misdemeanour cases show all the cases solved under the Code of Criminal Procedure and Code of Misdemeanour Procedure, which means that the data does not only show the cases where a conviction is made, but also other procedures such as appealing against decisions of bodies conducting extra-judicial proceedings, substitutions of fines by detention, premature release of convicted persons, preliminary investigation, international cooperation, legal aid. Criminal cases are offences for which the principal punishment for natural persons is a pecuniary punishment or imprisonment and, for legal persons, a pecuniary punishment or compulsory dissolution. Misdemeanour cases are offences for which the principal punishment is a fine or detention.

France: misdemeanour cases include sentences by the police courts and justice of the peace courts (*tribunaux de proximité*).

Italy: the split between severe and minor criminal offences is obtained by classifying the criminal cases treated by the Judge of Peace in the minor criminal offences' category.

Latvia: misdemeanour cases are cases heard at first instance in district (city) courts according to the Administrative Code procedure.

Moldova: misdemeanour cases are offences punished up to 2 years' imprisonment.

Montenegro: under misdemeanour cases are included two categories: requests to initiate misdemeanour proceedings and requests of other bodies for execution of a sanction, safeguard measures and correctional measures ruled in misdemeanour proceedings, as well as costs of misdemeanour proceedings, and requests for execution made by other bodies that conduct misdemeanour proceedings.

Netherlands: minor cases are district cases (i.e. misdemeanours and traffic offences; in Dutch '*Mulderzaken*').

Norway: the total for criminal cases includes only composite court cases (all criminal cases without an unconditional guilty plea, as well as the most serious guilty plea cases); the court is then composed of a district court judge and two lay judges (one woman and one man). Single-judge criminal cases include actions relating to police investigation, like court orders for arrests, searches, communication interceptions (telephone interception etc.), remand in custody, restraining orders and provisional confiscations of driving licences. Another important category is the adjudication of criminal cases with guilty pleas: these cases are not included in the figures.

Poland: misdemeanour cases are the offences punished by a maximum penalty of 1 month of detention or fine or both of them.

Portugal: under "severe criminal offences" were considered all criminal cases at trial stage; under "minor offences cases" were considered misdemeanours and appeals on administrative offences in the scope of the criminal and labour justice.

Spain: the Spanish Criminal Code establishes a 3-fold classification of criminal offences: serious crimes, less serious crimes and misdemeanours: serious crimes are punished namely with imprisonment and disqualifications of more than 5 years, less serious crimes are punished namely with imprisonment until 5 years and most criminal fines, misdemeanours are punished with minor penalties (for example, small fines). Spain also has administrative sanctions (i.e. police fines for speeding or parking tickets) that are not criminal cases and are treated outside the criminal law system.

Turkey: severe criminal offences include cases addressed by High Criminal Courts, High Criminal Courts assigned by Article 250 of the Criminal Procedure Code and Juvenile Assize Courts. Misdemeanours and/or simple offences cases include cases performed by Criminal Courts of First Instance, Criminal Courts of Peace, Criminal Courts of Enforcement, Juvenile Courts, Traffic Courts and Courts for Intellectual and Industrial Property Rights.

UK-Scotland: severe criminal cases are raised on indictment in solemn proceedings – e.g. murder, rape, serious fraud, serious assault and serious drug offences. The minor offences are less serious assaults, theft, drug offences, road traffic, minor breaches of the peace and other lesser statutory contraventions.

In a large number of states, the court workload attributable to misdemeanour cases is more voluminous than the workload attributable to severe offences. In the responding European states or entities, the average

number of misdemeanour cases per 100.000 inhabitants is 1.919 whereas the average number of severe criminal offences is 746 cases per 100.000 inhabitants.

A high number of misdemeanour cases (more than 3.000 per 100.000 inhabitants) can be found in **Malta, Slovenia, Bosnia and Herzegovina, Andorra** (to be considered with care and related to the low number of inhabitants), "**the former Yugoslav Republic of Macedonia**", **Croatia**. A low number (less than 300 per 100.000 inhabitants) can be noted in the case of **Armenia, Azerbaijan** and **Portugal**. Several exceptions can however be highlighted. In **Italy, Estonia, Portugal** and to a lesser extent in **France**, there are more criminal cases than minor cases filed in first instance courts. This probably is due to the particularity of the national systems where less serious offences are dealt with other than in courts (ADR for instance).

As regards severe criminal cases, a high volume (more than 1.000 per 100.000 inhabitants) can be found in the first instance courts of **Bosnia and Herzegovina, Italy, Estonia, Montenegro, Hungary, Netherlands, Poland, Turkey** and **Portugal**. On the contrary, the volume is limited (less than 100 per 100.00 inhabitants) in **Albania, Malta, Azerbaijan, Armenia, Georgia** and **Serbia**, in particular. This might depend partly on the criminal policies carried out in the states, but in any case, such figures must be analysed with care as the states do not have the same definition of severe and minor cases.

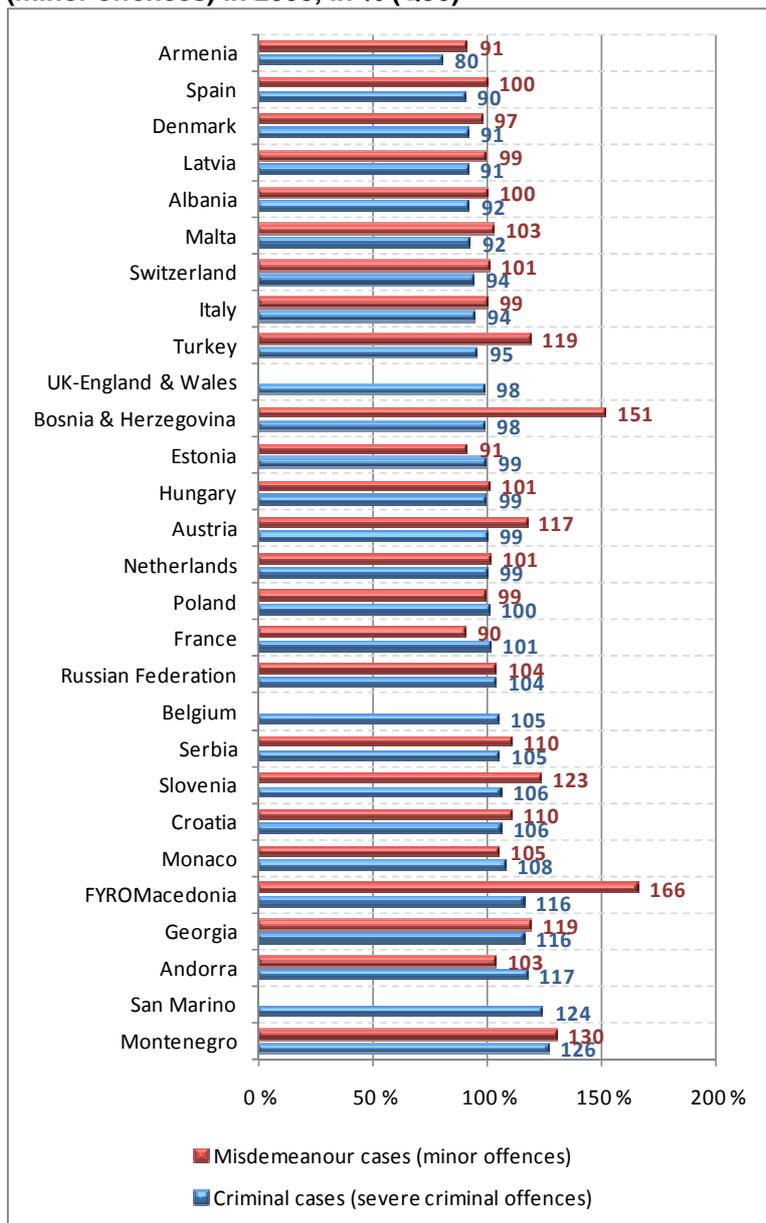
Figure 9.26 Part of 1st instance incoming criminal cases (severe criminal offences) vs. misdemeanour cases (minor offences) criminal in 2008 (Q90)

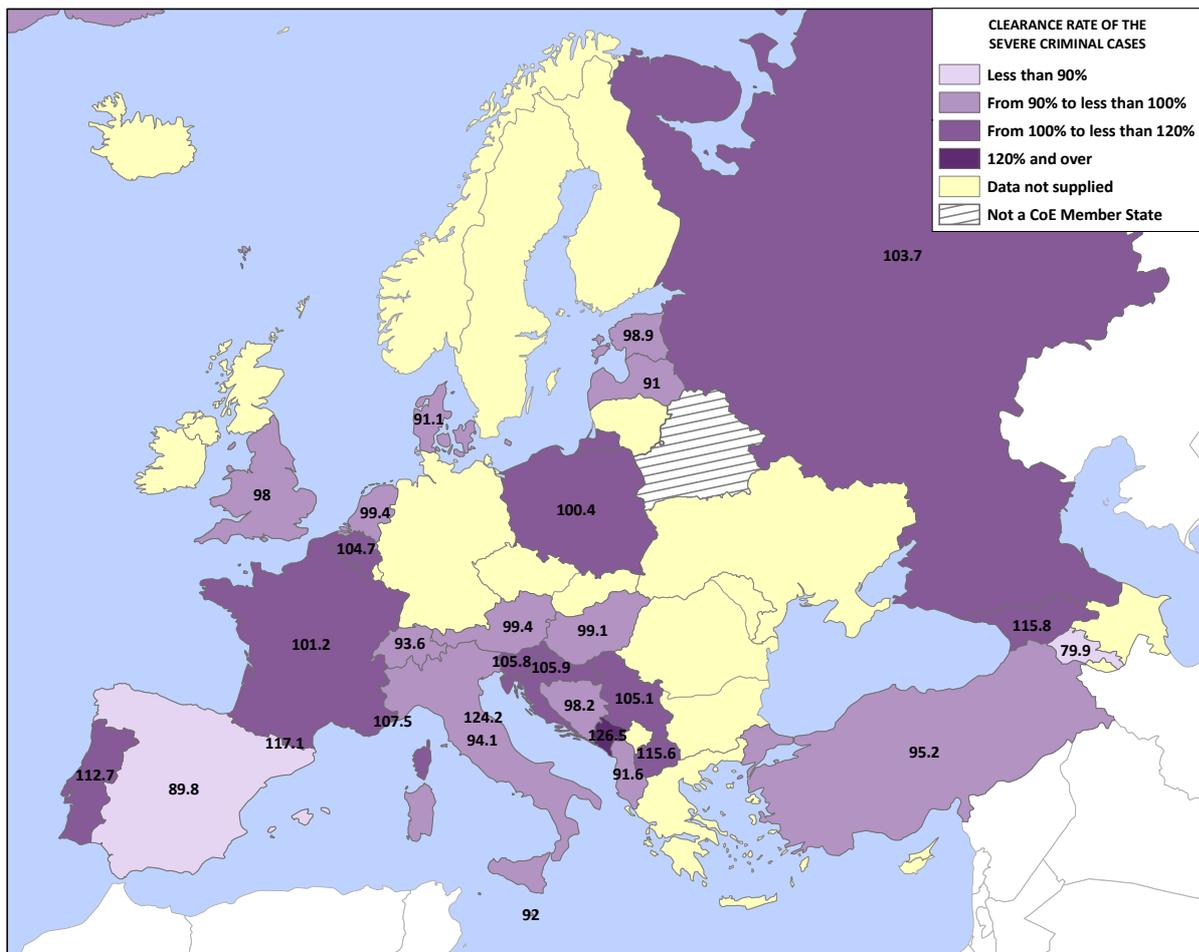
Country	Severe criminal offences	Misdemeanour and/or minor offences	Total number of criminal cases	Part of severe criminal offences in the total number of criminal cases	Part of misdemeanour and/or minor offences in the total number of criminal cases
Albania	83	7 282	7 365	1.1 %	98.9 %
Andorra	257	4 333	4 590	5.6 %	94.4 %
Armenia	1 321	1 673	2 994	44.1 %	55.9 %
Austria	24 782	35 030	59 812	41.4 %	58.6 %
Azerbaijan	1 752	13 158	14 910	11.8 %	88.2 %
Bosnia and Herzegovina	83 962	158 095	242 057	34.7 %	65.3 %
Croatia	41 012	324 299	365 311	11.2 %	88.8 %
Denmark	14 525	92 195	106 720	13.6 %	86.4 %
Estonia	19 984	13 566	33 550	59.6 %	40.4 %
France	610 674	513 400	1 124 074	54.3 %	45.7 %
Georgia	1 986	13 198	15 184	13.1 %	86.9 %
Hungary	137 541	124 572	262 113	52.5 %	47.5 %
Italy	1 280 282	224 239	1 504 521	85.1 %	14.9 %
Latvia	12 394	25 689	38 085	32.5 %	67.5 %
Malta	25	15 348	15 373	0.2 %	99.8 %
Monaco	40	851	891	4.5 %	95.5 %
Montenegro	8 501	17 524	26 025	32.7 %	67.3 %
Netherlands	220 634	279 213	499 847	44.1 %	55.9 %
Poland	496 855	465 014	961 869	51.7 %	48.3 %
Portugal	116 178	28 674	144 852	80.2 %	19.8 %
Russian Federation*	347 000	776 000	1 124 000	30.9 %	69.0 %
Serbia	6 049	54 398	60 447	10.0 %	90.0 %
Slovenia	19 386	78 499	97 885	19.8 %	80.2 %
Spain	345 707	920 577	1 266 284	27.3 %	72.7 %
Switzerland	17 966	61 200	79 166	22.7 %	77.3 %
FYROMacedonia	14 885	126 154	141 039	10.6 %	89.4 %
Turkey	796 920	919 901	1 716 821	46.4 %	53.6 %
UK-Scotland	6 130	106 674	112 804	5.4 %	94.6 %
Average				30.3 %	69.7 %
Median				29.1 %	70.9 %
Minimum				0.2 %	14.9 %
Maximum				85.1 %	99.8 %

*The sum of the percentages for the **Russian Federation** is less than 100%, because of the additional 1.000 cases which are not included in any of two categories.

It was possible to calculate the proportion of the severe and misdemeanour incoming cases in 2008 in 28 states or entities. The object of this figure is to show the range of criminal court organisation types and legislative frameworks. This figure must be analysed with care because the variety in the systems prevents from making relevant comparisons.

Figure 9.27 Clearance rate of criminal cases (severe criminal offences) and misdemeanour cases (minor offences) in 2008, in % (Q90)





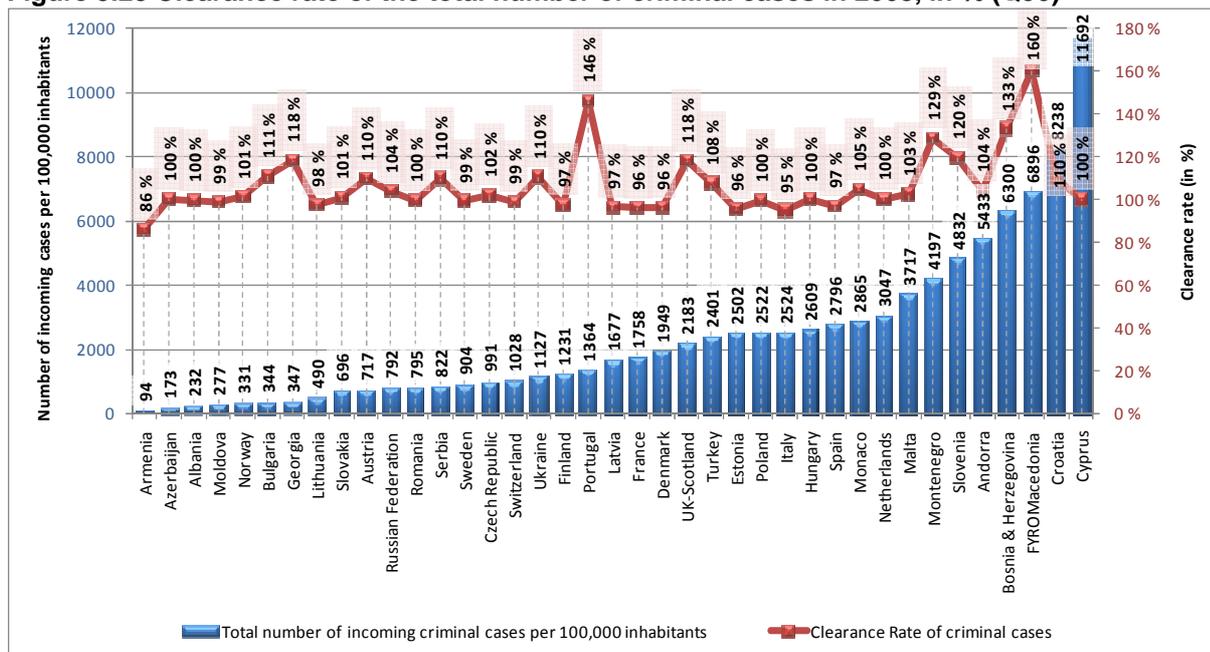
It was possible to calculate the clearance rate for 29 states or entities. At the European level, the volume of criminal law cases is not a difficulty for the first instance courts, as the average clearance rate for severe criminal offences is almost 100% (median: 99 %), and 103% for misdemeanour cases. Generally speaking, courts are more efficient to cope with criminal than civil cases.

Armenia is the only state where the backlog is increasing as regards misdemeanour cases, but this is not a significant trend when considering the low number of absolute cases concerned. On the contrary, **Bosnia and Herzegovina** shows a particular performance in this field.

Regarding severe cases, the volume of cases to be addressed by the first instance court creates a backlog only in a limited number of states: **Armenia, Spain, Denmark, Latvia, Albania, Malta, Switzerland, Italy, Turkey**. The values of **Armenia, Albania** and **Malta** are not so relevant considering the low absolute number of cases concerned. Regarding **Spain** the impact of a prolonged strike of court staff during 2008 should be borne in mind. It is much more significant when considering the high volume of cases addressed by the first instance courts in **Italy** or **Turkey**. This court performance is of particular importance vis-à-vis the fundamental principles of Article 6 as the cases concerned might involve penalties of deprivation of liberty, including pre-trial custody while waiting for the cases to be resolved.

When considering all the criminal cases together, it is possible to depart from the various ways of specifying severe and minor criminal cases.

Figure 9.28 Clearance rate of the total number of criminal cases in 2008, in % (Q90)



The figure above displays the information for 39 states and entities. Important differences among the states or entities can be noticed as regards the volume of criminal cases per 100.000 inhabitants to be addressed by first instance courts.

Such differences can essentially be explained by the way of processing the cases (in particular the development of simplified or quasi-computerised procedures for taking a judicial decision) and the respective roles of the prosecutors and the judges for taking a judicial decision in criminal matters. In some states like **France**, prosecutors can terminate a case thanks to alternatives to prosecution, whereas in **Italy** a decision by the judge is always needed as regards the orientation of the prosecution or the dropping of a case (cf. supra the section referring to the answers to question 100).

Most of the courts of first instance in the European states can cope with the volume of criminal cases. The main exception of **Armenia** can be technically explained and related to the low number of cases concerned. **Finland, Latvia, France, Denmark, Estonia, Italy, Spain** have not been able to avoid a slight increase in the backlogs. For **France**, it should be noted that the result is less than 100% only because of *contraventions* (461.053 resolves cases and 513.400 incoming cases). Indeed, the "serious cases" have a clearance rate above 100% (101.2%). The situation might be more of a problem in the last four states which must cope with more than 2.000 incoming cases per 100.000 inhabitants in a year. However for **Spain** it must be borne in mind that in 2008 courts were affected by a prolonged strike by the personnel of justice administration.

Other states have a large volume of criminal cases to address (**Cyprus**), including South-eastern European states which used to share the same system (**Croatia, "the former Yugoslav Republic of Macedonia", Bosnia and Herzegovina, Slovenia, Montenegro**), but their systems show their ability to achieve this in a productive way.

The **Portuguese** clearance rate is strongly influenced by the clearance rate of misdemeanour cases (282%), and should then be interpreted taking into account the information presented in the figure.

9.11 Comparing case categories: procedure and length

To get a better understanding of the workload of the courts in Europe and to compare the figures in a more reliable manner, four case categories have been selected in the Evaluation Scheme for additional analysis, according to the "GOJUST" Guidelines adopted by the CEPEJ in December 2008². The concerned case

² CEPEJ(2008)11.

categories are based on the assumption that, in all the courts in Europe, these are dealt with in a quite similar way. The four categories are defined in the explanatory note of the Evaluation Scheme as following:

1. *Litigious divorce cases*: i.e. the dissolution of a marriage contract between two persons, by the judgement of a competent court. The data should not include: divorce ruled by an agreement between the parties concerning the separation of the spouses and all its consequences (procedure by mutual consent, even if they are processed by the court) or ruled on through an administrative procedure.
2. *Employment dismissal cases*: cases concerning the termination of (an) employment (contract) at the initiative of the employer (working in the private sector). These do not include dismissals of public officials, following a disciplinary procedure for instance.
3. *Robbery* concerns stealing from a person with force or threat of force. If possible these figures should include: muggings (bag-snatching, armed theft, etc) and *exclude* pick-pocketing, extortion and blackmail (according to the definition of the *European Sourcebook of Crime and Criminal Justice*). The data should not include attempts.
4. *Intentional homicide* is defined as the intentional killing of a person. Where possible the figures should include: assault leading to death, euthanasia (where this is forbidden by the law), infanticide and *exclude* suicide assistance (according to the definition of the *European Sourcebook of Crime and Criminal Justice*). The data should not include attempts.

Note for the reader: less than half of the 47 states or entities provided data, and in particular data on lengths of proceedings, for litigious divorce cases, employment dismissal, robberies and intentional homicides.

Data collected shows, within this evaluation cycle, a constant progress vis-à-vis previous cycles. The CEPEJ welcomes the efforts made by these states to follow the "GOJUST guidelines" in this field and use essential tools for improving the efficiency of their judicial systems. The CEPEJ encourages the other member states to organise their judicial statistics system in order to be able to provide such data for the next evaluation cycle.

It is expected that the work of the CEPEJ's SATURN Centre and its European observatory of timeframes of judicial proceedings to be set up will support the member states in improving the collection of relevant data on judicial timeframes, per type of cases, as a better knowledge of the situation on lengths of proceedings is a prerequisite to the improvement of the system.

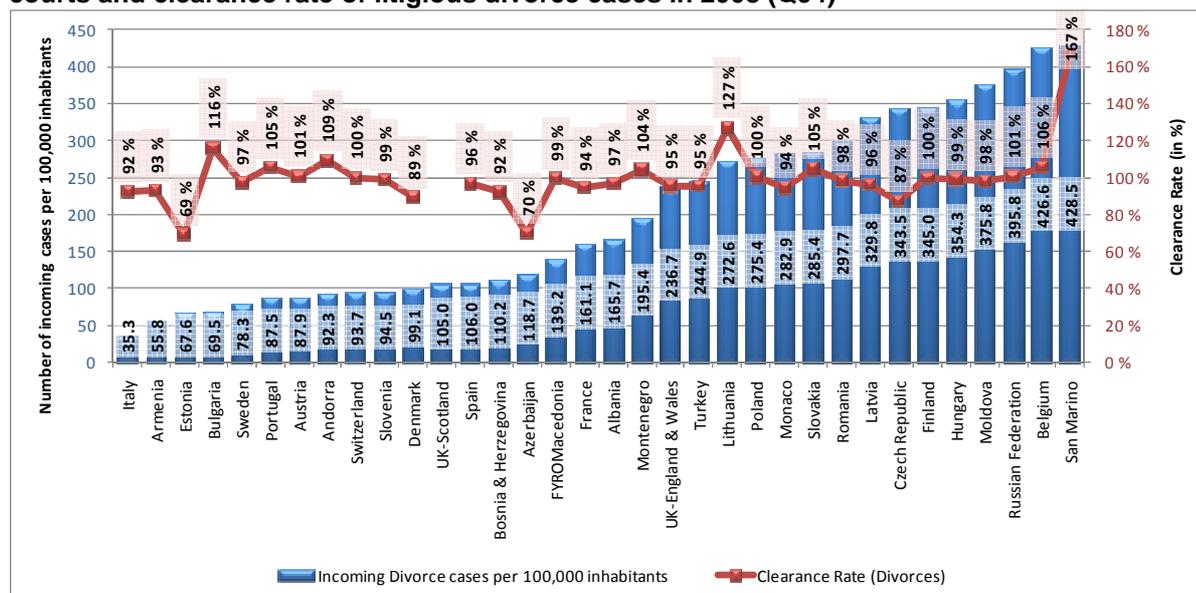
Considering the limited number of responding states, the CEPEJ invites the reader to interpret the data below with care. Any attempt at ranking would be hampered by this consideration.

Some data on the percentages of appeals and long pending cases of dismissals, robberies and intentional homicides appear in the Appendix.

9.11.1 *Litigious divorces*

34 member states or entities on 47 were able to provide absolute figures on the number of litigious divorce cases at the first instance courts (Q94).

Figure 9.29 Number of incoming litigious divorce cases per 100.000 inhabitants in first instance courts and clearance rate of litigious divorce cases in 2008 (Q94)



Comments

Belgium: the data provided includes non-litigious divorce cases.

Italy: figures concerning litigious divorce cases refer to the year 2007. Amongst those 19.392 resolved litigious divorce cases, 11.103 are resolved with sentences.

Malta: there are no existing divorce proceedings, whether litigious or non-litigious. There are existing proceedings for separation, which may be either litigious or non litigious, as well as annulment proceedings, which are always litigious.

Norway: the dissolution of a marriage follows a non-judicial procedure.

Sweden: data might include cases on child custody, etc.

Switzerland: the data provided only results from 4 cantons.

Note for the reader: These indicators should be used with caution. The ratio of divorce cases per inhabitant does not reflect the real scope of the divorce phenomenon. As with most demographical indicators, its meaning only extends to the reference population, which is, here, the number of married couples and the number of married people. This indicator should not be used to describe the density of divorce within the population.

The figure above only takes into account litigious divorces, which explains partly the considerable differences which can be noted according to the states or entities. Indeed, in some systems (**Norway** for instance), divorces are mainly pronounced by non-judicial bodies and are only addressed by the courts under specific (litigious) circumstances.

First instance courts cannot cope with the volume of litigious divorce cases in 14 responding states or entities, where such cases create backlogs. This is mainly the case in **Czech Republic** and **Latvia**, where the courts must face a significant volume of incoming cases (more than 200 per 100.000 inhabitants). Other states experience high number of litigious divorce cases, but are still able to deal with the incoming volume (**Russian Federation, Moldova, Hungary, Finland**). The situation of **Belgium** is only given for information purposes, as data includes non-litigious cases.

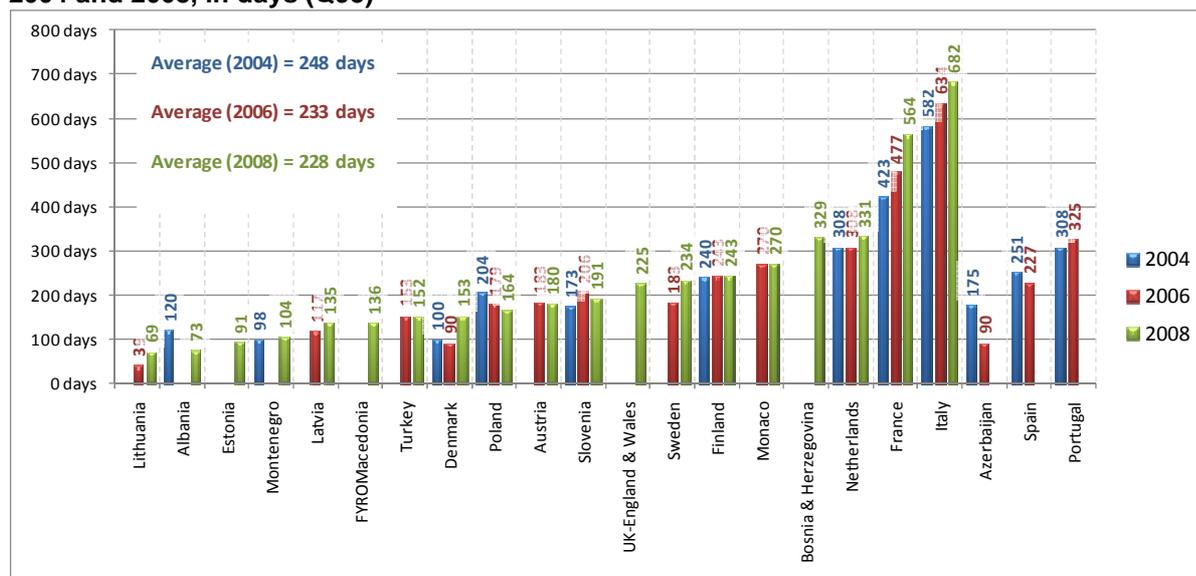
Table 9.30 Appeal percentage, long pending cases and average length of litigious divorce proceedings in 2008 (Q95)

Country	% of decisions subject to appeal	% of pending cases more than 3 years	Length of proceedings at 1st instance courts (in days) [Provided]	Disposition time at 1st instance courts (in days) [Calculated]	Length of proceedings at 2nd instance courts (in days) [Provided]	Length of proceedings - Total of procedure (in days) [Provided]
Albania	3.93	0.00	73	73	246	319
Andorra				172		
Armenia				65		
Austria		2.80	180	162		
Azerbaijan				100		
Belgium					479	
Bosnia and Herzegovina	4.30	5.99	329	273	98	214

Country	% of decisions subject to appeal	% of pending cases more than 3 years	Length of proceedings at 1st instance courts (in days) [Provided]	Disposition time at 1st instance courts (in days) [Calculated]	Length of proceedings at 2nd instance courts (in days) [Provided]	Length of proceedings - Total of procedure (in days) [Provided]
Bulgaria	5.13			214		
Czech Republic				53		
Denmark	15.00		153	191	90	240
Estonia	0.50	0.00	91	230	30	90
Finland	0.00	0.00	243	241	0	243
France	11.00		564		393	595
Georgia	2.80					
Hungary	2.90			150		
Italy			682	696		
Latvia	1.60	0.26	135	155	72	
Lithuania			69.3	75		
Moldova	1.40	0.00		43		
Monaco			270	211	240	510
Montenegro	2.67	3.12	103.86	140	120.46	224.32
Netherlands			331		217	
Poland	3.19	0.92	164.1	166	50.4	
Portugal				354	101	
Romania	5.60	2.00		141		
Russian Federation				30		
San Marino				416		
Slovakia				187		186
Slovenia	2.90	0.80	191	202	60	
Spain			261	273		
Sweden		0.05	234	241		
Switzerland	11.00	0.03		323		
FYROMacedonia	7.17	0.02	136	99	47	199
Turkey			152			
UK-England and Wales		2.40	225			

In addition to the number of incoming cases, information was asked for about the percentage of decisions subject to appeal, the percentage of pending cases for more than 3 years and the average length of proceedings in days. Only a few countries were able to supply detailed information for the four case categories concerned.

Figure 9.31 Average length of proceedings for litigious divorce cases at first instance courts between 2004 and 2008, in days (Q95)



Comments

Belgium: the average length of litigious and non-litigious divorces provided (479 days) does not take into account the termination *ex officio* of the case.

Bosnia and Herzegovina: the length of proceedings for litigious divorce cases is reported by courts as the simple average time needed to resolve a case for all cases resolved during the year. More than two thirds (69%) of the courts reported. The average length at the national level is calculated as the weighted average using the number of resolved cases at the court level.

An increase in the length of procedure does not necessarily mean that the courts have lost efficiency. This may be related to a disruption in the nature of litigation. The relative number of litigious divorce cases (reported to the total number of divorce cases) is rapidly decreasing in **the Netherlands**, due to social developments and the evolution of the divorce policy. In 1993, still 80 % of the divorce cases were litigious. In 2008, the relative number decreased to only 30 % of the total divorce cases. Therefore, only difficult and adversarial divorce cases are counted as "litigious divorces". Such complex cases have to be dealt with intensively by a judge. The average length of litigious divorce cases is then becoming longer, though the number of cases to be addressed by the court has decreased significantly. Obviously, this does not mean that judges have become less productive and responsive to the users. Such explanations are also relevant when interpreting the length of litigious divorce cases in **France**.

In any case, a compared analysis of the length of divorce litigation procedures cannot be made without taking into account the specificities particular to divorce proceedings in different states, briefly presented above, which can highly influence the result of the proceeding.

Albania: in non-litigious divorce cases, a draft agreement is presented to the court by both partners. The court may approve the agreement thanks to a court decision. If the judge realises that the agreement does not provide enough security for the children or one of the partners, he shall suspend the procedure for three months. If the partners have not rectified the agreement accordingly, the judge shall refuse the approval for the non-litigious divorce.

Azerbaijan: the length of consideration of the divorce case is 90 days. When one party does not agree, the judge can decide on a new term of no more than 90 days for conciliation. The maximum length of this type of case is then 180 days. One month time-limit is provided for submitting an appeal and two months are given to the Court of Appeal to consider the case. The total length of the procedure amounts to 270 days with conciliation period and 6 months without conciliation period.

Bosnia and Herzegovina: prior to filing a request for divorce, the couple with underage children must try to reconcile through the legally prescribed procedure dealt with by the city social workers. The court decision, by which a marriage is dissolved, in principle, may be appealed only on grounds of serious procedural mistakes. There is no mandatory timeframe for the divorce case to be decided on, but the law prescribes that courts are obliged to process with urgency all family law cases, including divorce cases, involving interests of underage persons.

Czech Republic: if a marriage has existed for at least 1 year, spouses have not lived together for more than 6 months and the petition for divorce by one spouse is joined by the other, the court does not establish the grounds for the dissolution of a marriage and issues the judgment of divorce under several conditions. If

there are children, the court decides, before issuing the judgment of divorce, on the rights and duties of parents with respect to the children. The marriage may not be annulled until the decision on the position of children after divorce becomes final and conclusive. The decision on parental responsibility may be replaced by an agreement of parents which must be approved by court to be valid.

Estonia: a registration office or a court may grant a divorce. A court grants a divorce either at the request of a spouse if the spouses disagree about the divorce, at the wish of a spouse to resolve disputes concerning a child and disputes concerning support or division of joint property or if the registration office is incompetent in granting the divorce. Upon granting a divorce, a court shall, at the request of the spouses, settle disputes concerning a child and disputes concerning support or division of joint property. If a court does not satisfy a petition for divorce, requests within disputes concerning a child, support or division of joint property shall not be heard.

Finland: a marriage may be dissolved by a court order, after a reconsideration period of six months or after the spouses have lived separated for the past two years without interruption. When a divorce is dealt with at the District Court for the first time, the handling will be postponed until further notice. Thereafter the District Court shall grant the spouses a divorce when the six-month reconsideration period has expired and the spouses together demand or one of them demands that the spouses be granted divorce. A divorce case shall lapse if the demand for the granting of divorce is not made within one year from the beginning of the reconsideration period. However, the spouses can be granted a divorce immediately without the otherwise obligatory six-month reconsideration period if they have lived separated for the past two years without interruption.

Luxembourg: the procedure for a divorce by mutual consent takes 6 months (2 presentations of the request and a formal decision of the court). The length of a divorce for fault mainly depends on the parties. A reform of the divorce procedure is under consideration by the legislator.

Poland: the termination of marriage can be decided as a divorce or separation. Separation is decided by the court when there is a complete (but not irretrievable) disintegration of matrimonial life. The most significant difference is that separated spouses are not allowed to remarry. Dissolution cases are first instance litigation and examined by the Circuit Court. The dissolution petition can include requests for additional decisions such as property partition, custody of minor children, child support or alimony. The petitioner must pay an interim court fee - unless the petitioner is granted legal aid. The service of a lawyer is not mandatory. Hearing both parties is mandatory. If there is prospectus for repairing the marriage, the court may order a mediation proceeding having first consent of both parties. Judgment is pronounced orally. The party may request for a written copy of the judgment in 7 days time-limit. The appeal can be filed within 14 days.

Romania: divorce can be pronounced by the spouses' agreement, if by the date of the request for divorce at least one year has passed from the conclusion of the marriage or if there are no minor children involved. It is pronounced by judicial decision when the court establishes that the relations between spouses are seriously damaged and the continuation of the marriage is not possible anymore.

Sweden: if neither of the spouses lives together with their own children and they have jointly applied for a divorce, the district court may issue a judgment as soon as possible. If the spouses so wish, they can have a period for reconsideration (between six months and a year) before the judgment. After this period, they can notify their wish to divorce to the district court; if the notification is not received by the district court within one year, the matter is written off. If the spouses have children living at home, or if one of the spouses does not agree to get divorced, there will always be a period of reconsideration. If the spouses have lived apart for more than two years, they can have a divorce directly.

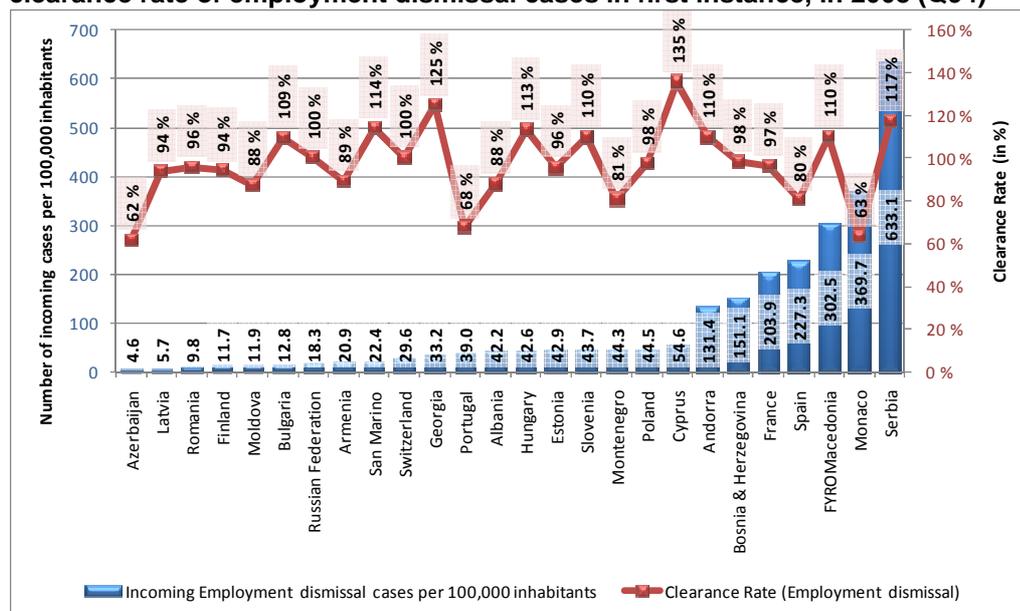
Turkey: before entering in the merits of the case, the family courts, if appropriate with the help of specialists, shall encourage the parties to solve the problems harmoniously. If the conflict is not solved by this way, then the court is entitled to hear the case.

The length of litigious divorce proceedings in first instance varies in between the states and entities concerned according to the family law (civil law) procedure and the volume of cases filed in courts. The calculated disposition time shows the duration for which an incoming case remains in the court before being resolved at the level of this court. This indicator shows rapid procedures (less than 100 days) in **Albania, Armenia, Czech Republic, Moldova, Russian Federation** and "**the former Yugoslav Republic of Macedonia**" and longer procedures (more than 500 days) in **Italy**. The situation in the **Czech Republic** might evolve in the future when considering the negative clearance rate and the volume of incoming cases (see above).

9.11.2 Employment dismissals

26 states or entities were able to provide data enabling to calculate the clearance rate for employment dismissals.

Figure 9.32 Number of incoming employment dismissal cases per 100.000 inhabitants and the clearance rate of employment dismissal cases in first instance, in 2008 (Q94)



Comments

Estonia: it is not possible to distinguish dismissal cases from employment cases, but almost each employment case is connected to a dismissal case.

Norway: it is not possible to distinguish the dismissal cases from employment cases.

Slovenia: the number of pending dismissal cases decreased from 2006 to 2008 due to the special measures and efforts taken by the courts in order to reduce backlogs and to reduce the length of the procedures and other related efforts; another reason is also a decrease in the number of incoming cases which amount to 18,28%.

Spain: the total number of incoming cases in the labour jurisdiction increased by 24,7% in 2008 with a 7% increase in the resolution rate of the labour courts. Labour courts were also affected by the strike of the court staff in 2008. A reinforcement plan for labour courts, focusing in particular on dismissal cases was adopted by the Council of Ministers in July 2009. During 6 months, 19 judicial districts were reinforced with 35 additional Magistrates (as well as non-judge staff), 19.879 cases were solved and 9.365 rulings handed out. This allowed to maintain the average duration of dismissal cases and to decrease by 3 months on average the duration of the rest of proceedings.

Switzerland: the data provided concerns only 4 cantons.

The first instance courts concerned have difficulties in coping with the volume of incoming cases for employment dismissals in a majority of the responding states or entities, although this volume differs considerably between the states having more than 600 incoming cases per 100.00 inhabitants (**Serbia**), more than 200 (**the former Yugoslav Republic of Macedonia**, **Spain**, **France**) or less than 10 (**Romania**, **Latvia**, **Azerbaijan**). The difference in the volume of cases might be explained partly by the economic situation, but mainly by the level of development of the legal framework protecting the employees. States with a low volume of cases might experience increasing backlogs (**Azerbaijan**, **Portugal**, **Montenegro**) while states having to cope with high numbers of cases are able to manage the volume of incoming cases (**Serbia**, **the former Yugoslav Republic of Macedonia**).

Table 9.33 Appeal percentage, long pending cases and average length of proceedings for dismissal cases in 2008 (Q95)

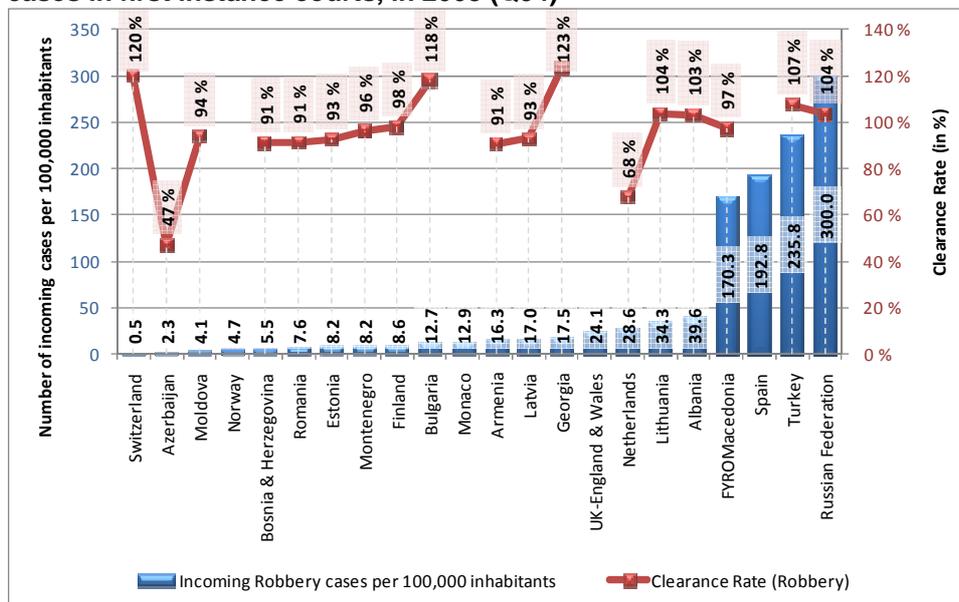
Country	% of decisions subject to appeal	% of pending cases more than 3 years	Length of proceedings at 1st instance courts (in days) [Provided]	Disposition time at 1st instance courts (in days) [Calculated]	Length of proceedings at 2nd instance courts (in days) [Provided]	Length of proceedings - Total of procedure (in days) [Provided]
Albania	51.27	1.00	153	153	588	741
Austria			171			
Bosnia and Herzegovina	11.58	6.36	313	478	144	229
Bulgaria	58.10			275		
Czech Republic						1009
Estonia	24.30	8.70	387	325	150	553
Finland	53.60	0.00	249	293	366	
France	61.00		476		433	568
Greece					5 700	
Latvia	52.50	4.00	174	153	87	

Country	% of decisions subject to appeal	% of pending cases more than 3 years	Length of proceedings at 1st instance courts (in days) [Provided]	Disposition time at 1st instance courts (in days) [Calculated]	Length of proceedings at 2nd instance courts (in days) [Provided]	Length of proceedings - Total of procedure (in days) [Provided]
Moldova	58.90	0.00		111		
Monaco			750	885		
Montenegro	0.51	4.09	306.06	309	316.13	622.19
Netherlands			21			
Poland	14.23	3.06	143.1	149	62.4	
Portugal				648	154	
Romania	52.70	0.00		169		
Slovakia	34.42					1109
Slovenia	8.90	3.90	236	203	255	
Spain			84	130		
Switzerland	13.50	0.01		199		
FYROMacedonia	35.75	3.40	176	227	53	229

9.11.3 Robberies

21 states or entities were able to provide data enabling to calculate the clearance rate for robbery cases.

Figure 9.34 Number of incoming robbery cases per 100.000 inhabitants and clearance rate of robbery cases in first instance courts, in 2008 (Q94)



Comments

Estonia: attempts might be included in the given data.

France: data on robberies concerns only the sentences pronounced. Robberies are defined strictly and do not include thefts with aggravated circumstances.

The first instance criminal courts have difficulties in coping with the volume of incoming robbery cases in half of the responding states, including those where the number of cases is not so high (**Netherlands**). The states which experience a high absolute number of robbery cases are able to address them in due time so as to avoid increasing backlogs (**Russian Federation, Turkey, "the former Yugoslav Republic of Macedonia"**).

Table 9.35 Appeal percentage, long pending cases and average length of proceedings for robbery cases in 2008 (Q95)

Country	% of decisions subject to appeal	% of pending cases more than 3 years	Length of proceedings at 1st instance courts (in days) [Provided]	Disposition time at 1st instance courts (in days) [Calculated]	Length of proceedings at 2nd instance courts (in days) [Provided]	Length of proceedings - Total of procedure (in days) [Provided]
Albania	33.82	0.00	73	73	365	438
Armenia				52		
Azerbaijan				98		
Belgium					277	
Bosnia and Herzegovina	36.79	14.07		376		
Bulgaria	38.02			224		
Czech Republic			344		443	349
Estonia	14.50	0.00	113	150	141	254
Finland	52.90	3.00	129	150	264	
France			265		284	285
Georgia	39.00			128		
Latvia	53.80	3.40	204	272	105	
Lithuania			128.4	109		
Moldova		0.00		110		
Montenegro	27,35&88,46%	0,70%&27,13%	131,46&708,5	395	123,20&311,5	254,66&1020
Netherlands			35		231	
Poland			333		324	
Portugal					78	
Romania	89.10	0.00		197		
Russian Federation				31		
Slovakia	23.34					308
Switzerland				78		516
FYROMacedonia	42.56	0.01	182	300	45	227
Turkey		0.16	433			

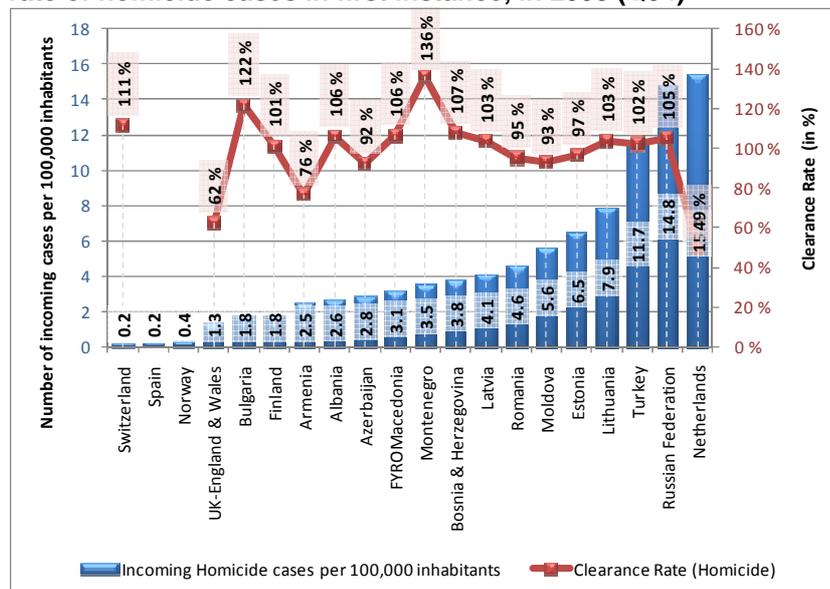
Comment

Switzerland: data for the total duration of the procedure are extracted from the central police records: the length thus calculated goes from the offence to the entry into force of the sentence (where appropriate of the last instance); for a serious crime, in general, justice deals with the matter in a very short time after the offence was committed. It follows that the values are only slightly higher than the actual length of the entire judicial proceeding.

9.11.4 Intentional homicides

21 states or entities were able to provide data enabling to calculate the clearance rate for cases of intentional homicides.

Figure 9.36 Number of incoming intentional homicide cases per 100.000 inhabitants and clearance rate of homicide cases in first instance, in 2008 (Q94)



Comments

Estonia: attempts might be included in the given data.

Netherlands: the data provided includes negligent manslaughter, attempted homicides and assaults leading to death.

In 7 of the responding states with a clearance rate below 100 %, the volume of intentional homicides cannot be addressed in due time in first instance criminal courts to avoid backlogs. It might be interesting to analyse the variations in the volume of cases experienced by the first instance criminal courts on the point of view of criminology, but this is not the purpose of this report. It must be noted that the high volume of cases mentioned for **the Netherlands** and **Estonia** include attempts, which can substantially modify the data.

Table 9.37 Appeal percentage, long pending cases and average length of proceedings for cases of intentional homicides in 2008 (Q95)

Country	% of decisions subject to appeal	% of pending cases more than 3 years	Length of proceedings at 1st instance courts (in days) [Provided]	Disposition time at 1st instance courts (in days) [Calculated]	Length of proceedings at 2nd instance courts (in days) [Provided]	Length of proceedings - Total of procedure (in days) [Provided]
Albania	77.52	0.00	246	246	258	504
Armenia				203		
Azerbaijan				78		
Belgium					364	
Bosnia and Herzegovina	58.23	22.00		347		
Bulgaria	69.23			138		
Czech Republic			227			227
Estonia	70.00	0.00	275	252	289	478
Finland	78.30	0.00	93	101	216	
Latvia	91.60	1.00	156	188	150	
Lithuania			136.8	124		
Moldova		1.00		128		
Montenegro	0.90	18.75	999.04	426	269.6	1268.64
Netherlands			105		231	
Poland			141		45	
Portugal					92	
Romania	82.90	0.00		235		
Russian Federation				66		
Slovakia	74.00					429
Switzerland				274		1364
FYROMacedonia	68.31	1.90	184	284	49	233
Turkey		0.10	334			

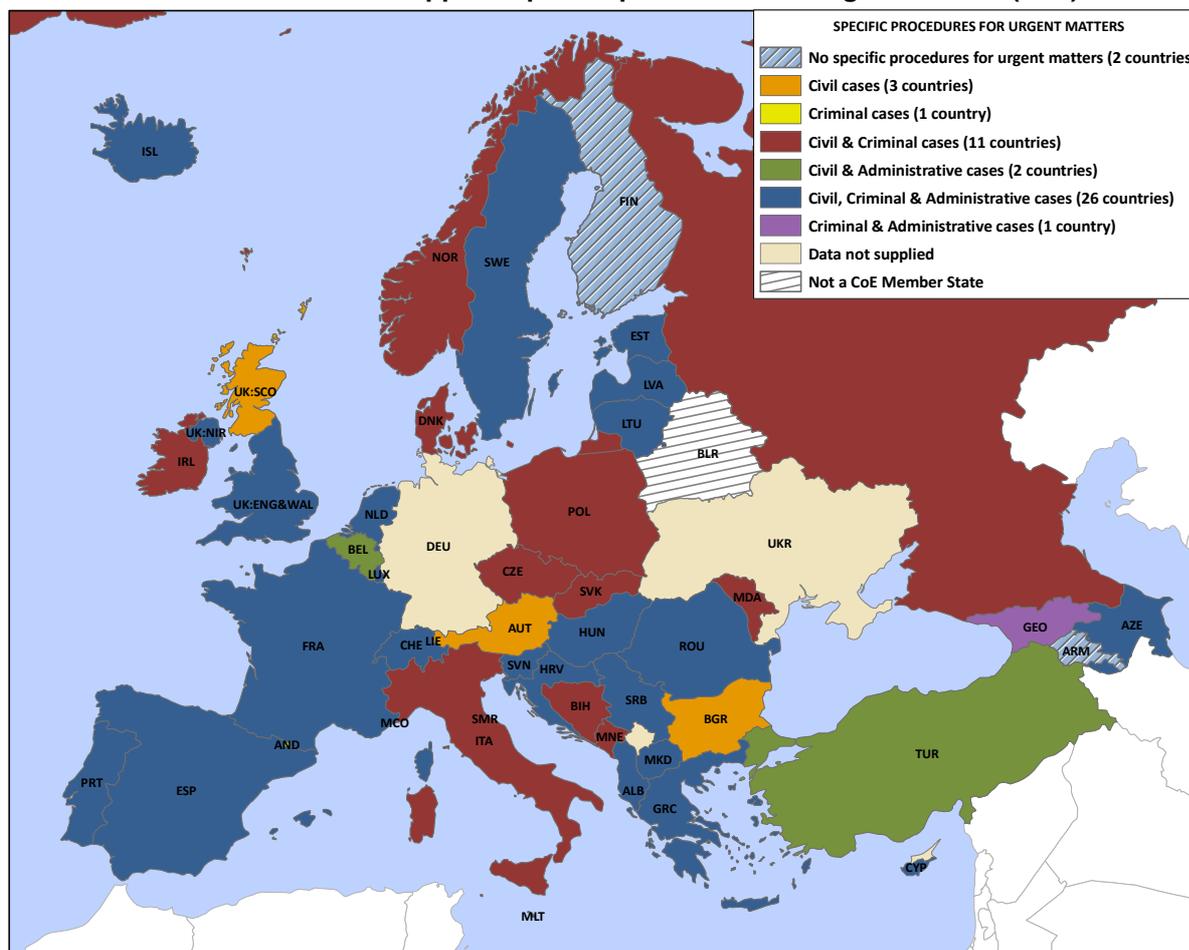
Comment

Switzerland: data for the entire duration of the procedure are extracted from central judicial record; the duration is calculated from the offence to the entry into force of the sentence (where appropriate of the last instance); for serious crimes, in general, justice deals with the matter in a very short time after the offence has been committed. It follows that the values are only slightly higher than the actual length of the entire judicial proceeding.

9.12 Measures to increase the efficiency of judicial proceedings

9.12.1 Urgent procedures

Tables 9.38 Cases for which are applied specific procedures for urgent matters (Q87)



On the 47 states or entities which provided data, 42 apply specific urgent procedures to civil cases, 38 to criminal cases and 28 to administrative cases. 26 states or entities have urgent procedures for the three types of cases. No urgent procedures are made available in **Armenia** and **Finland**. Nevertheless, in **Finland**, under the administrative law, several laws exist including urgency provisions (when necessary and when the law provides it so, cases are processed urgently, although there is no specific procedure for urgent matters).

Some national legislatures have set up general rules for enabling the judge to apply urgent procedures when the situation justifies it (**France, Italy, Malta**). Generally speaking, almost all the states or entities provide for protective measures vis-à-vis institutions, persons, health, goods, etc.

In civil law, urgent procedures are mostly related to the following situations:

- to prevent imminent danger or irretrievable damage to the claimant (**Austria**), to secure evidences (**Bosnia and Herzegovina, Montenegro**),
- in disputes where an interim/preliminary decision is necessary (**France, the Netherlands**),
- in employment disputes (**Azerbaijan, Bosnia and Herzegovina, Croatia, France, Moldova, Montenegro, "the former Yugoslav Republic of Macedonia", Ukraine**),
- to secure the property interests of the claimant (**Bosnia and Herzegovina, Lithuania, Montenegro, "the former Yugoslav Republic of Macedonia"**), to secure money claims (**Austria, Norway, Poland, Turkey**), as regards bills of exchange (**Hungary**), in class action procedures (**Bosnia and Herzegovina**), in bankruptcy cases (**Serbia, "the former Yugoslav Republic of Macedonia"**),
- in matrimonial cases (**Bosnia and Herzegovina, Estonia, Hungary, Latvia**), alimony disputes (**Azerbaijan, Hungary, Moldova, Ukraine**), in cases concerning the protection of rights and welfare of children and minors (**Bosnia and Herzegovina, Croatia, Denmark, Estonia, Hungary, Moldova, Montenegro, Norway, Russian Federation, Slovakia, Sweden, UK-Scotland**),

- in legal actions related to liability for damages caused by judges (**Hungary**),
- in enforcement cases (**Bosnia and Herzegovina, Croatia**).

In criminal law, urgent procedures are provided namely for:

- juvenile offender cases (**Bosnia and Herzegovina, France, Hungary, Moldova, Montenegro, Norway, Serbia, "the former Yugoslav Republic of Macedonia"**),
- matrimonial violence (**San Marino, Slovakia**),
- slandering (**San Marino**),
- pre-trial investigation phase and custody (**Bosnia and Herzegovina, Croatia, Denmark, France, "the former Yugoslav Republic of Macedonia", Hungary, Moldova, Monaco, Montenegro, Norway, Portugal, Russian Federation, Serbia, Slovakia, Sweden**),
- activities that are a part of the investigation carried out by the police (**Denmark**),
- *flagrants délits* (**France, Latvia, Monaco, Romania**)
- organised crime (**Montenegro**),
- extradition requests (**Moldova, "the former Yugoslav Republic of Macedonia"**),
- the seizure of certain goods or evidence (**Georgia**).

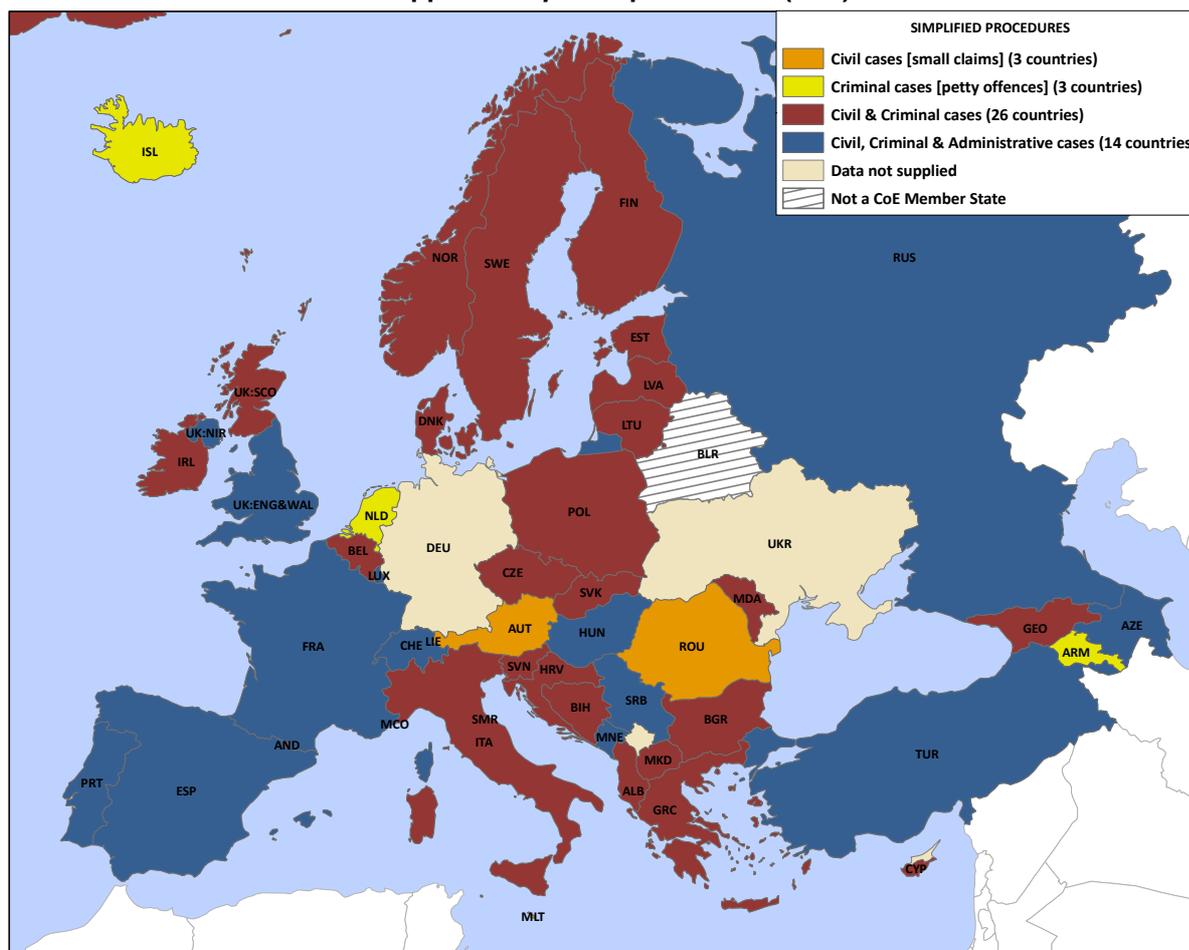
Examples of urgent procedures in administrative law cases are:

- situations where there may be an immediate and direct threat to state security, human life or health (**Georgia**),
- electoral law (**Serbia, "the former Yugoslav Republic of Macedonia"**),
- dissolution of the city council (**Croatia**),
- employment disputes with the administration (**Azerbaijan, Croatia**),
- public procurement ("**the former Yugoslav Republic of Macedonia**"),
- asylum matters ("**the former Yugoslav Republic of Macedonia**"),
- situations where the party asks for a temporary suspension of an administrative act/decision (**France, Luxembourg, Romania**),
- to take preservative measures (**France, "the former Yugoslav Republic of Macedonia"**),
- cases related to a judicial review of administrative decisions concerning family affairs (**Hungary**),
- situations of an administrative offence (**Russian Federation**).

9.12.2 Simplified procedures

One way to increase the efficiency of judicial proceedings concerns the introduction of simplified procedures. These procedures are often less costly and the decision-making process in the court is shorter. One of the most popular simplified civil procedures that has been introduced in many states or entities is related to uncontested financial claims (for example *Mahnverfahren* in **Germany** and *Moneyclaim online* in **UK-England and Wales**). For criminal law and administrative law cases, simplified procedures can also be implemented.

Table 9.39 Cases for which are applied *simplified* procedures (Q88)



On the 46 responding states or entities, 43 use simplified procedures for civil cases (small claims) and 43 apply such procedures to criminal cases (petty offences). 14 states or entities have provisions on simplified procedures for administrative cases.

Simplified procedures can be of different types: judicial decision without hearing or hearing in the judges' office, decision by a single judge, accelerated procedure, simplified judgement, alternatives to sanctions, etc.

In at least half of the responding states, the simplified procedure in civil cases refers to payment orders and/or small claims' procedures. In addition, the member states of the European Union are subject to the European Small Claims Procedure intended to simplify and speed up litigation concerning small claims in cross-border cases, and to reduce costs (the European Small Claims Procedure shall be available to litigants as an alternative to the procedures existing under the laws of the member states of the EU). It can also be an order to do something (**France**).

Simplified procedures can also be applied to divorce with mutual consent (**UK-Scotland**), family law or parental authority (**Bulgaria, San Marino**), enforcement acts (**Bulgaria, Croatia, Hungary**), labour disputes (**Bosnia and Herzegovina, Bulgaria, San Marino, "the former Yugoslav Republic of Macedonia"**), commercial disputes ("**the former Yugoslav Republic of Macedonia**"), intellectual property (**Bulgaria**).

Examples of simplified criminal law procedures are found mostly in the area of minor criminal offences, resulting in a fine or a prison sentence for a limited period (**Azerbaijan, Finland, Hungary, Lithuania, Luxembourg, Moldova, Monaco, Montenegro, Norway, Poland, Portugal, Turkey**) or minor traffic offences (**Netherlands**). Sometimes the case is decided on written proceedings by the public prosecutor without a charge before a court (**Finland**). In certain instances, cases may be heard in the absence of the criminal offender (**Hungary**). Expeditious procedures may be used if the circumstances of a case are clear and the defendant does not request more time to prepare his/her defence (**Bosnia and Herzegovina, Bulgaria, Finland, Norway, Lithuania**). Other examples of the imposition of criminal sanctions without holding a trial are also provided (**Montenegro**). A sentence proposed by a prosecutor may come before a judge when the accused person confesses in court or a plea bargaining procedure might be applied (**Bosnia**).

and Herzegovina, Georgia, Norway). In Poland, there is a short procedure for certain criminal offences dealt with by "24-hour courts". In the Netherlands certain small criminal offences can be dealt with within the field of the administrative law.

Examples of simplified administrative law procedures are procedures without the presence of the parties (Georgia), or where a hearing can be replaced by a written procedure (the Netherlands for example).

Modalities in the proceedings

To improve the efficiency of judicial proceedings, the parties (and their lawyers) might have the possibility to negotiate with the judge on the modalities for addressing a case. More than half of the responding states or entities replied that such a possibility is available in their state. Examples of this relate to: the submission of information/evidence to the court (France, "the former Yugoslav Republic of Macedonia", Georgia, Sweden), the determination of the dates of the court hearings (Denmark, Finland, France, "the former Yugoslav Republic of Macedonia", Moldova), the timeframes for the defence to reply (counterclaim) (Georgia), issues of law and fact that can be agreed by the parties before a hearing (Ireland), issuing a time-limit for lawyers to submit the conclusions to court (Monaco), a reduction of the legislative time-limits or the limits established by the court with the agreement of the parties (Norway) or the use of court annexed mediation and accelerated civil litigation programmes (Slovenia).

9.13 Trends and conclusions

Member states or entities continue their efforts for a more detailed knowledge of the activity of their courts in monitoring compliance with fundamental principles as enshrined in the European Convention of Human Rights as well as in workflow and length of proceedings. The CEPEJ encourages member states or entities to continue on this path, following in particular the recommendations in the CEPEJ's "GOJUST Guidelines". A better understanding of the activity of the courts is indeed necessary to improve the performance of courts.

The CEPEJ is now able to draw preliminary conclusions from the analysis of the two main indicators that have been established: the clearance rate and the disposition time. The analysis of the data currently available indicates that first instance courts in Europe are generally better able to cope with the flows of criminal cases than civil cases.

Generally speaking, citizens seem to be more litigious in Central and Eastern European states and South-eastern and southern European states than in Northern Europe and the Caucasus states.

Case throughput varies between the states depending on whether or not they have to address non-contentious civil cases (this is normally associated with the holding or not by the courts of land and commercial registers). The volumes of such cases might also vary. But in general, non-contentious matters, if they can increase the workload of courts, are rarely the cause of lack of effectiveness of jurisdictions.

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

The good performance of the courts of several transitional states (including Georgia, Russian Federation) is especially worth highlighting. Indeed, the current reforms and investment in the judiciary seem to lead to encouraging results.

Chapter 10. Prosecutors

In Recommendation Rec (2000)19, adopted by the Committee of Ministers of the Council of Europe on 6 October 2000 prosecutors are defined as: "*public authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system.*"

All the member states have, sometimes under a different name, a public authority entrusted with qualifying and carrying out prosecutions. But it is immediately apparent that, where the office of a judge seems to be relatively homogeneous in the member states or entities, that of a prosecutor is much less so. In all the European states or entities, they play an important role in the prosecution of criminal cases. In most of the member states or entities, they also have a responsibility in the civil and even administrative law area. Another important aspect that needs to be taken into account concerned the different levels of autonomy of a prosecutor. In some states or entities, they benefit of a protection of their independence, equal to judges, whilst in other states or entities, the criminal policies are directed from a Ministry of Justice and the level of independence is limited.

When reading this chapter, such a dichotomy (resulting from historical reasons) must be kept in mind in order to understand the differences in the statutes and functions of public prosecutors.

10.1 Number of public prosecutors, persons with similar duties and staff

Table 10.1. Prosecutors, persons with similar duties as public prosecutors, and non-prosecutor staff attached to prosecution services in 2008, in FTE (Q58, Q59, Q60)

Country	Number of Public Prosecutors	Number of prosecutors per 100,000 inhabitants	Number of persons with similar duties as public prosecutors	Number of non-prosecutor staff attached to the public prosecution service	Number of non-prosecutor staff per 100,000 inhabitants	Number of non-prosecutor staff per prosecutor
Albania	321	10.1		427	13.5	1.3
Andorra	5	5.9		5	5.9	1.0
Armenia	337	10.5		289	9.0	0.9
Austria	318.5	3.8	144.28	271.2	3.3	0.9
Azerbaijan	1 160	13.4	NA	800	9.3	0.7
Belgium	833	7.8		2 815.2	26.4	3.4
Bosnia and Herzegovina	304	7.9		465	12.1	1.5
Bulgaria	1 522	19.9		NA	NA	NA
Croatia	570	12.9		894	20.2	1.6
Cyprus						
Czech Republic	1 239	11.9		1 530	14.7	1.2
Denmark	607	11.1	NA			
Estonia	189	14.1		88	6.6	0.5
Finland	329	6.2	NA	174	3.3	0.5
France *	1 908	3.0	NA	(18 586)*		
Georgia	402	9.2		284	6.5	0.7
Greece	530	4.7	NA			
Hungary	1 686	16.8	NA	2 303	22.9	1.4
Iceland	10	3.1	24	6	1.9	0.6
Ireland	84	1.9	NA	111	2.5	1.3
Italy	2 018	3.4	1701	9 872	16.6	4.9
Latvia	523	23.0		425	18.7	0.8
Lithuania	863	25.7	170	558	16.6	0.6
Luxembourg	45	9.1		76	15.4	1.7
Malta	9	2.2	NA	39	9.4	4.3
Moldova	770	21.6		773	21.6	1.0
Monaco	4	12.9		6	19.3	1.5
Montenegro	86	13.9		118	19.0	1.4
Netherlands	756	4.6		3 682	22.4	4.9
Norway	730	15.4		57	1.2	0.1
Poland	5 379	14.1	NA	6 900	18.1	1.1
Portugal	1 341	12.6		1 676	15.8	1.2
Romania	2 379	11.1		3 380	15.7	1.4
Russian Federation	30 315	21.3		12 259	8.6	0.4
San Marino	3	9.6	NA	4	12.8	1.3
Serbia	689	9.4	NA	950	12.9	1.4

Country	Number of Public Prosecutors	Number of prosecutors per 100,000 inhabitants	Number of persons with similar duties as public prosecutors	Number of non-prosecutor staff attached to the public prosecution service	Number of non-prosecutor staff per 100,000 inhabitants	Number of non-prosecutor staff per prosecutor
Slovakia	897	16.6		842	15.6	0.9
Slovenia	175	8.6	20	216	10.7	1.2
Spain	2 178	4.8	NA	1 986	4.4	0.9
Sweden	831	9.0		356	3.9	0.4
Switzerland	426	5.5		693	9.0	1.6
FYROMacedonia	181	8.9		176	8.6	1.0
Turkey	4 222	5.9		3 692	5.2	0.9
Ukraine						
UK-England and Wales	2 868	5.3	NA	4 745	8.7	1.7
UK-Northern Ireland			NA			
UK-Scotland	440	8.5		1 092	21.1	2.5
Average		10.4			12.2	1.4
Median		9.3			12.4	1.2
Minimum		1.9			1.2	0.1
Maximum		25.7			26.4	4.9

* **France:** data on staff attached to the public prosecution service includes both the staff working for judges and the staff working for prosecutors; it has not been taken into account to calculate the European average and median.

Comments

Austria: the number of persons with similar duties to public prosecutors (144.28) is not included in the total number of prosecutors.

France: Figures could not be separated for the staff working for judges and the staff working for prosecutors. The given figure includes both and has not been taken into account when calculating European averages and medians.

Georgia: the provided number includes all employees having the status of prosecutors. However, prosecutors on managerial positions or prosecutors in charge of other administrative tasks generally do not carry out prosecutorial functions such as representation in court. The number of prosecutors exercising actively prosecutorial functions is 272.

Ireland: the number of public prosecutors does not include private solicitors (32 in number) and their support staff contracted to prosecute on behalf of the State in areas outside Dublin.

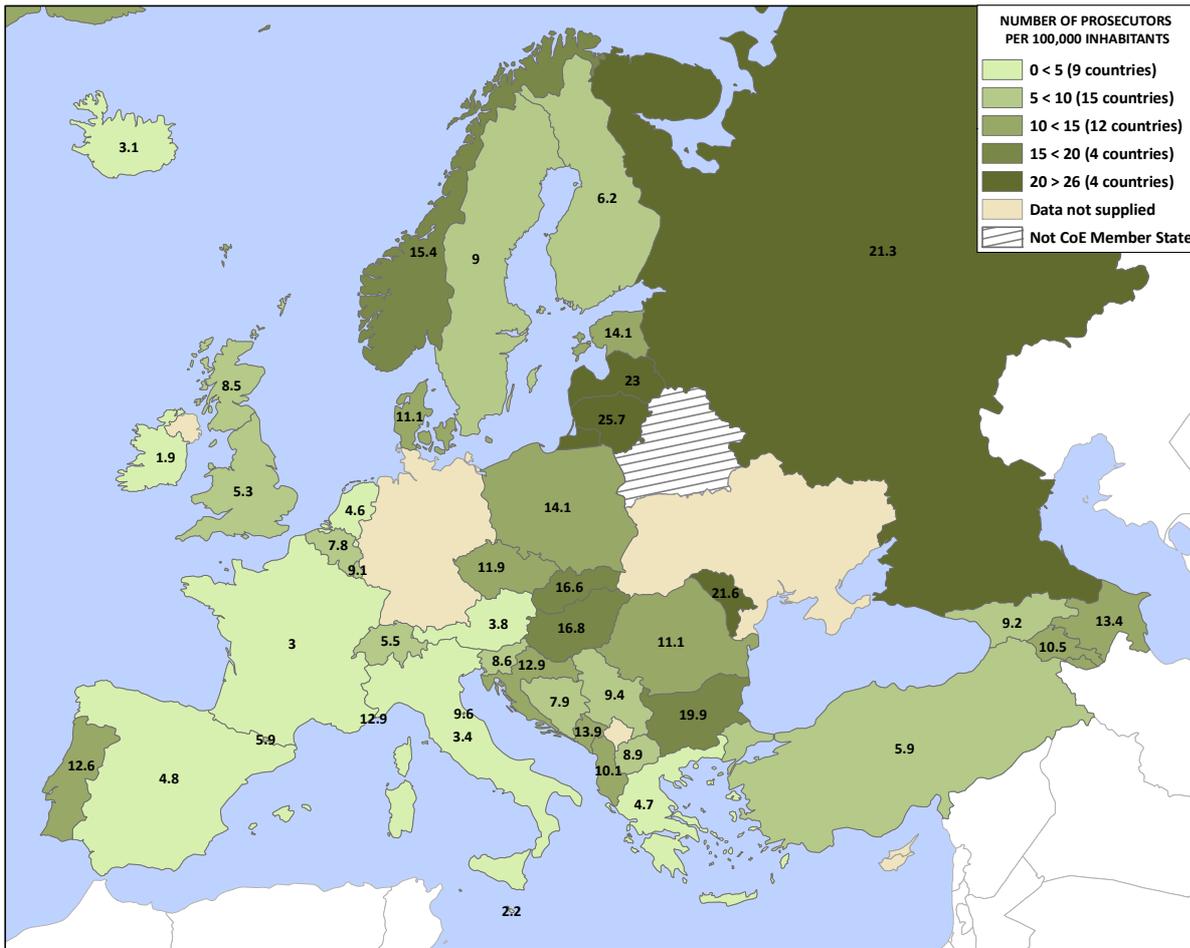
Italy: 2009 data.

Norway: the number of non-prosecutor staff relates only to staff in the Higher Prosecutor Authorities.

Poland: there are also 902 officials who are in a preparatory period before their final nomination as prosecutors.

UK-England and Wales: 2009 data.

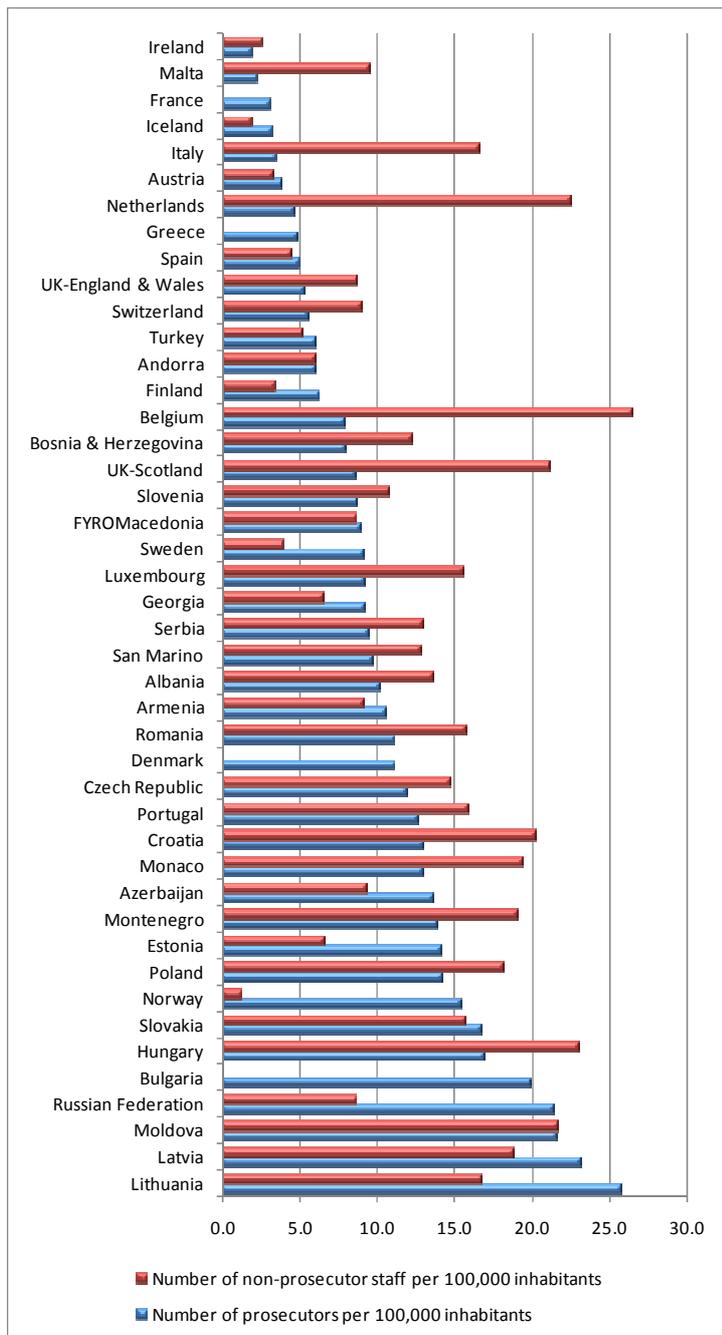
Figure 10.2 Number of public prosecutors per 100.000 inhabitants in 2008 (Q58)



The highest number of public prosecutors (per 100.000 inhabitants) can be found in Central and Eastern European states (**Bulgaria, Hungary, Latvia, Lithuania, Moldova, Slovakia, Russian Federation**) but also in **Norway**. 9 states (**Austria, France, Greece, Iceland, Ireland, Italy, Malta, Spain, the Netherlands**) have less than 5 prosecutors per 100.000 inhabitants.

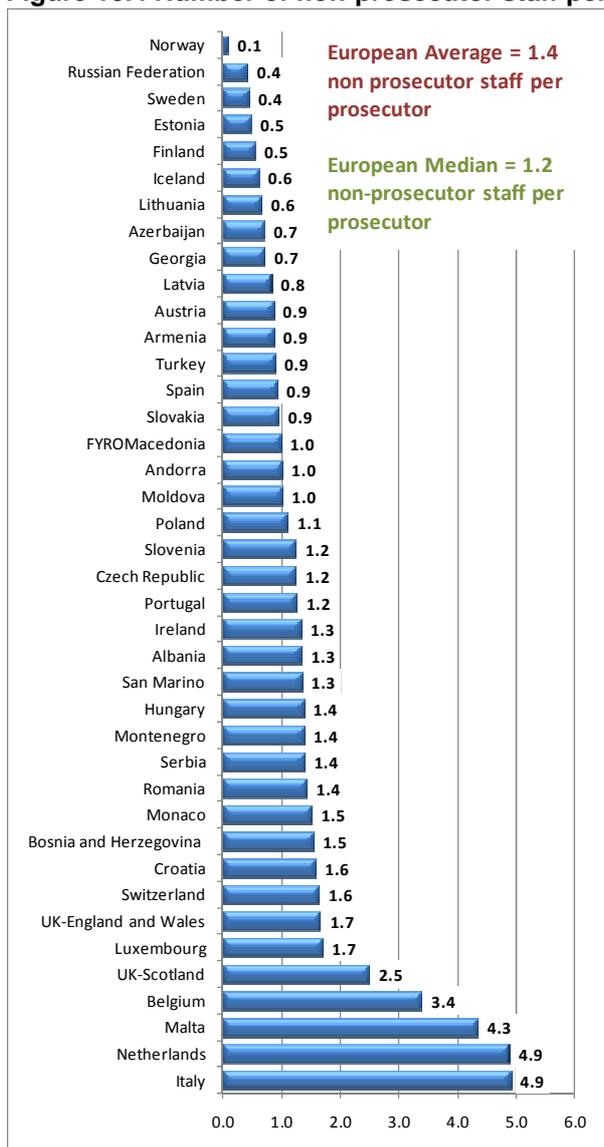
For **Italy**, the number of prosecutors must be put into perspective as it includes 1.701 practicing non-professional public prosecutors. 17 other states or entities mentioned having persons who may fulfil tasks similar to the task of a public prosecutor; only a few states were able to provide data on these officials (**Austria, Iceland, Italy, Lithuania, Slovenia**). They may be counted within the number of prosecutors. In **Austria**, specifically trained officers of the Public Prosecutor's Office (*Bezirksanwälte*) are allowed to act under the supervision of a prosecutor (quite similar to the *Rechtspfleger* but with a lower range of competences and fewer qualifications). Police officers and public prosecutors have similar competences in **Iceland, Greece, Malta, Poland and France** (*officier du ministère public*). In **UK-England and Wales**, some government Departments have prosecutors specialised in offences specifically related to the areas of the respective Departments. In **Finland**, the Chancellor of Justice of the Government and the Parliamentary Ombudsman may also prosecute. In **Ireland**, much of the work of the Director of Public Prosecutions is carried out by lawyers in private practice rather than by lawyers employed by the state.

Figure 10.3 Number of prosecutors vs. number of non-prosecutor staff per 100.000 inhabitants in 2008 (Q58, Q59)



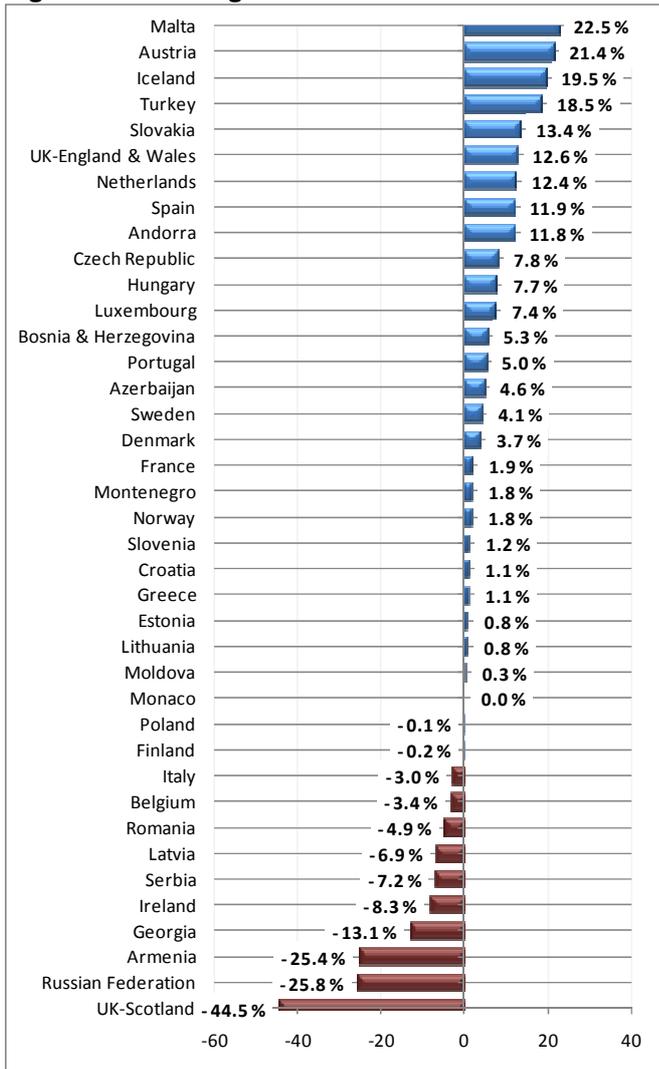
France: data includes the number of judges and prosecutors vs. the number of non-judge and non-prosecutor staff.

Figure 10.4 Number of non-prosecutor staff per one prosecutor (Q60, Q58)



The organisation of the prosecution office differs from one state or entity to another. In the majority of member states or entities (25), prosecutors work with at least a number of staff equal to the number of prosecutors (in "the former Yugoslav Republic of Macedonia", Andorra and Moldova the number is equal). In other states, a limited number of prosecutors work with a high number of staff, so a significant number of preparatory tasks may be delegated to the latter (Italy, the Netherlands, Malta and Belgium). Norway, the Russian Federation and Sweden have a high number of prosecutors but a low number of staff.

Figure 10.5 Average Annual Variation of the number of prosecutors between 2004 and 2008 (Q58)

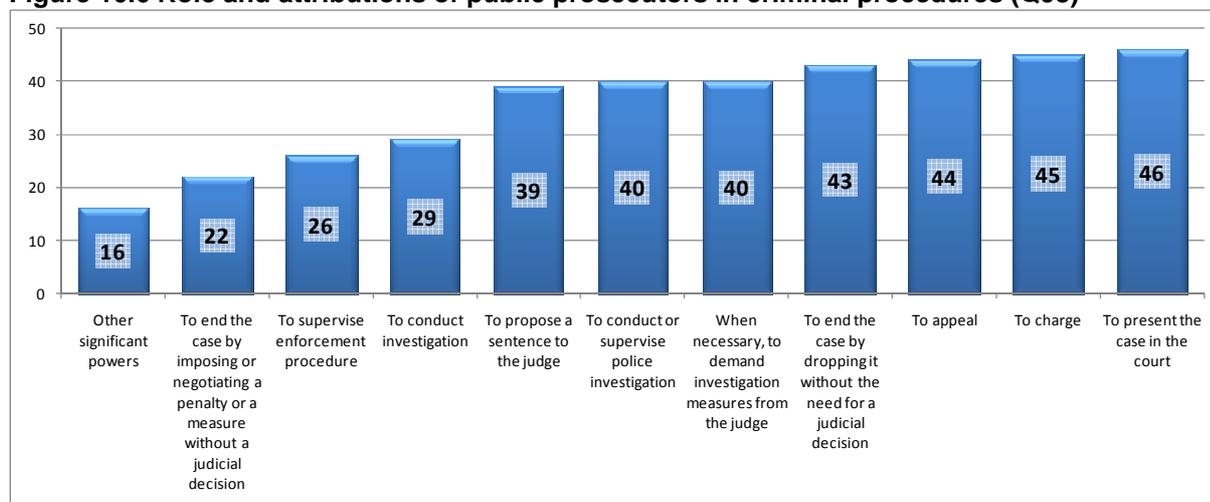


There is a relative stability in the evolution of the number of prosecutors between 2004 and 2008. On average, the trend is an increase of +1.5% per year. Nevertheless, several significant decreasing and increasing trends can be noticed. An important decrease (of more than 10%) is characteristic of **Georgia**, **Armenia**, **the Russian Federation** and **UK-Scotland**. On the contrary, a significant increase is notable for **Spain**, **the Netherlands**, **UK-England and Wales**, **Slovakia**, **Turkey** and **Austria**, although **Spain**, **the Netherlands** and **Austria** still have in 2008 a particularly low number of prosecutors. The increase in **Andorra**, **Iceland** and **Malta** must be put into perspective as the absolute number of prosecutor is very low in these three countries.

10.2 Role and powers of public prosecutors

10.2.1 Criminal law

Figure 10.6 Role and attributions of public prosecutors in criminal procedures (Q98)



Note: see the “country profiles” in Appendix.

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

All the responding states or entities (46) stated that prosecutors are authorized to present the case in court. In 45 states or entities, the prosecutor has the power to charge the defendant. The only exception is found in **UK-Scotland**. There are 44 states or entities where the prosecutor plays a role in appeal proceedings.

In 40 states or entities, prosecutors can conduct or supervise police investigations. Member states or entities which do not entrust this task to prosecutors are: **Cyprus, Finland, Ireland, Malta, Slovenia** and **UK-England and Wales**. There are also 29 states or entities which stated that one of the powers of the prosecutor consists in conducting investigations. In 40 states or entities, the prosecutor may request the judge to order specific investigation measures. This is not possible for prosecutors in: **Armenia, Azerbaijan, Cyprus, Ireland, Ukraine** and **UK-England and Wales**.

Prosecutors from 39 states or entities can suggest a sentence to the judge. Such ability is not provided in the following states or entities: **Austria, Cyprus, Russian Federation, San Marino, "the former Yugoslav Republic of Macedonia", Ukraine** and **UK-England and Wales**. 43 states or entities informed that prosecutors can end cases by dropping them without the need of a judicial decision. This is not possible in **Andorra, Cyprus, Italy, Poland** and **Spain**. Only about half of the states allow prosecutors to end the case by imposing or negotiating a penalty or a measure without a judicial decision.

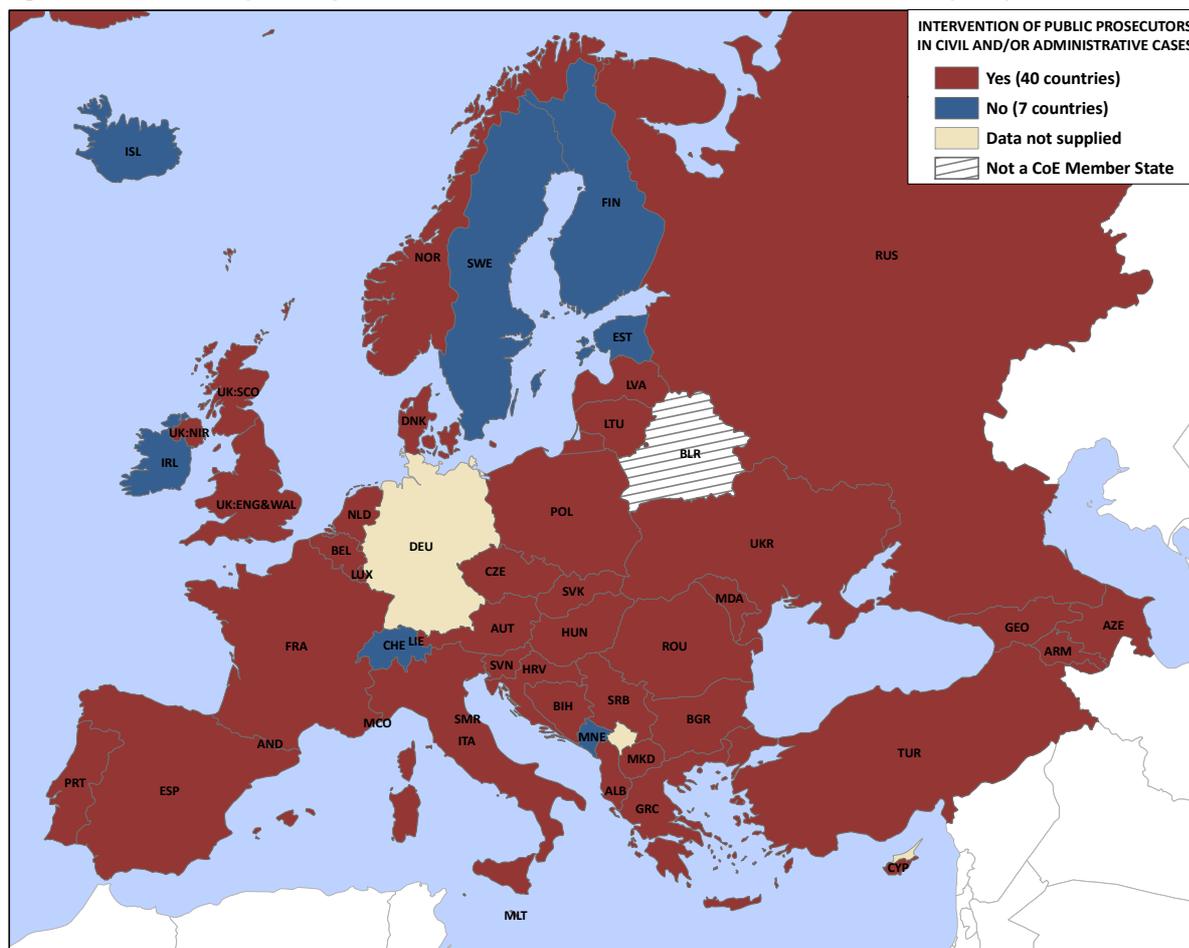
In 16 member states, the prosecutors may have other significant powers. For example, the prosecutor has the ability to negotiate a guilt agreement (**Bosnia and Herzegovina** and **Poland**) which can lead to a simplified procedure (**Georgia**). In **France**, prosecutors may play a role in local policies for security and prevention or, for example, against domestic violence. In **Greece**, he/she supervises and controls the correctional facilities and in **Latvia** he/she protects the interest of underage or disabled prisoners. **Slovenia** informed that prosecutors can apply extraordinary legal remedies against final judicial decisions. In **Croatia, France, Slovenia** and the **Russian Federation** prosecutors can perform mediation duties (see Chapter 6 above).

10.2.2 Areas other than criminal law

It is obvious that the public prosecutors' main task is to prosecute criminal cases. Nevertheless, in the majority of the member states or entities (39) – more than in the last evaluation period – public prosecutors can play a role in the civil or administrative fields. Though, in 9 states or entities this role is limited to a few specific cases: **Albania, Austria, Denmark, Georgia, Italy, Malta, the Netherlands, Norway** and **UK-Scotland**.

Only 7 states do not allow prosecutors to play any role in civil or administrative cases: **Estonia, Finland, Iceland, Ireland, Montenegro, Sweden and Switzerland.**

Figure 10.7 Role of public prosecutors in civil and/or administrative cases (Q99)



Andorra, Malta, Monaco and San Marino: intervention of public prosecutors in civil and/or administrative cases.

One third of the member states mentioned that public prosecutors represent the public interest and protect the legality in civil and/or administrative proceedings (**Austria, Bosnia and Herzegovina, the Czech Republic, France, Georgia, Lithuania, Luxembourg, Malta, Moldova, Monaco, Poland, Slovakia, Slovenia, Spain, "the former Republic of Macedonia" and Turkey**). 9 member states quoted that prosecutors represent the State, Ministries and other government bodies in trials (**Armenia, Azerbaijan, Croatia, Georgia, Greece, Malta, Moldova, Portugal and Slovakia**).

In civil cases, the public prosecutor (in 17 states and entities) often defends the interest of *vulnerable persons* such as minors, victims, disabled, incapable and disappeared persons and plays an important role in *family law cases* (**Albania, Andorra, Austria, Bulgaria, the Czech Republic, France, Georgia, Hungary, Italy, Moldova, Norway, Portugal, Romania, San Marino, Slovakia, Spain and Turkey**). They can have responsibilities concerning the annulment of marriages, a person's legal capacity, the declaration of a disappeared or dead person, the obtaining of a nationality, the restoration of the custody of a child (or improper removal of a child), the deprivation of parental rights and a child's adoption. Other areas of jurisdiction in the civil law field are bankruptcy cases (the **Czech Republic** and **Slovakia**), compensation for victims (**Georgia** and **Norway**), labour accidents and professional illnesses (**Portugal**), forfeiture of assets (**UK-England and Wales** and **UK-Scotland**). In the **Russian Federation**, public prosecutors also defend the rights and liberties of citizens and have, for example, reception hours on specific days. They may perform mediation duties in several categories of civil cases; the same is true in **Croatia** (see Chapter 6 below). In **France**, prosecutors may nominate public officials and supervise their actions whereas in **Monaco**, they supervise the list of trustees and jurisconsultes.

14 states reported that public prosecutors are involved in administrative law cases: **Azerbaijan, Bulgaria, Denmark, Georgia, Lithuania, Moldova, the Netherlands, Portugal, the Russian Federation, Serbia, Slovenia, Spain, "the former Yugoslav Republic of Macedonia" and Turkey**. For example in **Azerbaijan**,

prosecutors supervise the implementation and execution of the Constitution and legislative acts. In the **Netherlands**, prosecutors may impose administrative fines for minor traffic violations. In **Denmark**, a prosecutor can handle a case administratively when a person claims damages resulting from a wrongful criminal charge. In **Spain**, public prosecutors may act in proceedings for the protection of fundamental rights against acts of public administrations.

10.3 Case proceedings managed by public prosecutors

The following table gives information on the number of criminal cases addressed by the prosecutors in first instance. 8 states or entities (**Andorra, Cyprus, Greece, Iceland, Norway, San Marino, Switzerland and UK-Northern Ireland**) were not able to communicate the data for 2008. **Austria's** estimation of received cases includes also non-criminal cases.

Only 18 states or entities indicated whether traffic cases are included (**Austria, Denmark, Finland, France, Hungary, Latvia, Monaco, Montenegro, Serbia, Slovenia, UK-England and Wales, UK-Scotland**) or not included (**Belgium, Bosnia and Herzegovina, Croatia, the Netherlands, the Russian Federation, Slovenia**) in the figures provided.

Note to reader: few member states have specified whether traffic offences were or not included in the data above, which obviously changes significantly the number of cases handled by the prosecutors. Therefore, relevant analysis based on a comparison of states or entities can be done only in considering clusters of states / entities having or having not included traffic offences.

Table 10.8 Case management by the public prosecutor in 2008 (Q100)

Country	Received by the public prosecutor	Total discontinued	Of which:			Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Brought by the public prosecutor before the courts
			Discontinued because the offender could not be identified	Discontinued due to an impossibility of fact or a specific legal situation	Discontinued for reasons of opportunity		
Albania	21 208	4 647	4 632				6 497
Armenia	10 167	3 843	2 004	615	1 224		2 511
Austria	604 928	156 524	351	156 163	10	38 208	71 684
Azerbaijan	2 923	512	88	415	9		966
Belgium	689 397	484 702	166 929	142 954	174 819	7 436	19 853
Bosnia and Herzegovina	73 055	8 789				13 406	17 371
Bulgaria		258 392	231 489	26 903		NAP	43 736
Croatia	85 069	48 481	28 666	16 757	3 058	0	28 838
Czech Republic	74 406	10 646		682	9 964		63 079
Denmark	589 959						561 012
Estonia	40 860	26 277	15 808	7 045		4 014	3 424
Finland	85 610	10 364					65 744
France	5 101 119	3 445 648	2 743 699	482 429	219 520	611 945	668 946
Georgia	63 947	27 114		27 114			20 914
Hungary	156 565	358 779	178 396	180 383		16 447	69 470
Ireland	16 140						
Italy	3 270 906	1 666 943	1 666 943				624 266
Latvia	14 603	2 544	159	2 385	NAP	1 726	11 861
Lithuania	84 141	61 513	40 418	21 095	NAP	2 673	12 416
Luxembourg	42 454	5 246			5 246	327	11 689
Moldova	48 152	7 184		7 184		1 438	10 340
Monaco	2 379	1 551	645	906	0	0	828
Montenegro	10 859	2 835	1 550	1 260	25	72	7 795
Netherlands	260 228	35 339	NAP	17 405	17 934	68 290	155 879
Poland	1 124 783	321 739	167 216	154 523	NAP	202 161	369 813
Portugal	544 712						75 511
Romania	1 193 614	458 238	NAP	458 238	NAP	NAP	34 236
Russian Federation	188 419	4 087	NAP	4 087	NAP	NAP	168 881
Serbia	126 750	23 583	NAP	23 583			61 534
Slovakia	205 468				NAP	6 039	30 070
Slovenia	84 026	65 464	50 172	11 808	3 484	NAP	15 150
Spain	4 460 666	2 729 118	2 320 630	408 488	NAP	NAP	284 078
Sweden	691 988					52 508	200 212
FYROMacedonia	37 577	20 563	15 801	4 762	NAP	11 680	12 913

Country	Received by the public prosecutor	Total discontinued	Of which:			Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Brought by the public prosecutor before the courts
			Discontinued because the offender could not be identified	Discontinued due to an impossibility of fact or a specific legal situation	Discontinued for reasons of opportunity		
Turkey	1 067 045					1 153	
UK-England and Wales	1 137 375	98 827	4 005	94 822		NAP	1 041 354
UK-Scotland	284 859	3 603	NAP	3 603	NAP	61 451	NAP

Comments

Belgium: the figures of the federal prosecutor and the 27th prosecutorial office are not included. The 7.436 cases concluded by an imposed or negotiated penalty or measure include 5.075 cases concluded after payment of a criminal transaction and 2.361 cases concluded after criminal mediation.

Bosnia and Herzegovina: the courts decide on a plea bargaining negotiated by the prosecutors.

Bulgaria: discontinued cases due to impossibility of fact or a specific legal situation include 22.326 acts which do not constitute criminal offences and 4.577 cases discontinued for lack of evidence.

Czech Republic: 353 cases were discontinued due to a specific legal situation in which the offender: was not present and therefore the act could not be explained; had a disease for which she/he cannot stand trial; had a mental disease and was not capable of understanding the meaning of the prosecution; or his/her extradition was in process.

Estonia: the number of cases brought by the public prosecutor before the courts includes the discontinued cases for opportunity reasons.

Hungary: traffic offences which are discontinued as criminal cases (but prosecuted as minor offence cases by a different body) are included in the discontinued cases due to an impossibility of fact or a specific legal situation.

Italy: the prosecutors cannot discontinue or conclude a case on their own. They must always obtain a court decision regarding the outcome of a case.

Moldova: received cases refer to pending cases and therefore also include cases initiated before 1 January 2008.

Netherlands: only cases of severe criminal offences are indicated. Many small traffic cases – in other states often handled in criminal law – are handled by administrative law (Lex Mulder).

Poland: prosecutors cannot impose a penalty on their own decision-making. The court may accept negotiated penalty and issue a judgment without formal proceedings on evidence.

Russian Federation: in 2008, 15.451 cases were suspended (not discontinued) because the offender could not be identified. The 4.087 cases, discontinued due to an impossibility of fact or a specific legal situation, include: 1.003 cases for lack of established crime, 2.629 cases for lack of *corpus delicti*, 443 cases for expiry of the limitation period and 12 cases for amnesty.

Serbia: the figures only refer to cases against identified offenders.

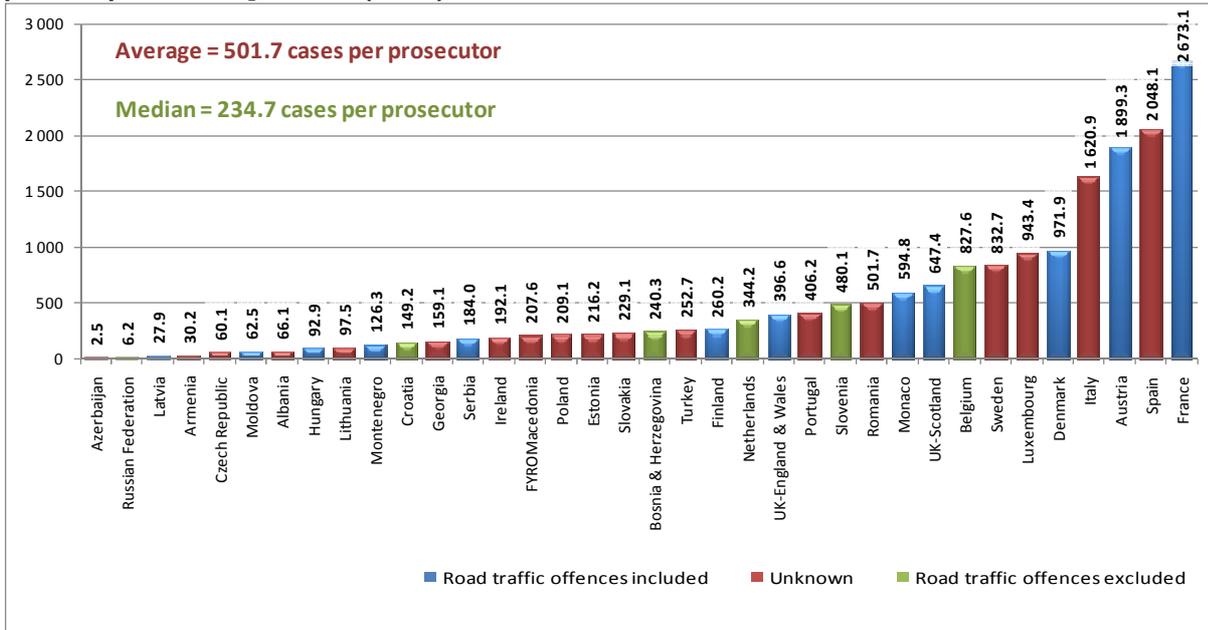
Slovenia: a public prosecutor cannot discontinue a case because it is impossible to identify the offender. The number of cases discontinued for opportunity reasons includes, besides criminal acts of minor importance, alternative cases which are dismissed after a successful postponement of the prosecution and settlement.

Spain: the figures given refer to criminal cases received, discontinued and dealt with by the court since the investigative stage in criminal proceedings remains under the responsibility of the investigating judge. The figures refer to investigative proceedings received and handled exclusively by the Prosecution Office (previous to and independently from judicial proceedings) and are as follows: 13.775 cases received by the public prosecutor, 6.175 discontinued by the public prosecutor and 6.356 brought to court by formulating the appropriate claim. The public prosecutor cannot impose penalties.

UK-England and Wales: it was not possible to distinguish between discontinued cases due to an impossibility of fact or a specific legal situation and those due to opportunity reasons. Cases dropped by the Crown Prosecution Service are recorded under the following explanatory categories: dropped on evidential considerations: 47.958; dropped for public interest reasons: 20.883; dropped because the prosecution was unable to proceed (e.g. because a witness failed to attend court): 20.181; dropped for other reasons: 5.800.

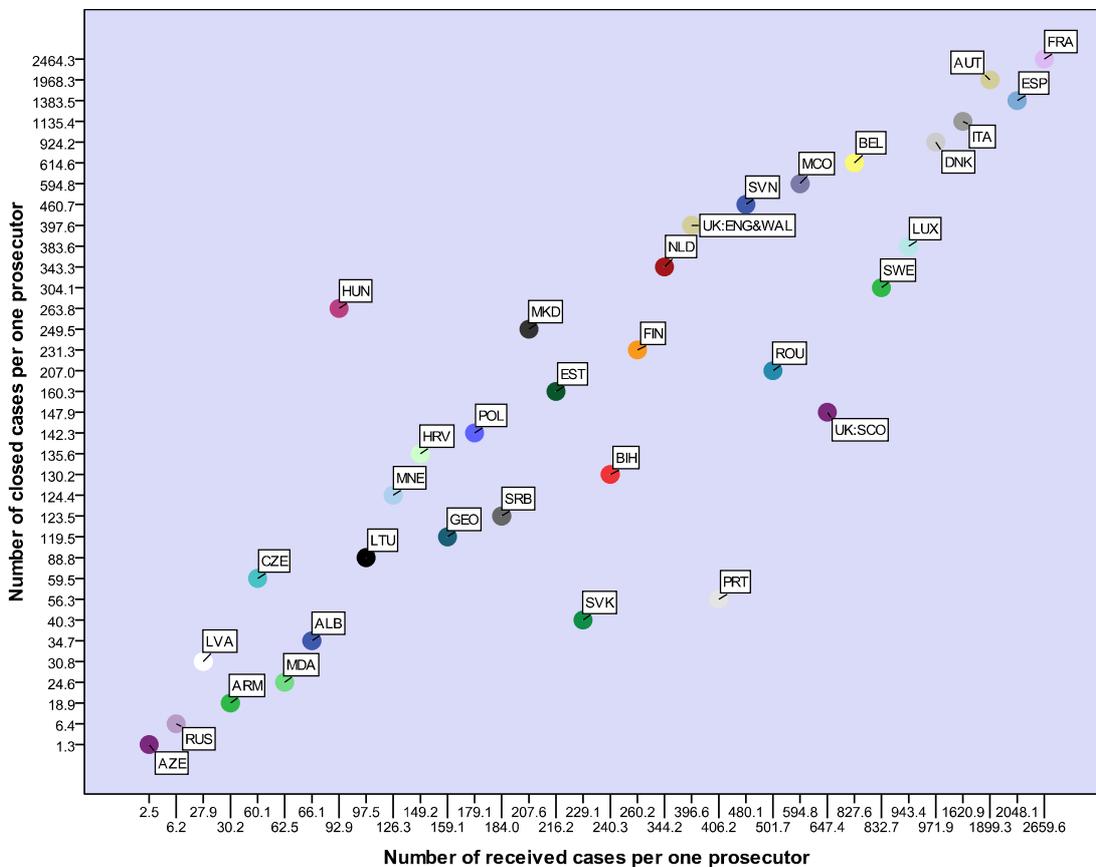
UK-Scotland: cases concluded with the imposition of a penalty or with negotiation relate to the number of cases closed as paid fiscal fine or conditional offer (road traffic offence etc) when no co-accused was subjected to court proceedings of any kind.

Figure 10.9 Number of first instance criminal cases received by public prosecutors [number of cases per one prosecutor] in 2008 (Q100)



It can be noted that member states with the highest number of received cases per prosecutor (**France, Spain, Austria**) have one of the lowest absolute number of prosecutors. **Italy** is an exceptional case as there are also 1.701 non-professional public prosecutors in exercise. States and entities with the lowest number of cases per prosecutor can be found in Eastern European states, which have also a high absolute number of public prosecutors (in particular **Russian Federation** and **Latvia**).

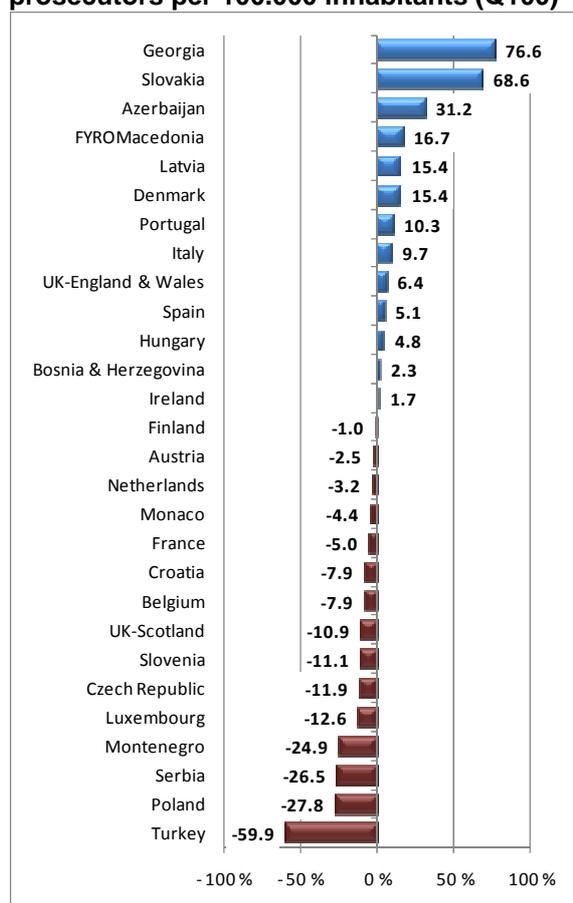
Figure 10.10 Number of received and closed cases per one public prosecutor in 2008 (Q100)



The number of closed cases is calculated as a sum of discontinued cases, cases concluded by a penalty or a measure and cases brought before the courts. 34 states or entities are considered here.

The distribution of received and closed cases is quite symmetrical (received cases \approx closed cases). In most of the states the workload of prosecutors is balanced. Prosecutors can cope with the number of incoming cases. **France, Austria, Spain and Italy** on the one hand, and **Azerbaijan, Russian Federation, Armenia, Latvia, Moldova, Albania** on the other hand, constitute the extreme positions. Several states or entities have many incoming cases per prosecutor per year, but also have a relatively low number of closed cases (**Slovakia, Portugal, Romania and UK-Scotland**). On the contrary, **Hungary, "the former Yugoslav Republic of Macedonia"** and **the Netherlands** have a relatively low to average number of cases received per prosecutor, but a significant number of closed cases per year.

Figure 10.11 Evolution between 2006 and 2008 (in %) of the number of received cases by the public prosecutors per 100.000 inhabitants (Q100)



The figure takes into account 28 states or entities. No positive or negative trend between 2006 and 2008 can be highlighted (the European average is +1.7% whereas the European median is -1.7%).

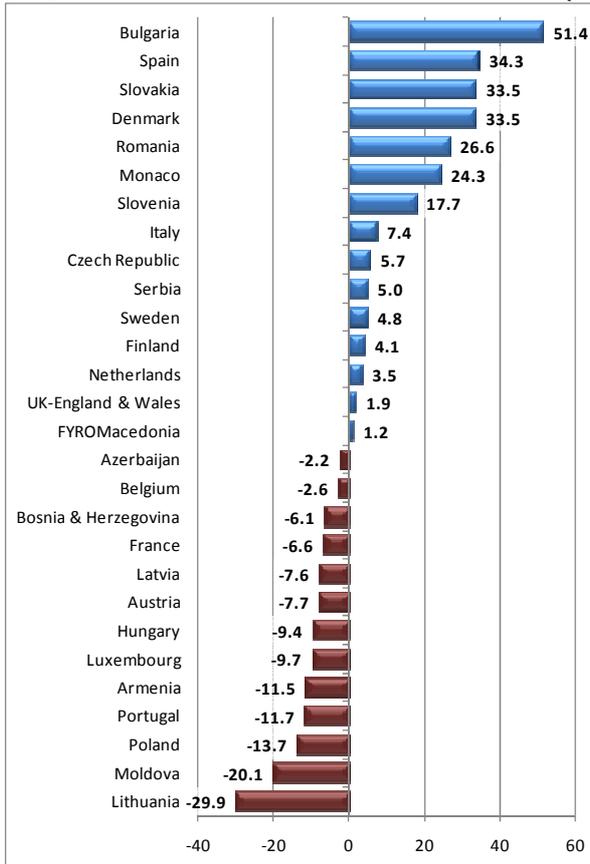
Table 10.12 Number of cases concluded by a penalty or a measure imposed or negotiated by the prosecutor and cases brought by the prosecutor before courts in 2008 (Q100)

Country	Cases concluded by a penalty or a measure imposed or negotiated per one prosecutor (a)	Cases concluded by a penalty or a measure imposed or negotiated by the prosecutor per 100,000 inhabitants	Cases brought before courts per one prosecutor (b)	Cases brought by the public prosecutor before courts per 100,000 inhabitants	Ratio between (b) and (a) [b/a]
Albania			20.2	204.9	
Armenia			7.5	78.5	
Austria	120.0	458.3	225.1	859.9	1.9
Azerbaijan			8.3	111.9	
Belgium	8.9	69.7	23.8	186.1	2.7
Bosnia and Herzegovina	NAP		57.1	452.1	
Bulgaria	NAP		28.7	572.4	
Croatia			50.6	650.3	
Czech Republic			50.9	604.8	
Denmark			924.2	10 245.3	

Country	Cases concluded by a penalty or a measure imposed or negotiated per one prosecutor (a)	Cases concluded by a penalty or a measure imposed or negotiated by the prosecutor per 100,000 inhabitants	Cases brought before courts per one prosecutor (b)	Cases brought by the public prosecutor before courts per 100,000 inhabitants	Ratio between (b) and (a) [b/a]
Estonia	21.2	299.3	18.1	255.3	0.9
Finland			199.8	1 240.3	
France	319.1	957.1	348.8	1 046.3	1.1
Georgia			52.0	477.3	
Hungary	9.8	163.7	41.2	691.6	4.2
Italy			309.3	1 047.1	
Latvia	3.3	76.0	22.7	522.3	6.9
Lithuania	3.1	79.5	14.4	369.4	4.6
Luxembourg	7.3	66.5	259.8	2 375.8	35.7
Moldova	1.9	40.2	13.4	289.4	7.2
Monaco	0.0	0.0	207.0	2 662.1	
Montenegro	0.8	11.6	90.6	1 257.0	108.3
Netherlands	90.3	416.3	206.2	950.2	2.3
Poland	NAP		68.8	969.7	
Portugal			56.3	711.2	
Romania	NAP		14.4	159.0	
Serbia			89.3	837.2	
Slovakia	6.7	111.8	33.5	556.7	5.0
Slovenia	NAP		86.6	747.8	
Spain	NAP		130.4	627.3	
Sweden	63.2	571.8	240.9	2 180.3	3.8
FYROMacedonia	64.5	571.1	71.3	631.4	1.1
Turkey	0.3	1.6			
UK-England and Wales	NAP		363.1	1 912.9	
UK-Scotland	139.7	1 189.0			
Average	50.6	299.0	131.1	1 105.6	13.3
Median	8.9	111.8	57.1	650.3	4.0
Minimum	0.0	0.0	7.5	78.5	0.9
Maximum	319.1	1 189.0	924.2	10 245.3	108.3

18 state or entities stated that prosecutors are able to impose or negotiate a penalty or a measure (in some of them a judicial decision is necessary). The workload of courts may be reduced in these states or entities. In **Estonia**, **France**, "**the former Yugoslav Republic of Macedonia**" and **Austria** cases concluded by penalties or measures are significant compared to the cases brought before courts. On the contrary, in **Montenegro** and **Luxembourg**, prosecutors do not often exercise this power. However, the comparison with cases brought before courts must be interpreted with care as only figures for 14 states or entities are available and the absolute numbers are often low.

Figure 10.13 Evolution of the number of cases brought by the public prosecutor before the courts per 100,000 inhabitants between 2006 and 2008 (Q100)



The trend of the evolution of the number of cases brought before the courts between 2006 and 2008 is slightly increasing in the 28 states or entities for which a calculation was possible (the European average is +4.1% per year, the European median +1.5%). For 22 states or entities, a comparison with the evolution of the number of received cases is possible (see figure 10.11). In half of these states or entities, the evolutions of both figures join the same trends (**Denmark, Finland, Italy, Slovakia, Spain** and **UK-England and Wales** with increasing trends, and **Austria, Belgium, France, Luxembourg** and **Poland** with a decreasing trend). The overall decreasing trend in **Belgium** is explained by the extension of a simplified procedure (“procès-verbaux simplifiés, PVS”) which has limited the number of received cases and has increased the number of cases brought before the courts. In 11 other states, the trends of the cases received and brought before the courts are opposite: an increasing trend for received cases but negative trend for cases brought before the courts can be noted in **Azerbaijan, Bosnia and Herzegovina, Hungary, Latvia** and **Portugal**; this trend is reversed in **the Czech Republic, Monaco, the Netherlands, Serbia, Slovenia** and **“the former Yugoslav Republic of Macedonia”**.

10.4 Trends and conclusions

The tasks of public prosecutors differ a lot from one member state or entity to another. The differences are particularly important in fields beyond the criminal law and are related to the status of the prosecutor (see the following chapter 11). A comparison between the member states or entities must take this situation into account.

At a European level, the number of public prosecutors and the number of received cases or cases brought before courts have not really evolved between 2004 and 2008. In the future, it will be interesting to analyse any probable correlation between these figures. For 2008, one can highlight that in most of the member states or entities the workload of the prosecutors is balanced: globally, prosecutors are able to cope with the volume of cases to be addressed.

Chapter 11. Status and career of judges and prosecutors

Citizens see their judges as a personification of the judiciary. They expect them to be independent and impartial in the judicial practice throughout the career, namely in matters of: recruitment and nomination, training, salaries, exercise of other activities and the evaluation of their work. The Consultative Council of European Judges (CCJE) affirms in its Opinion N°1 (2001): "*Their independence is not a prerogative or privilege in their own interests, but in the interests of the rule of law and of those seeking and expecting justice*". In the same Opinion, the CCJE underlines that : "*every decision relating to a judge's appointment or career should be based on objective criteria and be either taken by an independent authority or subject to guarantees to ensure that it is not taken other than on the basis of such criteria*" (CCJE's Opinion N°1 (2001) par.37).

Considering the diversity of the prosecutor's status according to the member states or entities of the Council of Europe, it is not possible to apply equally the above principles, followed by judges, to public prosecutors. The Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system describes that: "*the recruitment (...) of public prosecutors [is] carried out according to fair and impartial procedures embodying safeguards against any approach which favours the interests of specific groups, and excluding discrimination...*". However, in order to make further observations, both professions shall be inevitably compared.

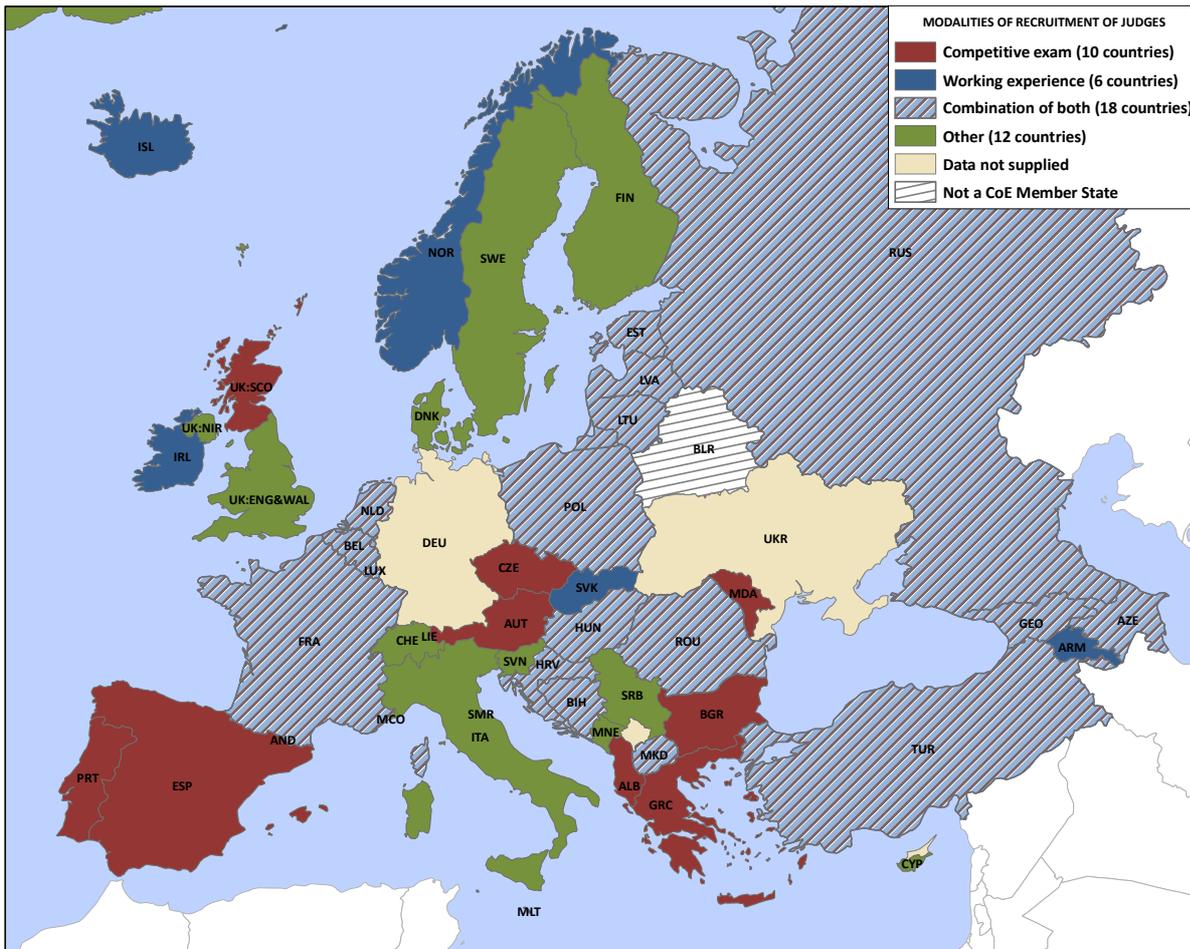
The various professional associations granted with the observer status with the CEPEJ have been consulted in the elaboration of this chapter.

11.1 Recruitment and nomination

11.1.1 Recruitment and nomination of judges

The methods used to recruit judges are a sensitive subject because it involves the issue of the independence of the judiciary. Several recruitment methods can be found in the member states or entities of the Council of Europe and are presented in the following figure.

Figure 11.1 Modalities of recruitment of judges (Q101)

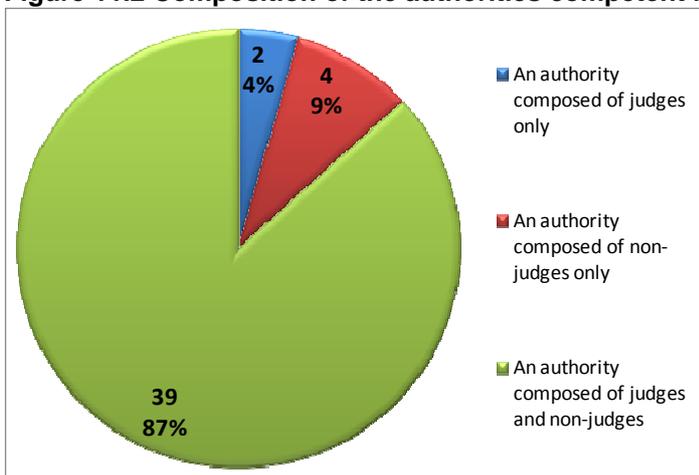


Andorra: competitive exam. **Malta:** working experience. **Monaco:** other. **San Marino:** combination of both.

As in 2006, most of the 46 responding states or entities recruit judges on the basis of a competitive exam and working experience. Sometimes the procedure varies depending on the qualifications of the applicant and the office she/he applied for (**France, Lithuania, Monaco, San Marino, "the former Yugoslav Republic of Macedonia", UK-England and Wales**, for instance).

As for other specific modalities of recruitment of judges, **Finland** and **Sweden** informed that judges are generally nominated after a practical training in courts, and, in **Denmark**, the applicants must, in addition, prove themselves as temporary judges. **Slovenia** requires that applicants succeeded in the lawyer's national exam and gained working experience. Contrary to the previous evaluation, no distinction among *Common Law* entities and continental European states can be made.

Figure 11.2 Composition of the authorities competent for the recruitment of judges (Q102)



Irrespective of the modalities of recruitment, it is important that the authorities competent for the recruitment of judges have a certain degree of independence. A large majority of the member states or entities have mixed (judges and non-judges) authorities ensure recruitment. In a limited number of states or entities, the recruitment is under the competence of a non-judge authority (**Andorra, Czech Republic, Luxembourg and Slovenia**) or in the hands of judges only (**Cyprus and Latvia**).

Often there are two authorities involved in the recruitment and nomination of judges. In several member states, a council for the judiciary (**Albania, France, San Marino and Serbia**) or a special council for judicial appointments (**Denmark, Estonia, Iceland, Ireland, Norway, Slovenia, Sweden, Switzerland** for some cantons, "**the former Yugoslav Republic of Macedonia**", **Turkey, UK-England and Wales, UK-Northern Ireland and UK-Scotland**) play important roles. Such bodies are independent and often composed of members of the judiciary and law practitioners. They are responsible for carrying out the selection procedures and for making proposals for nominations. In **Estonia and Iceland**, the Supreme Court is itself responsible for nominating judges within the court.

The authority entrusted with the formal nomination and appointment of a judge is, in many states or entities, the executive power, the Head of State (**Albania, Czech Republic, Estonia, France, Hungary, Luxembourg, Monaco and the Netherlands**), the Government (**Malta and Sweden**) or the Minister of Justice (**Austria, Denmark, Iceland and Ireland**). In **UK-England and Wales**, the Lord Chancellor or the Queen, in **UK-Northern Ireland** the Lord Chancellor and in **UK-Scotland** the Scottish Minister appoint judges; in **Cyprus**, it is the Supreme Council of the Judiciary, composed of the judges of the Supreme Court, that carries out this function.

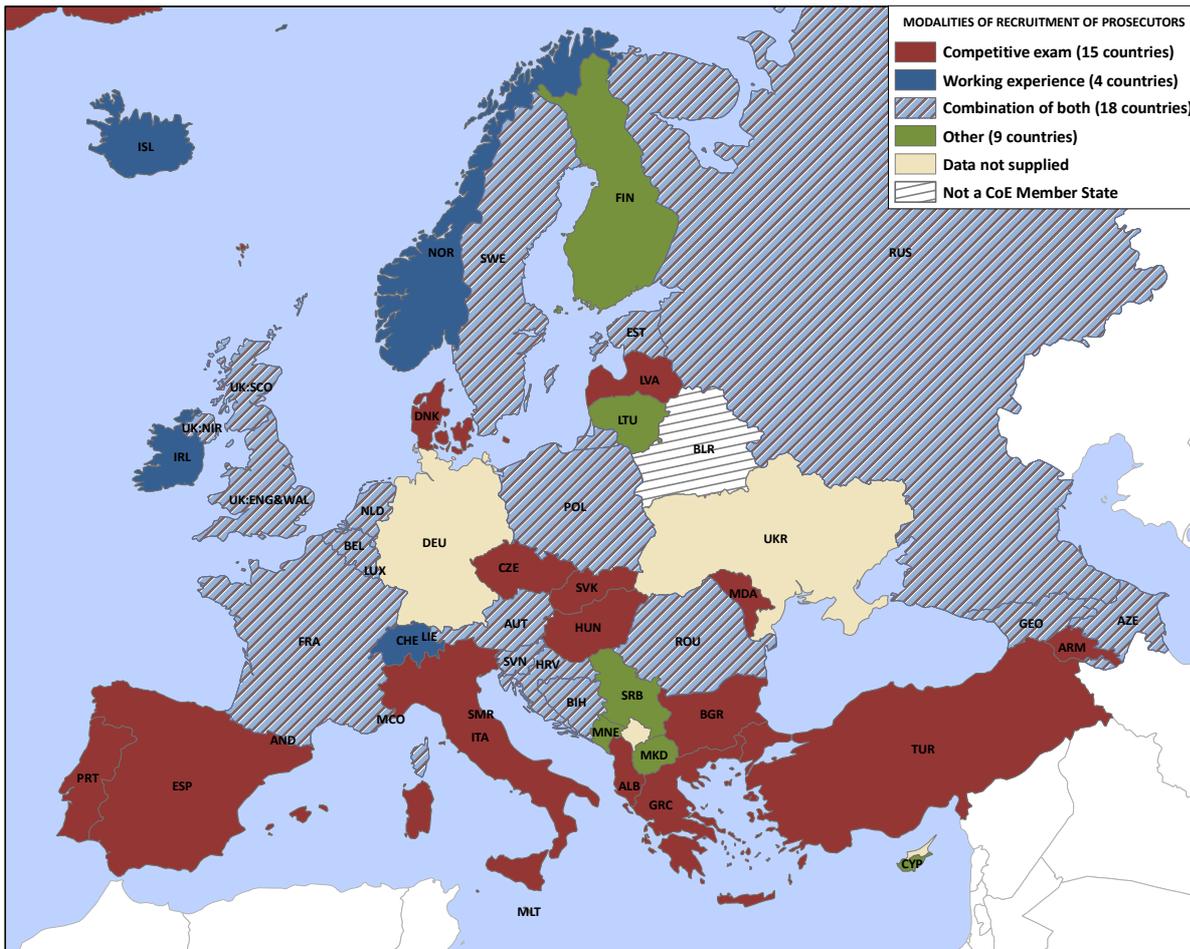
Nominations resulting from the legislative power are less common (**Serbia and Slovenia**). In the case of specialized courts, some states have chosen to nominate their judges by their peers (**France**: judges of labour courts responsible for disputes between employers and labour court judges responsible for disputes regarding employment contracts). In **Switzerland**, candidates for the cantons' supreme courts and for the federal courts are proposed by the political parties and elected by the legislative power; a balanced representation of the different national languages is also taken into account. In general, first instance judges are nominated by the cantons' supreme courts (in some cantons they are elected by the citizens).

There are no major changes compared to 2006 regarding the authority responsible for a judge's nomination.

11.1.2 Recruitment and nomination of prosecutors

As for judges, some states or entities make a distinction between the procedures for recruitment and nomination of a General Prosecutor or a state prosecutor and the procedures related to an *ordinary* public prosecutor, since the former are responsible for the control and policy making of the public prosecution and are more influenced by politics (see for instance **Finland, Georgia, Slovenia** and "**the former Yugoslav Republic of Macedonia**").

Figure 11.3 Modalities of recruitment of prosecutors (Q105)

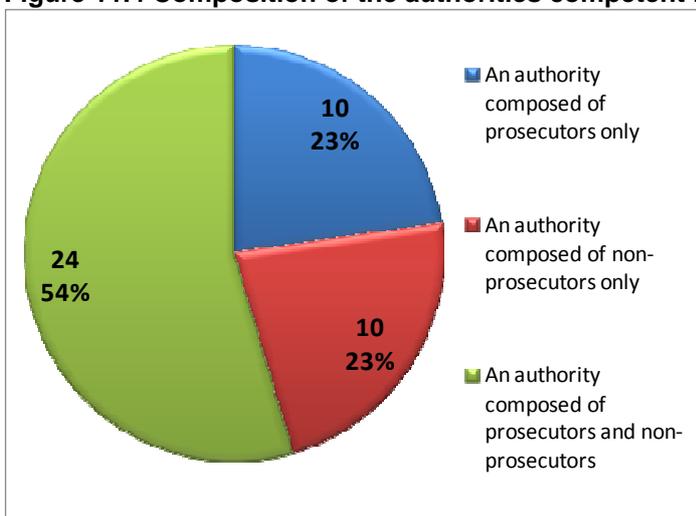


Andorra: competitive exam. Malta, Monaco and San Marino: other.

The majority of states or entities apply both methods of recruitment (competitive exam and working experience). Among the 9 states which indicated "other modalities", Finland mentioned that prosecutors are recruited after finishing Law school and a training period.

In a majority of states, the recruitment modalities for judges and for prosecutors are the same (see figures 11.1 and 11.3): Albania, Andorra, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Georgia, Greece, Iceland, Ireland, Italy, Luxembourg, Moldova, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia and Spain (29 states and entities).

Figure 11.4 Composition of the authorities competent for the recruitment of prosecutors (Q106)



Most of the 44 responding states or entities entrust the recruitment of prosecutors to mixed authorities composed of prosecutors and non-prosecutors: **Albania, Armenia, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, France, Georgia, Italy, Lithuania, Malta, Montenegro, Norway, Portugal, Romania, Russian Federation, Serbia, Slovenia, Spain, "the former Yugoslav Republic of Macedonia", Turkey, UK-England and Wales and UK-Scotland.**

In most of the states or entities, the prosecutor is, on the one hand, an actor of the judicial system, and, on the other hand, a representative of the state (sometimes executive) power, as a result of his specific function. He/she is also, in some states, independent from judicial and executive powers. Therefore, the modalities of recruitment of prosecutors may indicate the way powers have been balanced within the states. In some states, as for example in the **Russian Federation**, prosecutors are, as required by the law, independent of the legislative, executive and judicial powers. A strong influence of the executive power in nominations was indicated by **Albania, Denmark, Finland, France, Georgia, Monaco, the Netherlands and Slovenia** and also exists in **Austria, Malta, Poland and UK-England and Wales**. Exceptionally, the parliament nominates the prosecutors, for example in **Montenegro, Serbia and Slovenia** (for the election of the State prosecutor General on recommendation of the government). In **Finland and Georgia**, (some) prosecutors are appointed by the General Public Prosecutor and, in **Croatia, Cyprus and "the former Yugoslav Republic of Macedonia"**, by a special council composed of prosecutors (and non-prosecutors for **Croatia**).

As for the judges, often two authorities are involved in the nomination of prosecutors. Councils of Prosecutors play an important role in the nominations in **Albania, Austria, Greece, Netherlands and Serbia**.

11.2 Training

11.2.1 Training of judges

Many European states or entities have specialised institutes (judicial schools) for the training of judges (**Albania, Austria, Croatia, Estonia, Finland, France, Hungary, Iceland, Monaco, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland** - since 2009, but it is optional - , "**the former Yugoslav Republic of Macedonia**" and **UK-England and Wales**). These institutes, sometimes attached to the Ministry of Justice (in **Finland and Slovenia** for example), provide initial and/or continuing education. The Consultative Council of European Judges (CCJE) underlines that the authority competent for supervising the quality of the training programmes should be independent of the Executive and the Legislature and that at least half its members should be judges (CCJE's Opinion N^o 4 (2003) , par. 13). The CCJE recommends also that training should be ensured by an independent body with its own budget and which is competent for the preparation of training programmes (par. 17).

Finland, France, Georgia, Lithuania and Switzerland stated undergoing or having recent changes in the judicial training system.

Compulsory initial training: The specific knowledge which is necessary to practice the function of a judge is often acquired through an initial training. In a large majority of states or entities, this is mandatory (40 out of 46 states or entities). Only in 6 states is the initial training facultative (**Armenia, Cyprus, Estonia, Finland, Malta and San Marino**). One can note that in 4 of these states no training is compulsory for judges (**Cyprus, Finland, Malta and San Marino**).

Initial training is in most states or entities organised regularly (23 states or entities). In states which train their judges in schools for judicial studies but also in **Denmark, Finland, Poland and Turkey**, which organise internship programmes, the initial training takes several years, whereas in states which appoint their judges among experienced professionals, the training may take only a couple of days (for instance, **UK-England and Wales**).

Compulsory in-service training (general and others): 30 states or entities require a general in-service training. In about half of the states or entities, in-service training for specialised judicial functions (24) and in-service training for the use of computer facilities in the courts (21) are compulsory. Compared to 2006, 5 more states require a compulsory training for the use of computer facilities.

There are only 12 states requiring the training for management functions. Actually, these states require all five types of training.

In a majority of states (28), the general in-service trainings are organised regularly. In-service training for specialised judicial functions, in-service training for management functions of the court and in-service training for the use of computer facilities are mostly organised on an occasional basis.

In comparison to the data provided in 2006, more in-service trainings were provided to judges namely in Eastern European states: **Bulgaria, Croatia, Moldova** and the **Russian Federation**.

Table 11.5 Types of compulsory trainings for judges (Q114)

Country	Initial training	General in-service training	In-service training for specialised judicial functions	In-service training for management functions of the court	In-service training for the use of computer facilities in the court	Total number of mandatory trainings per country
Albania						5
Andorra						1
Armenia						2
Austria						3
Azerbaijan						2
Belgium						2
Bosnia and Herzegovina						2
Bulgaria						5
Croatia						5
Cyprus						0
Czech Republic						2
Denmark						1
Estonia						1
Finland						0
France						2
Georgia						3
Greece						4
Hungary						5
Iceland						4
Ireland						1
Italy						1
Latvia						3
Lithuania						5
Luxembourg						1
Malta						0
Moldova						5
Monaco						2
Montenegro						4
Netherlands						2
Norway						3
Poland						2
Portugal						1
Romania						5
Russian Federation						5
San Marino						0
Serbia						4
Slovakia						4
Slovenia						1
Spain						2
Sweden						5
Switzerland						1
FYROMacedonia						5
Turkey						3
UK-England and Wales						3
UK-Northern Ireland						5
UK-Scotland						5
TOTAL	(40 countries)	(30 countries)	(24 countries)	(12 countries)	(21 countries)	European Average: 3 mandatory trainings

Comment

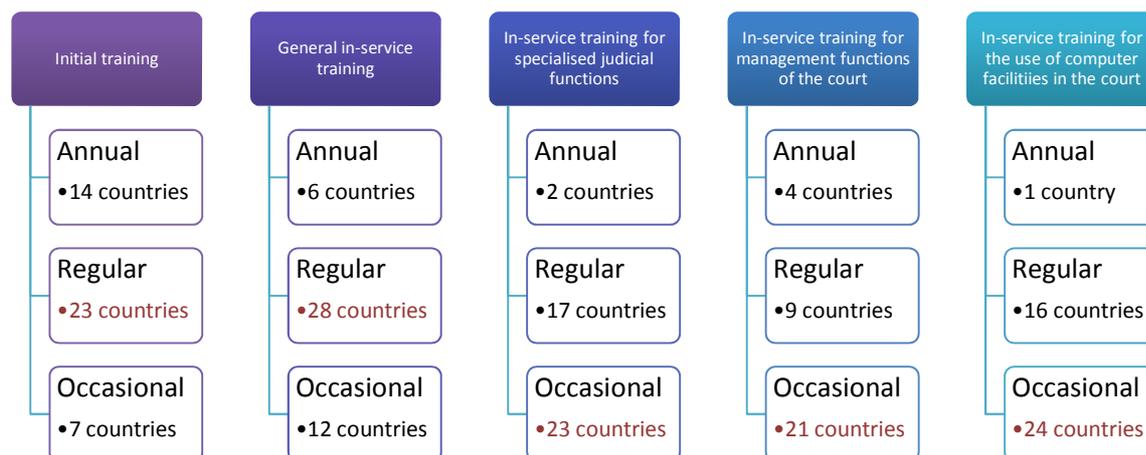
Switzerland: there is no specific compulsory training. Generally, only the full legal studies as well as some professional experience (e.g. in a court or a law firm) are required for access to a judgeship. A Swiss Judicial Academy has been founded on a private basis; a first intake of trainees began a course of study in 2009, this cycle ending in 2010. This training is not mandatory for acceding to a judicial function.

Figure 11.6 Distribution of states according to different combinations of types of compulsory trainings for judges (Q114)



At the European level, on average, 3 different types of training are required per state or entity. There are 28 states or entities which ask at least for 2 different types of training (initial training and general in service training). When the initial training is not considered, there are still 21 states or entities that require at least two other types of training (general in service and specialised for judicial functions). When cumulating 3 different types of training, one notes that there are 20 states or entities requiring the initial, the general in-service and the specialised for judicial functions' trainings. When the initial training is not considered, there are still an important number of states or entities which ask at least 3 other types of training (general in-service, specialised in judicial functions and trainings for the use of computer facilities).

Figure 11.7 Nature and frequency of the trainings for judges (Q115)



11.2.2 Training of prosecutors

According to Recommendation R(2000)19, paragraph 7, training is an important aspect to the practice of public prosecutors. 11 states mentioned explicitly that the prosecutors follow similar trainings, at least at the beginning of the career, to those of judges: **Albania, Austria, Bosnia and Herzegovina, Croatia, France, Moldova, Poland, Romania, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey.**

Compulsory initial training: 38 responding states or entities require an initial training for the prosecutors. In 6 states (10 in 2008), the initial training is facultative (**Croatia, Cyprus, Finland, Iceland, Malta and Serbia**). Most of the states or entities organise the initial training on a regular basis or annually, more than previously mentioned during the previous evaluation period.

Compulsory in-service training (general and other): according to Recommendation R(2000)19, the in-service training is necessary to optimise international cooperation and keep account of the state of affairs and evolution of crime.

In 2008, general in-service training is provided by 30 states or entities. In the majority of states and entities (25), it is provided on a regular basis, which is more than during the previous survey.

In comparison to the data provided in 2006, more in-service trainings were provided to prosecutors in the member states or entities. One may highlight the overall improvement in **Albania, Bulgaria, Russian Federation and UK- England and Wales. Estonia and Slovenia** have organised 3 additional in-service trainings.

Table 11.8 Types of compulsory trainings for prosecutors (Q116)

Country	Initial training	General in-service training	Specialised in-service training (specialised public prosecutor)	In-service training for management functions of the prosecution services	In-service training for the use of computer facilities in the public prosecution service	Total number of mandatory trainings per country
Albania						5
Andorra						1
Armenia						4
Austria						1
Azerbaijan						2
Belgium						2
Bosnia and Herzegovina						2
Bulgaria						5
Croatia						2
Cyprus						0
Czech Republic						2
Denmark						2
Estonia						4
Finland						0
France						2
Georgia						5
Greece						4
Hungary						5
Iceland						1
Ireland						2
Italy						1
Latvia						5
Lithuania						5
Luxembourg						1
Malta						0
Moldova						2
Monaco						2
Montenegro						4
Netherlands						2
Norway						3
Poland						2
Portugal						1
Romania						5
Russian Federation						5
San Marino*						?
Serbia						3
Slovakia						4
Slovenia						5
Spain						2
Sweden						5
Switzerland						1
FYROMacedonia						5
Turkey						3
UK-England and Wales						5
UK-Northern Ireland*						?
UK-Scotland						2
TOTAL	(38 states/entities)	(30 states/entities)	(23 states/entities)	(15 states/entities)	(18 states/entities)	European Average: 3 mandatory trainings

San Marino and **UK-Northern Ireland** cannot be assimilated to states or entities which do not require any training on the pretext of not answering Question 116.

Comment

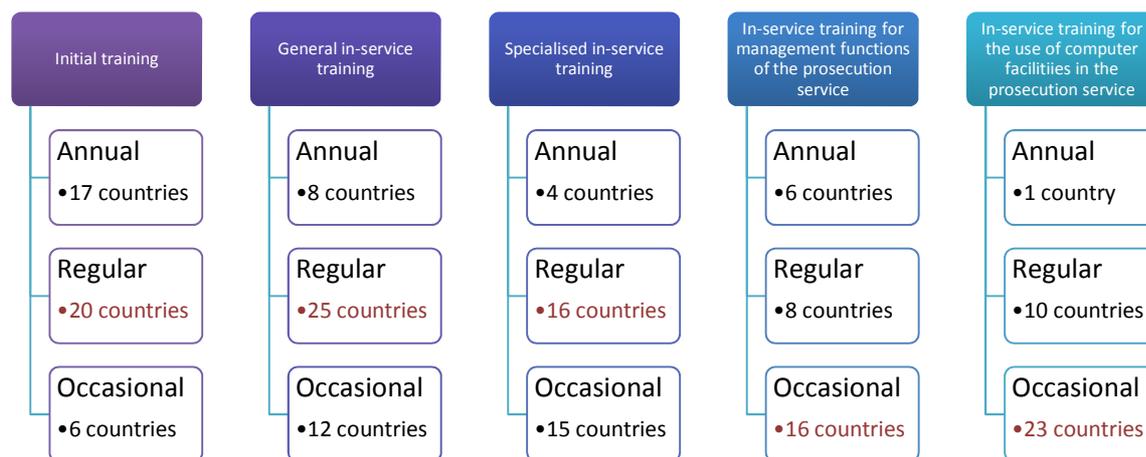
Switzerland: there is no specific compulsory training. Generally, only the full legal studies as well as some professional experience (e.g. in a court or a law firm) are required for access to a prosecutorship.

Figure 11.9 Distribution of states according to different combinations of types of mandatory trainings for prosecutors (Q116)



As for judges, on average, 3 different types of training are required per state. One can also notice that, as for the training of judges, an important number of states or entities provide at least 2 or 3 types of training (initial training included or not) for prosecutors.

Figure 11.10 Nature and frequency of the trainings for prosecutors (Q117)



11.3 Salaries of judges and prosecutors

The remuneration of judges is a sensitive subject. The objective is to give the judge a fair remuneration which takes into account the difficulties related to the practice of this function and which allows her/him to be protected from any pressure which might challenge her/his independence and impartiality. The remuneration is composed of a basic salary, which may be supplemented with bonuses and/or other various (material or financial) advantages (see the following title 11.4).

Recommendation R(94)12, on the independence, efficiency and the role of judges, provides that the judges' remuneration should be guaranteed by law and "commensurate with the dignity of their profession and burden of responsibilities". The CCJE's Opinion N^o 1 (2001) par. 61 confirms that an adequate level of remuneration is necessary to guarantee that judges can work freely and shield "from pressures aimed at influencing their decisions and more generally their behaviour".

Two different indicators are further analysed. The first concerns the judge's salary at the beginning of her or his career. Differences are evident between states recruiting (young) judges graduating from a school for judicial studies and states recruiting judges among legal professionals who benefit from long working experiences often as lawyers. The second indicator is related to the judge's salary at the Supreme Court or at the Highest Appellate Court, at the end of the career. At this level, differences between states may be more significant as they aren't attributed to the kind of recruitment or a previous career. A comparison between the salaries at the beginning and at the end of the career allows to measure a judge's possible progression within a state and to evaluate the consideration attributed to her/his social position. The ratio of the judge's salary to the national average salary deepens the analyses and removes any biases inflicted by the exchange rate or GDP.

In any case, data which are presented in the next table must be interpreted with caution. The allocated salaries depend on several factors which are connected to the exchange rate for non-euro states but also to the living standards, modalities of recruitment, seniority etc. It is important to take into account the special features for each state presented in the comments.

Similar reserves to those made to the salary of judges should be made for prosecutors. The salaries of prosecutors are composed of a basic salary that can be supplemented with bonuses and/or other benefits (see the following title 11.4). Paragraph 5 d. of Recommendation R(2000)19 provides that: "*reasonable conditions of service should be governed by law, such as remuneration, tenure and pension commensurate with the crucial role of prosecutors as well as an appropriate age of retirement.*"

11.3.1 Salaries at the beginning of the career

Table 11.11 Gross and net annual salaries of judges and prosecutors at the beginning of the career, in 2008 (Q118)

Country	Gross annual salary of a 1st instance professional judge	Gross salary of a judge in regard to national average gross annual salary	Net annual salary of a 1st instance professional judge	Gross annual salary of a Public Prosecutor	Gross salary of a prosecutor in regard to national average gross annual salary	Net annual salary of a Public Prosecutor
Albania	7 250 €	1.4	5 604 €	7 250 €	1.4	5 604 €
Andorra	72 443 €	3.1	68 096 €	72 443 €	3.1	68 096 €
Armenia	6 069 €	2.5	5 068 €	4 864 €	2.0	4 161 €
Austria	45 612 €	1.1		48 427 €	1.1	
Azerbaijan	8 256 €	2.9	6 684 €			
Belgium	59 934 €	1.6	31 707 €	59 934 €	1.6	31 707 €
Bosnia and Herzegovina	24 015 €	3.5	14 946 €	24 015 €	3.5	14 946 €
Bulgaria	7 227 €	2.2		7 227 €	2.2	
Croatia	25 765 €	2.1	15 315 €	25 765 €	2.1	15 315 €
Cyprus	71 668 €	2.9				
Czech Republic	22 374 €	2.1		22 374 €	2.1	
Denmark	78 348 €	1.6		49 998 €	1.0	
Estonia	34 776 €	3.5	27 835 €	22 085 €	2.2	16 988 €
Finland	53 000 €	1.5	37 000 €	45 200 €	1.3	33 000 €
France	36 352 €	1.1	31 115 €	36 352 €	1.1	31 672 €
Georgia	11 500 €		8 625 €	8 383 €		6 706 €
Greece	51 323 €	2.1	38 123 €	51 323 €	2.1	38 123 €
Hungary	19 176 €	2.0	11 506 €	19 176 €	2.0	11 506 €
Iceland	57 234 €	2.1		73 463 €	2.7	
Ireland	147 961 €	4.5				
Italy	45 188 €	2.0	29 069 €	45 188 €	2.0	29 069 €
Latvia	18 901 €	2.3	12 929 €	18 516 €	2.3	12 984 €
Lithuania	16 525 €	2.2	12 330 €	13 207 €	1.8	10 830 €
Luxembourg	76 607 €	1.8		76 607 €	1.8	
Malta	32 584 €	2.5		24 873 €	1.9	
Moldova	3 300 €	1.7	2 640 €	3 207 €	1.6	2 593 €
Monaco	42 285 €		39 912 €	42 285 €		39 912 €

Country	Gross annual salary of a 1st instance professional judge	Gross salary of a judge in regard to national average gross annual salary	Net annual salary of a 1st instance professional judge	Gross annual salary of a Public Prosecutor	Gross salary of a prosecutor in regard to national average gross annual salary	Net annual salary of a Public Prosecutor
Montenegro	19 756 €	2.7	13 165 €	19 756 €	2.7	13 165 €
Netherlands	70 000 €	1.4	40 000 €	56 500 €	1.1	28 000 €
Norway	83 239 €	2.0		66 000 €	1.6	
Poland	15 189 €	1.8	11 818 €	15 189 €	1.8	11 818 €
Portugal	34 693 €	1.7		34 693 €	1.7	
Romania	15 667 €	2.7	10 991 €	15 667 €	2.7	10 991 €
Russian Federation	13 067 €	2.6	10 705 €	7 201 €	1.4	6 265 €
San Marino	84 756 €	4.1	69 884 €	58 197 €	2.8	51 188 €
Serbia	17 480 €	4.3	10 393 €	17 480 €	4.3	10 393 €
Slovakia	25 303 €	2.9		23 898 €	2.8	
Slovenia	26 949 €	1.6	16 402 €	29 256 €	1.8	17 592 €
Spain	49 303 €	1.7		49 303 €	1.7	
Sweden	56 104 €	1.9	36 058 €	64 500 €	2.2	29 500 €
Switzerland	107 940 €	2.3	90 080 €	98 285 €	2.1	79 322 €
FYROMacedonia	16 807 €	3.3	10 945 €	13 840 €	2.7	9 055 €
Turkey	18 251 €		15 028 €	18 251 €		15 028 €
UK-England and Wales	105 526 €	4.0		28 508 €	1.1	22 741 €
UK-Northern Ireland	105 515 €	4.6	58 988 €			
UK-Scotland	128 296 €	5.1		28 665 €	1.1	
Average		2.5			2.0	
Median		2.2			2.0	
Minimum		1.1			1.0	
Maximum		5.1			4.3	

Concerning **Georgia**, **Monaco** and **Turkey** it was impossible to report the gross salaries of judges and prosecutors in regard to the national average gross salary because of a lack of data on the national gross salary.

Comments

Albania: the figures provided do not include any benefits as bonuses or benefits for special working conditions.

Belgium: the gross annual salary of a judge is based on the salary after three years of work experience. The net salary corresponds to a married judge with two children.

Bosnia and Herzegovina: for the salary of a judge or a prosecutor, 3 years of work experience were taken into account.

Czech Republic: salaries are increased after the first 5 years in service, after the 6th year of service and then every other 3 years of service.

Denmark: regarding judges, the gross annual salary excludes additional benefits.

Estonia: the judge's salary does not include additional remuneration for added years of service (the additional remuneration for the 5th year of employment is 5% of the official salary, 10% for the 10th year of employment and 15% for the 15th year of employment). For calculating the net annual salary, the income taxes were deducted from the gross annual salary.

Ireland: the figure provided as the judge's salary corresponds to the salary of a judge of the District court. A judge of the Circuit court earns 177.554€ and the President of the District court earns 183.984€.

Italy: net annual salaries depend on subjective percentages of taxation.

Norway: since 1st October 2008, the gross annual salary of the judges was increased. This salary is indicated above.

Slovakia: according to the law, the average monthly salary of a judge is equal to the monthly salary of a member of the parliament. The salary of the judge at the beginning of the career is 90% of the average monthly salary of the judge. The base salary of a prosecutor is 85% of the average salary of a judge. The gross annual salaries were calculated on a 14 months basis as judges and prosecutors have the right to two additional monthly salaries paid in May and November.

Slovenia: the figure given for the first instance court is the lowest possible salary.

Spain: it is not possible to give a single net annual salary as it varies according to the individually applicable tax.

Switzerland: the judge's and prosecutor's salaries correspond to the average salary paid in 22 cantons.

"the former Yugoslav Republic of Macedonia": in 2009, the Parliament adopted a legislation in which public prosecutors are paid an equal salary to judges on the same instance level.

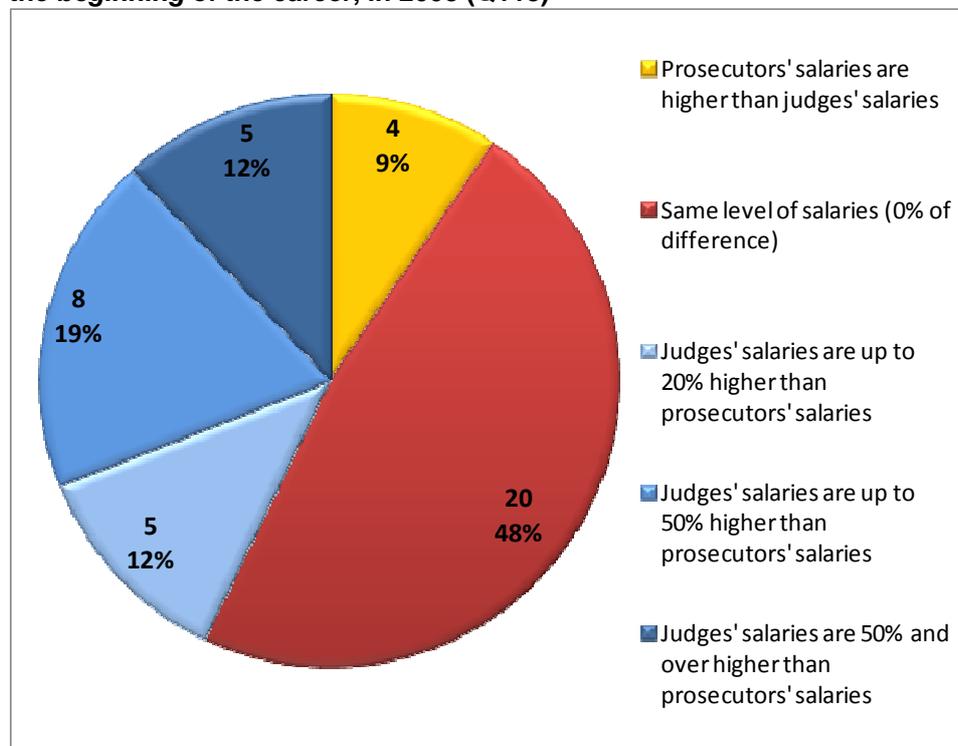
UK-England and Wales: the figure given is for judicial salary group 7. In 2008/2009 judicial salaries ranged from 93.870€ (which includes London weighting) for Asylum Support Tribunal Adjudicators, the only post below group 7), to 245.915€ for salary group 1 (Lord Chief Justice). The judge's net annual salary can not be given as it depends on individual tax and national insurance. The gross and average net salary provided for the prosecutor is for a national based prosecutor. For a London based prosecutor, the salaries are higher (the gross salary was 33.610€, the average net salary 23.728€).

UK-Northern Ireland: averages have been provided. A net annual salary can not be given as it depends on individual national insurance code, tax code and rate of contribution to the pension scheme.

UK-Scotland: the judge's salary corresponds to the salary for the Sheriff which is the lowest salary.

A comparison of the salaries at the beginning of the career between the states must always take into account the different kinds of recruitment which may heavily influence the level of remuneration of judges and prosecutors.

Figure 11.12 Relative categorisation of the differences between judges' and prosecutors' salaries at the beginning of the career, in 2008 (Q118)



See in the Appendix the comparative table of the judges' and prosecutors' salaries at the beginning and at the end of their careers in 2008 (Q118).

At the European level, there are no major differences between the judges and prosecutors' salaries at the beginning of the career. On average, judges are paid 1,3 times more than prosecutors. However, there are significant differences according to the systems.

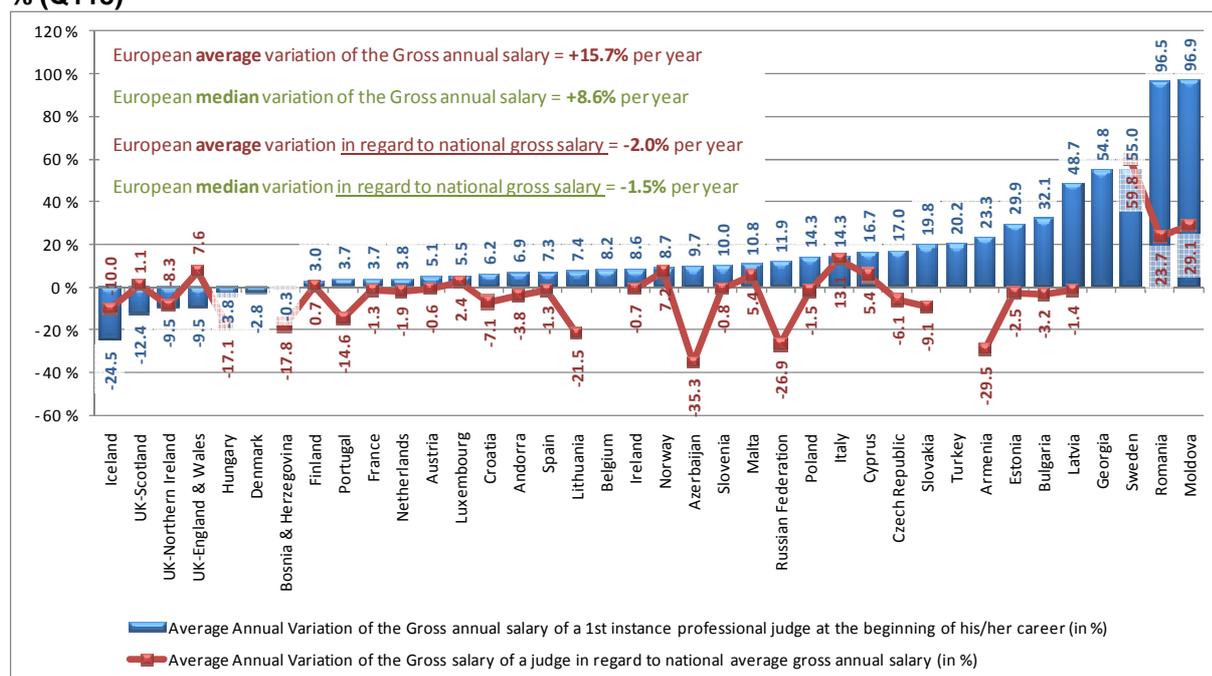
Most states (20 out of 42) do not apply any difference between the salaries of the judges and prosecutors at the beginning of their career: **Albania, Andorra, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Greece, Hungary, Italy, Luxembourg, Monaco, Montenegro, Poland, Portugal, Romania, Serbia, Spain, Turkey.**

There is also an important number of states (18, divided into 3 sub-categories in figure 11.12) where the salaries of judges are higher than the prosecutors' ones. Differences of less than 20% can be observed in: **Latvia, Moldova, Slovakia, Switzerland and Finland.** A more important difference (20% up to 50%) is characteristic for "**the former Yugoslav Republic of Macedonia**", **the Netherlands, Armenia, Lithuania, Norway, Malta, Georgia and San Marino.** In 5 states or entities, the differences between the salaries of judges and prosecutors at the beginning of their career are even more significant: **Denmark, Estonia, Russian Federation** (the salary of judges has become about 2 times higher than the salary of prosecutors), **UK-England and Wales and UK-Scotland** (judges' salaries are at least 4 times higher than the prosecutors' salaries. The different kinds of recruitment explain partly these differences).

Iceland, Sweden, Slovenia and Austria have a particular situation: the salary of a prosecutor is higher than the judge's salary at the beginning of the career. Yet, the differences observed remain fairly minor.

Looking at these important differences in salaries, it can be easily understood that the functions and responsibilities related to these professions can be very different and a simple comparison between these two professions is not possible. However, when considering the results from figure 11.12, the national features are to be taken into account (i.e. number of judges and prosecutors at the beginning and at the end of their career, particular status, functions, etc.).

Figure 11.13 Average Annual Variation between 2004 and 2008 of the Gross annual salaries of judges at the beginning of the career and of their salaries with regard to the national average gross salary, in % (Q118)



For 38 states or entities, it was possible to analyse the evolution between 2004 and 2008 of the gross salaries of judges at the beginning of the career and to observe the variation of these salaries in regard to national average gross salaries.

Regarding the absolute figures, one can note that several Eastern European states (but also **Sweden**) increased the judges' salaries in a very significant manner. **Moldova** and **Romania** nearly doubled the salaries per year, but also **Georgia** and **Latvia** (about 50% per year) and **Bulgaria**, **Estonia**, **Armenia** and **Turkey** (more than 20% per year). **Italy** indicated an increase of 14,3% per year and stated that salaries are revised every 3 years (salaries were previously revised between 2006 and 2008) and that the grade system has been revised, resulting in a higher average for salaries.

While the European average and median variation of the gross annual salary is positive, only a few states or entities have experienced decreasing trends. **UK-England and Wales** stressed that judicial salaries have not been decreased between 2004 and 2008; the statistics are influenced by the fluctuation in the exchange rate.

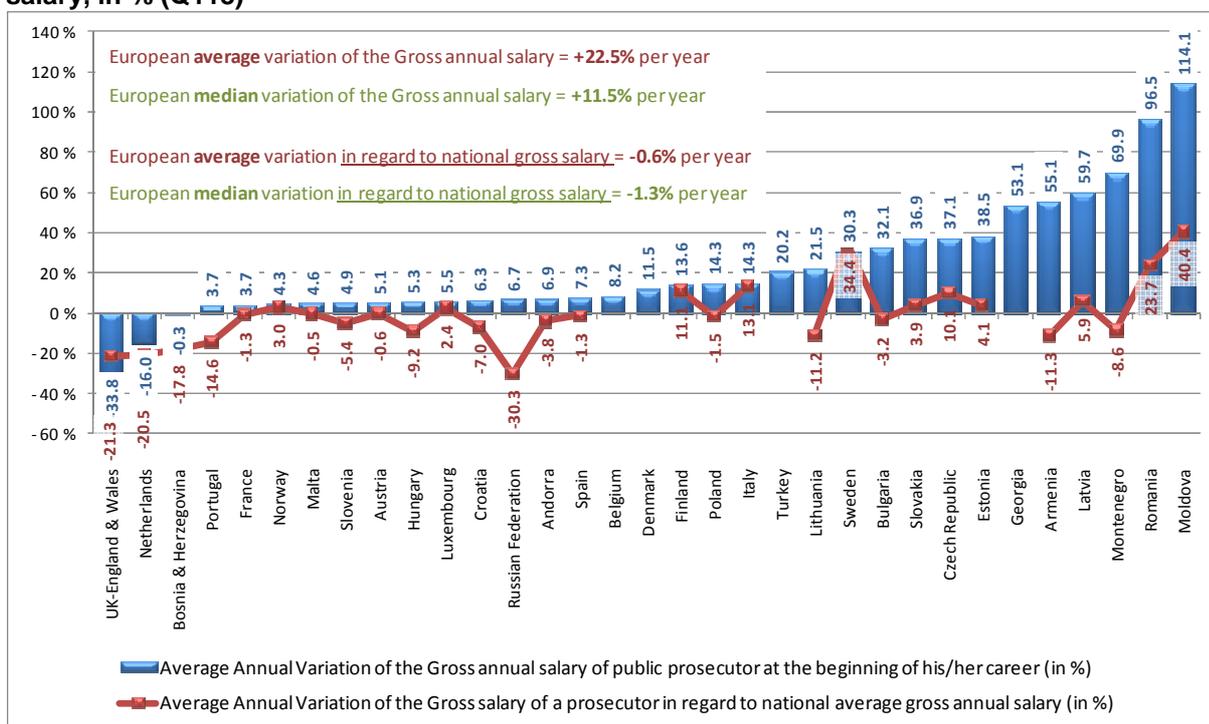
The evolution in the judges' salaries does not always follow the evolution of the national average gross salary. There is no linear variation for both indicators. In 18 states or entities, there is even an opposite trend. For instance, in **UK-Scotland**, the gap between the judges' salaries and the national average salary has become more significant between 2004 and 2008 (+1,1% per year for **UK-Scotland**) even though the judges' gross salaries have decreased during the same period (-12,4% per year for **UK-Scotland**). Another opposite trend can be highlighted for **Armenia**: the absolute gross salary of judges at the beginning of the career increased of about +23,8% per year, whereas the national gross average salary is decreasing of about -29,5% per year. A comparable situation can be found in **Azerbaijan**, **Lithuania**, **Russian Federation** and **Slovakia** where the gap between the increase in the judges' salaries and the ratio of these salaries to the national average gross salary is relatively important. This is mainly due to the evolution of the economic situation in these states, which enabled to raise consequently the national average gross salary.

Iceland can be mentioned as an example of a state with similar trends regarding the judges' salary and the ratio of that salary to the national average gross salary: the judges' salaries were decreasing of about -24,5% per year, and this absolute figure related to the national average salary was also decreasing of about -10% a year. In **Sweden**, **Romania** and **Moldova**, the important increase in the gross salaries of judges followed the same positive trend than the ratio between such salaries and the national average salary.

Figure 11.13 should be interpreted very cautiously. It is important to take into account all national specificities, and to set a state back in the general context of its evolution. The variation of exchange rates

must be considered for non-Euro states or entities. Moreover, the absolute numbers for 2008 presented in the table must be observed.

Figure 11.14 Average Annual Variation between 2004 and 2008 of the Gross annual salaries of prosecutors at the beginning of the career and of their salaries as regard to national average gross salary, in % (Q118)



A variation of the prosecutors' gross salaries was calculated for 33 states or entities. Nearly the same observations can be made for judges and for prosecutors (see also **Italy's** comment regarding the salary's increase). The same reservations as mentioned for figure 11.13 must be taken into account.

Several Eastern European states (but also **Sweden**) have increased significantly the prosecutors' salaries (**Moldova, Romania, Montenegro, Latvia, Armenia, Georgia, Estonia, Czech Republic, Slovakia, Bulgaria**) whereas only a few states have decreased the salaries (**the Netherlands**, more than 20% per year).

About half of the responding states or entities present opposite trends in the variation of the absolute figures for the gross prosecutors' salaries (increasing) and the national average gross salary (decreasing), see for instance **Portugal, France, Malta** and **Slovenia**. The national average gross salary, in **Austria**, is quite stable.

In several states, trends in absolute figures of the gross salaries of prosecutors are similar to the trends of the indicator of the ratio between prosecutors' salaries and the average national gross salaries. Both indicators are decreasing in **the Netherlands** and **Bosnia and Herzegovina**. Both indicators are increasing in **Norway, Luxembourg, Finland, Italy, Sweden, Slovakia, Czech Republic, Estonia, Latvia, Romania** and **Moldova**.

As already mentioned for the judges' salaries, it is very important to take into account that variations are relative, and every state had special features (salaries at the beginning of the comparison period in 2004, reforms, adjustments etc.) which should be considered when comparing the trends at the general European level. The exchange rates must also be taken into account for a deeper analysis including states or entities out of the Euro-zone (see, for example, **UK-England and Wales** which did not decrease the judicial salaries).

11.3.2 Salaries at the end of the career

Table 11.15 Gross and net annual salaries of judges and prosecutors at the Supreme Court or at the Highest Appellate Court, in 2008 (Q118)

Country	Gross annual salary of a judge of the Supreme Court or the Highest Appellate Court	Gross salary of a judge in regard to national average gross annual salary	Net annual salary of a judge of the Supreme Court or the Highest Appellate Court	Gross annual salary of a Public Prosecutor of the Supreme Court or the Highest Appellate Instance	Gross salary of a prosecutor in regard to national average gross annual salary	Net annual salary of a Public Prosecutor of the Supreme Court or the Highest Appellate Instance
Albania	14 486 €	2.8	11 778 €	14 486 €	2.8	11 778 €
Andorra	39 050 €	1.7	36 707 €	128 632 €	5.5	120 914 €
Armenia	9 103 €	3.8	7 423 €	6 487 €	2.7	5 420 €
Austria	110 633 €	2.6		110 633 €	2.6	
Azerbaijan	13 728 €	4.8	11 112 €	13 392 €	4.7	11 820 €
Belgium	129 673 €	3.5	60 451 €	129 673 €	3.5	60 451 €
Bosnia and Herzegovina	41 481 €	6.1	25 646 €	41 481 €	6.1	25 646 €
Bulgaria	23 266 €	7.0	NA	23 266 €	7.0	NA
Croatia	58 490 €	4.7	29 754 €	58 490 €	4.7	29 754 €
Cyprus	127 387 €	5.1	NA	NAP		NAP
Czech Republic	50 378 €	4.8	NA	43 662 €	4.1	NA
Denmark	109 212 €	2.3		184 830 €	3.9	
Estonia	47 817 €	4.8	38 138 €	36 692 €	3.7	28 205 €
Finland	114 500 €	3.3	70 000 €	72 000 €	2.1	48 000 €
France	107 011 €	3.4	91 537 €	107 011 €	3.4	91 537 €
Georgia	22 800 €		17 100 €	NA		NA
Greece	105 770 €	4.3	73 570 €	120 796 €	4.9	84 396 €
Hungary	37 480 €	4.0	18 740 €	37 480 €	4.0	18 740 €
Iceland	73 463 €	2.7		73 463 €	2.7	
Ireland	257 872 €	7.8				
Italy	131 302 €	5.8	73 327 €	131 302 €	5.8	73 327 €
Latvia	46 764 €	5.7	32 435 €	28 812 €	3.5	19 668 €
Lithuania	29 862 €	4.0	22 066 €	21 461 €	2.9	17 406 €
Luxembourg	140 201 €	3.3	NA	140 201 €	3.3	
Malta	32 584 €	2.5		39 944 €	3.1	
Moldova	5 100 €	2.6	4 001 €	3 775 €	1.9	2 865 €
Monaco				121 359 €		114 549 €
Montenegro	25 035 €	3.4	16 649 €	25 035 €	3.4	16 649 €
Netherlands	115 000 €	2.3	60 000 €	130 500 €	2.7	65 000 €
Norway	136 978 €	3.2				
Poland	43 826 €	5.2	29 269 €	43 826 €	5.2	29 269 €
Portugal	83 401 €	4.2		80 972 €	4.1	
Romania	36 802 €	6.4	25 815 €	30 403 €	5.3	21 328 €
Russian Federation	45 011 €	9.0	39 160 €	12 240 €	2.4	10 648 €
San Marino	70 760 €	3.4	60 055 €			
Serbia	33 371 €	8.2	19 840 €	27 809 €	6.9	16 533 €
Slovakia	36 550 €	4.2		36 550 €	4.2	
Slovenia	55 509 €	3.3	29 529 €	51 456 €	3.1	27 792 €
Spain	137 810 €	4.7	NA	137 810 €	4.7	NA
Sweden	96 634 €	3.2	55 713 €	143 500 €	4.8	50 000 €
Switzerland	227 446 €	4.9	211 980 €	147 912 €	3.2	124 246 €
FYROMacedonia	20 912 €	4.1	13 583 €	16 916 €	3.3	11 037 €
Turkey	37 146 €		29 864 €	37 146 €		29 864 €
UK-England and Wales	212 093 €	8.1	NA			NA
UK-Northern Ireland	176 899 €	7.7	101 273 €			
UK-Scotland	214 165 €	8.5		88 845 €	3.5	
Average		4.6			3.9	
Median		4.2			3.5	
Minimum		1.7			1.9	
Maximum		9.0			7.0	

For **Georgia, Monaco and Turkey**, calculations were impossible to make because of the lack of data on the national gross salary.

Comments

Albania: the figures provided do not include any other benefits as bonuses or benefits for special working conditions.

Andorra: the figures provided for the prosecutor's salary corresponds to the salary of the General Prosecutor.

Belgium: the gross annual salary of a judge is based on the salary of a married judge without children.

Bosnia and Herzegovina: for the salary of a judge or a prosecutor, 20 years of work experiences were taken into account.

Czech Republic: the salaries are increased after the first 5 years in service, after the 6th year of service and then every other 3 years of service.

Denmark: regarding judges, the gross annual salary is excluding additional benefits. Regarding the Public Prosecutor, the gross annual salary mentioned is the maximum salary. No average salary can be provided. The salary varies between 101.936€ and 184.830€.

Estonia: the judge's salary does not include additional remuneration for added years of services (the additional remuneration for the 5th year of employment is 5% of the official salary, 10% for the 10th year of employment and 15% for the 15th year of employment). In order to calculate the net annual salary, the income taxes were deducted from the gross annual salary.

Iceland: the judge's salary of the Supreme Court and the salary of the Public prosecutor have to be equal according to the law.

Ireland: the figure provided as the judge's salary correspond to the salary of a judge of the Supreme Court. The salary of the president of the high court is 274.779€, the one for the Chief Justice 295.916€.

Italy: generally speaking, salaries are primarily dependant on seniority rather than the position of the Judge or Public Prosecutor. This means that a judge or Public Prosecutor at the Supreme Court or the highest appellate court doesn't necessarily receive a higher salary. Net annual salaries depend on subjective percentages of taxation.

Latvia: the figure provided as the judge's salary at the Supreme Court or the highest appellate court correspond to the salary of a senator of the Supreme Court's Senate (cassation instance). The salary of a judge at the Supreme Court's Chamber (appellation instance) is 42.148€ (gross annual salary) and 29.349€ (net annual salary).

Norway: since 1st October 2008, the gross annual salary of the judges has been increased. This salary is indicated above.

Slovakia: according to the law, the average monthly salary of a judge is equal to the monthly salary of a member of the parliament. The salary of the judge of the Supreme Court is 130% of the monthly salary of a member of parliament. The average salary of the prosecutor is equal to the average salary of the judge. The gross annual salaries were calculated on a 14-months basis as judges and prosecutors have the right to two additional monthly salaries paid in May and November.

Slovenia: the figures given for the Supreme Court judge represent the highest possible salary.

Spain: the given salaries for the prosecutors of the Supreme Court refer to those in the 1st category. It is not possible to give a single net annual salary as it varies according to the individually applicable tax.

Switzerland: the function of a General Prosecutor of the Supreme Court does not exist. The provided figure corresponds to the salary of the General Prosecutor of the Confederation.

«**the former Yugoslav Republic of Macedonia**»: in 2009 the Parliament has adopted a law by which prosecutors from a certain level (instance) have the same salary as judges at the same level (instance).

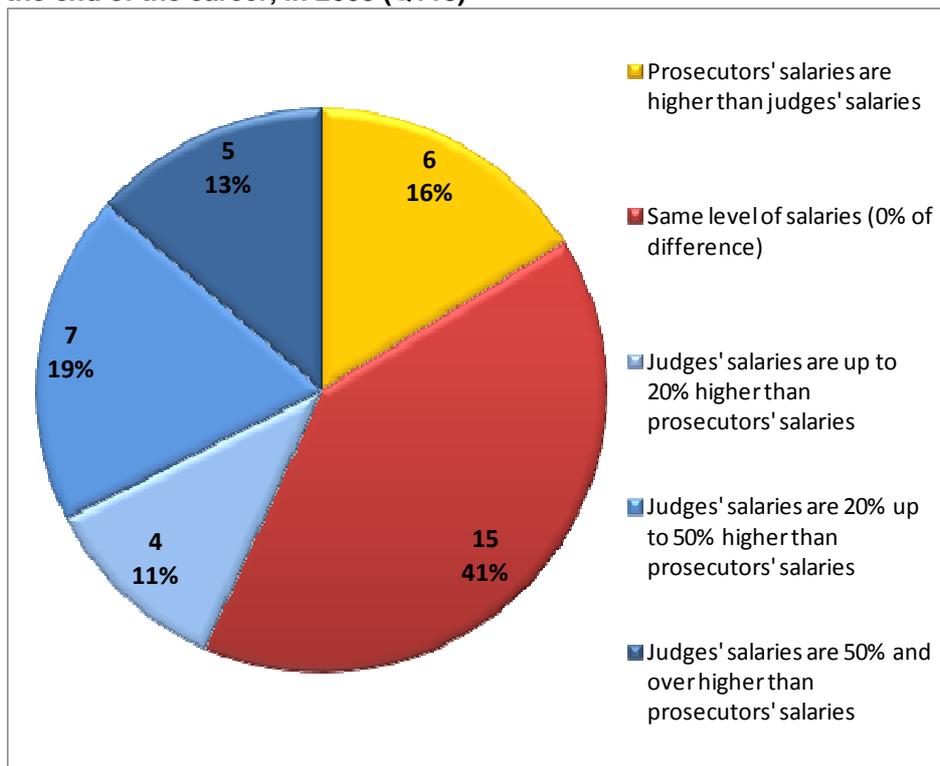
UK-England and Wales: the judge's net annual salary can not be given as it depends on individual tax and national insurance.

UK-Northern Ireland: averages have been provided. A net annual salary cannot be given as it depends on individual national insurance code, tax code and rate of contribution to the pension scheme.

UK-Scotland: the judge's salary corresponds to the salary for the Lord President which is the highest possible function (and salary).

The ratio between the salary of a judge or prosecutor at the Supreme Court or at the Highest Appellate Court and the national average gross annual salary is an interesting indicator to measure differences between states by removing the biases resulting from the modes of recruitment, age, previous career, the exchange rate or GDP. The four *Common Law* entities, **UK-Scotland, Ireland, UK-Northern Ireland, UK-England and Wales**, as well as the **Russian Federation, Serbia and Bulgaria** grant judges at the Supreme Court or at the Highest Appellate Court with the highest salaries related to the national average gross annual salary, 7 to 9 times higher. The European median for judges is 4,2 times and for prosecutors it is still 3,5. Such significant deviations can be found for other legal professions such as lawyers for instance.

Figure 11.16 Relative categorisation of the differences between judges' and prosecutors' salaries at the end of the career, in 2008 (Q118)



See in Appendix the comparative table of the judges' and prosecutors' salaries at the beginning and at the end of their careers, in 2008 (Q118).

A similar situation to figure 11.12 is characteristic of the salaries of judges and prosecutors at the end of the career. This figure must be interpreted with caution.

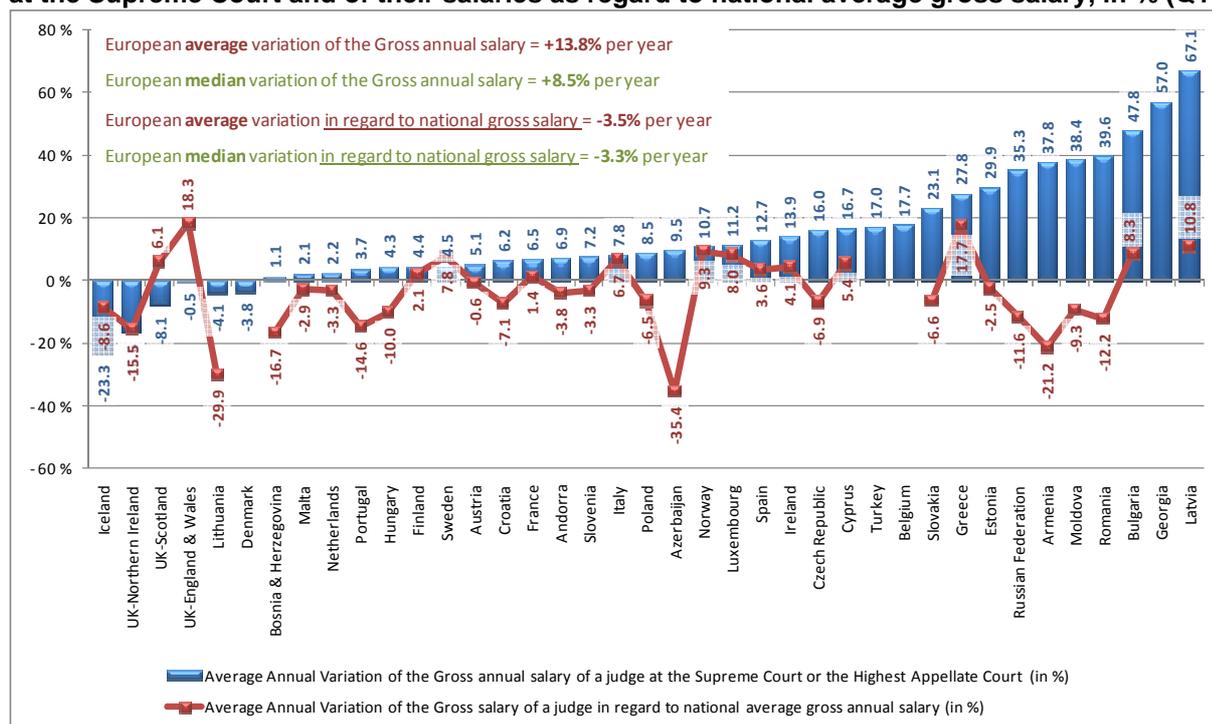
Generally, the situation of the salaries at the end of the career is quite close to the situation at the beginning of the career. On a European average, judges earn 1,2 times more than prosecutors at the end of the career.

A representative group of states (15) do not have differences between the salaries of judges and prosecutors at the Supreme Court level: **Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, France, Hungary, Italy, Luxembourg, Montenegro, Poland, Slovakia, Spain and Turkey**. Except **Austria** and **Slovakia**, these are the same states which do not apply any differentiation between judges and prosecutors at the beginning of career.

In another large group of states or entities (15), judges' salaries at the end of the career are higher than prosecutors' salaries: **Azerbaijan, Slovenia, Czech Republic, Serbia, Romania, "the former Yugoslav Republic of Macedonia", Estonia, Moldova, Lithuania, Armenia, Switzerland, Finland, Latvia, UK-Scotland** and the **Russian Federation**. The most significant differences can be noted in the **Russian Federation**, where the judges' salaries are 3,7 times higher than those of prosecutors, and in **UK-Scotland** (2,4 times).

There are only 6 states where the salaries of prosecutors at the end of the career are higher than the ones of judges: **Andorra, Denmark, Sweden, Malta, Greece and the Netherlands**. In **Denmark** and the **Netherlands**, the curve is reversed: judges' salaries at the beginning of the career are higher than the prosecutors' ones, which is not the case at the end of the career.

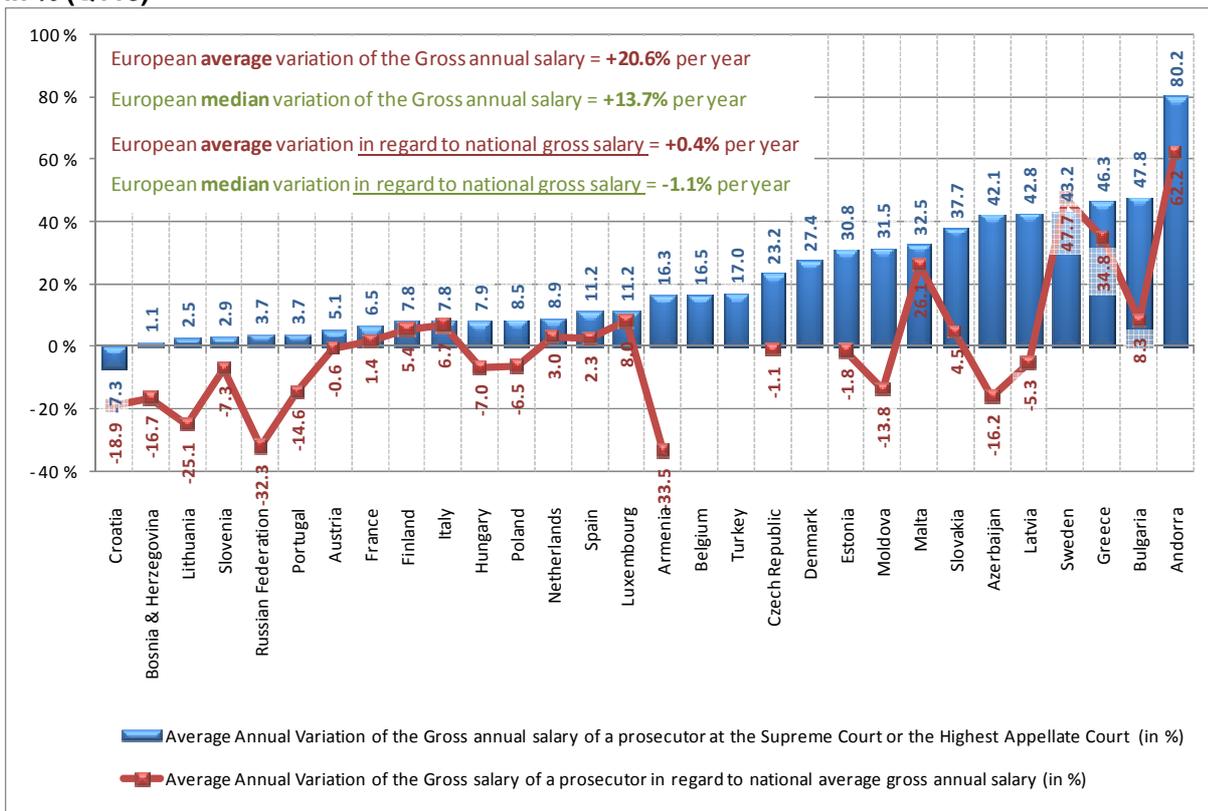
Figure 11.17 Average Annual Variation between 2004 and 2008 of the gross annual salaries of judges at the Supreme Court and of their salaries as regard to national average gross salary, in % (Q118)



For 39 states or entities, it was possible to calculate the variation of the absolute figures of the gross salaries for the judges at the Supreme Courts or the highest appellate courts. The trends in the evolution of the salaries of judges at the Supreme Courts are quite similar to the trends already observed for the salaries of judges at the beginning of the career (see figure 11.13). As already mentioned, the graph should be interpreted very cautiously.

For several states, different conclusions can be drawn. In **Hungary**, the salary of a judge at the beginning of a career is decreasing by 3.8% per year. On the other hand, for a judge at the Supreme Courts, the salary seems to increase by an average of 4.3% per year. Nevertheless, both – at the beginning of career and at the Supreme Court level – salaries, when related to the national average gross salary, were still decreasing between 2004 and 2008. In **Romania**, the absolute figures on the judges' salaries (at the beginning of a career and at Supreme Courts) are increasing. Yet, when related to the national average gross salary, the judges' salary at the beginning of a career is growing (in average +23.7% per year), but is decreasing at the Supreme Courts' level (-12.2%).

Figure 11.18 Average Annual Variation between 2004 and 2008 of the Gross annual salaries of prosecutors at the Supreme Court and of their salaries with regard to national average gross salary, in % (Q118)



The figures on the variation of the prosecutors' salaries are available for 30 states or entities. The variation is negative (-7,3% per year) only in **Croatia**. In all the other responding states, the trends are positive. Nevertheless, when the absolute figures on the prosecutors' salaries are related to the national average gross salary, one can note that trends become more similar to the ones already analysed for Supreme Courts judges.

11.3.3 Comparison of the salaries at the beginning and at the end of the career

Figure 11.19 Gross annual salaries of the judges at the beginning of the career and judges at supreme courts, in 2008 (Q118)

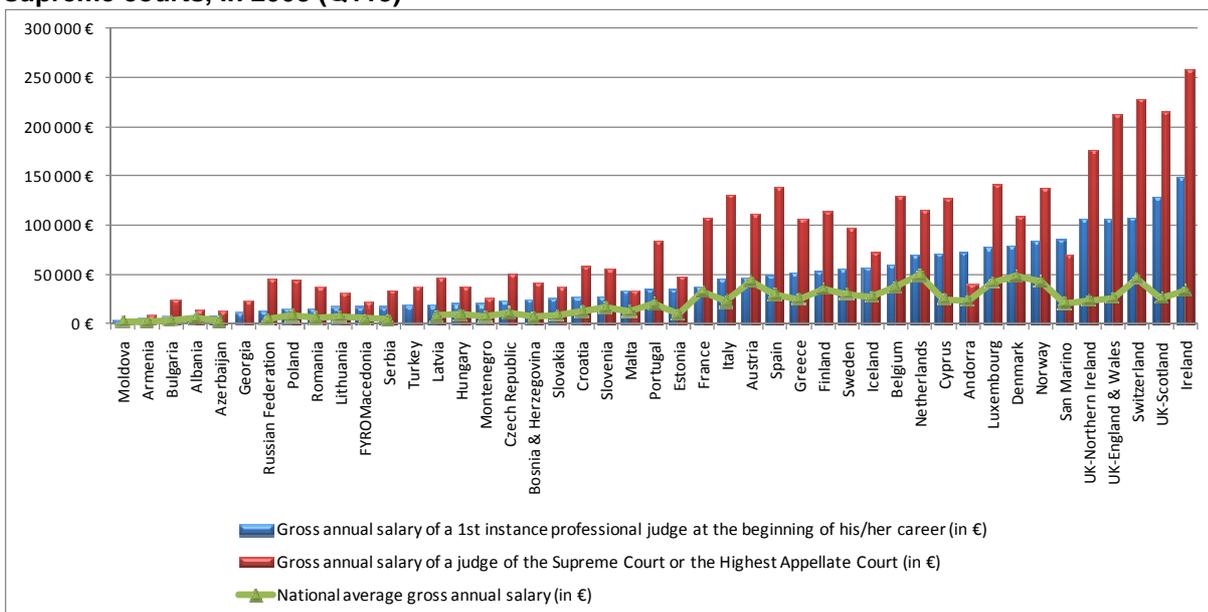


Figure 11.19 takes into account 45 states or entities (the national average gross salaries are not available for **Georgia** and **Turkey**).

The salaries of judges at the supreme courts are distributed across Europe quite in the same way than the salaries of the judges at the beginning of a career. Nevertheless, several specific situations can be observed, for instance, in "**the former Yugoslav Republic of Macedonia**", where there is a lower salary for the judges at the Supreme Courts compared to the salary in neighbouring states such as **Serbia** or **Lithuania**. The same is true for **Iceland**, compared to the salaries of **Sweden** or **Belgium**.

On average, in Europe, a judge at the end of her or his career earns 1,9 times more than a judge at the beginning of her or his career. Major differences can be noticed among the member states or entities, mainly due to the status of judges and the organisation of the career (in particular regarding the age for entering the profession).

In the **Russian Federation**, **Bulgaria**, **France**, **Italy** and **Poland** salaries increase significantly throughout the career of a judge (the salary at the end of the career is around 3 or more times higher than the first salary). For **France**, the fact that, on average, a "junior" judge is only 25 years old and that the evolution of her or his career extends over four decades explains this important increase. In **Slovenia** and **UK-Scotland** which provided the lowest and highest possible salaries, the increase of the salary is respectively 2 times and 1,6 times more.

The judges' salaries in **Malta** do not evolve as judges are the highest members of the Judiciary and no promotion exists. **San Marino** and **Andorra** present another specific situation: the salary of a judge at the Supreme Court is lower than the salary of a judge at the beginning of her/his career. **Andorra** stated that judges in the courts of appeal are not full time workers and are employed depending on the workload of the courts (they come from **France** and **Spain**), whereas first instance judges are Andorran and work permanently in the Principality. The same must apply in **San Marino**.

Figure 11.20 Gross annual salaries of the prosecutors at the beginning of the career and Supreme Court prosecutors in 2008 (Q118)

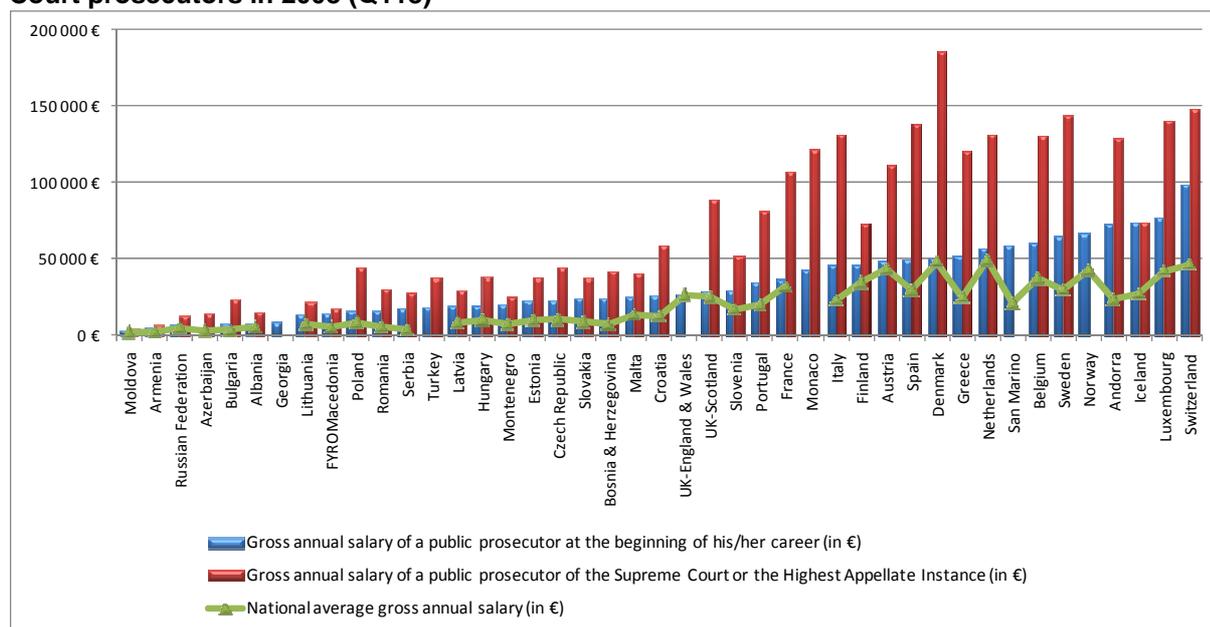
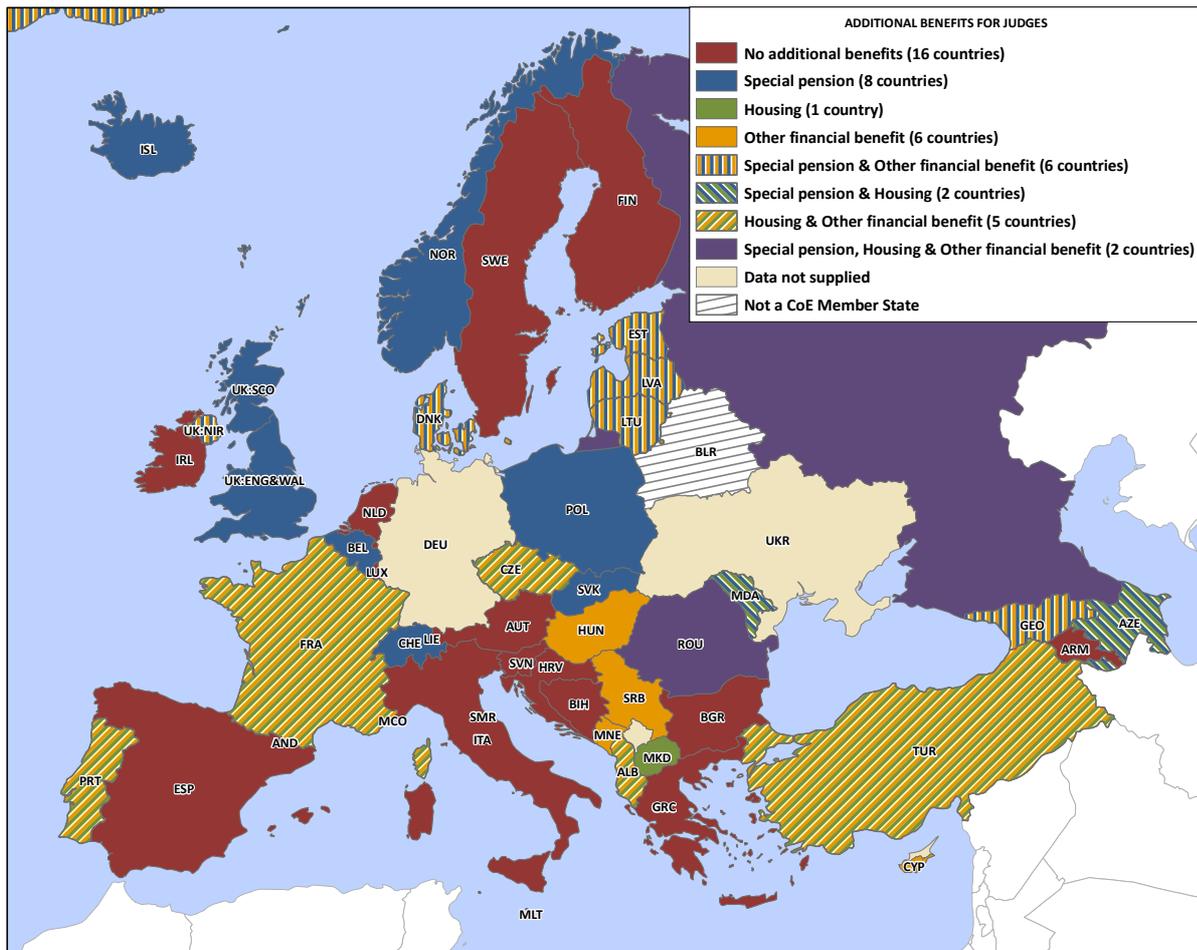


Figure 11.20 takes into account 43 states or entities.

In **Denmark**, but also in **Bulgaria**, **UK-Scotland**, **France**, **Italy** and **Poland**, the salaries increase significantly during the career (the salary at the end of the career is around 3 or more times higher than the basic salary). However, the figure provided by **Denmark** must be interpreted with caution, as it corresponds to the highest possible salary paid to a Prosecutor (the salary varies between 101.936€ and 184.830€). For **France**, the same explanation given for judges is also effective for prosecutors: on average, "junior" prosecutors are quite young (25 years old).

11.4 Bonuses and other profits for judges and prosecutors

Figure 11.21 Additional benefits for judges, in 2008 (Q119)



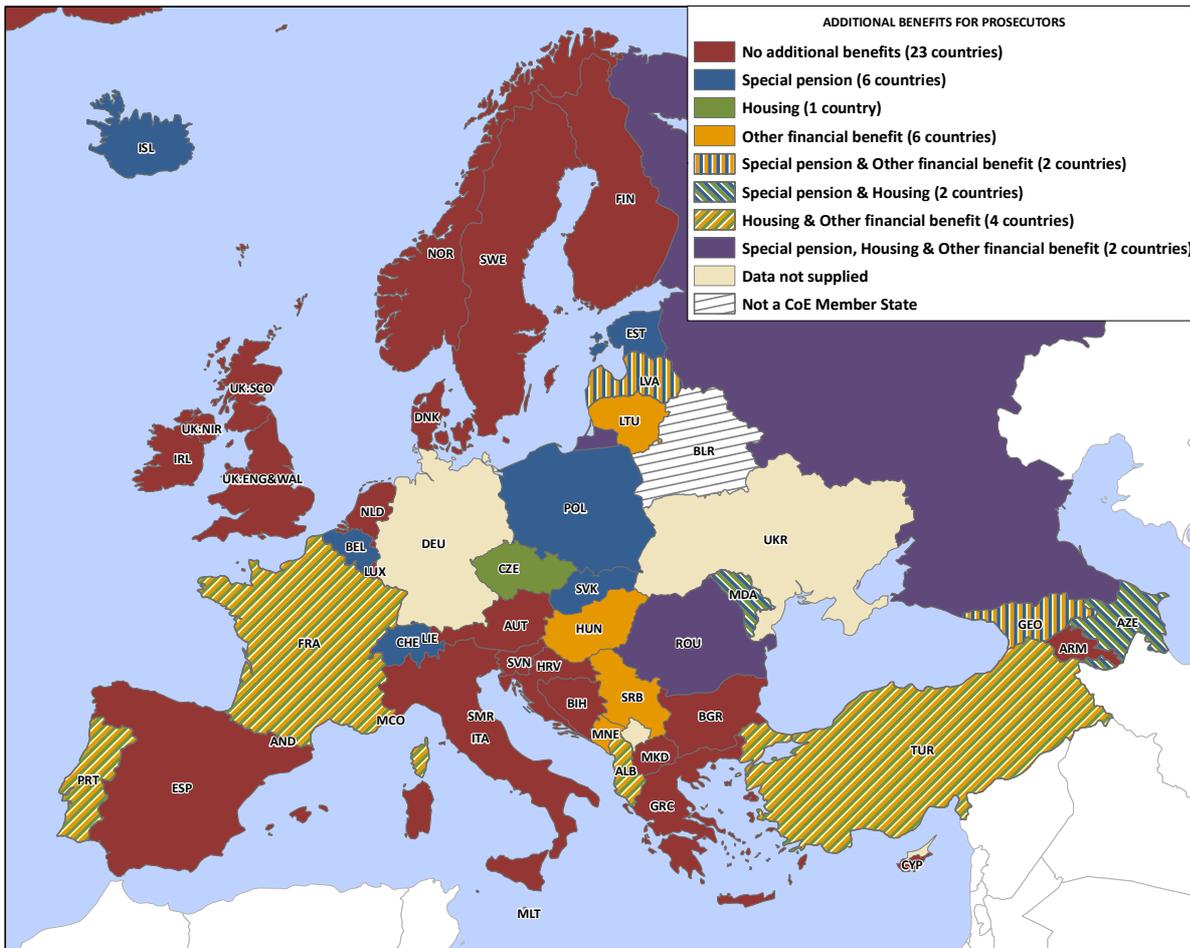
In most states or entities, judges may have additional benefits to the basic remuneration. This is not the case in 16 states: **Andorra, Armenia, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Finland, Greece, Ireland, Italy, Luxembourg, Monaco, the Netherlands, Slovenia, Spain and Sweden.**

Only 2 states provide a wide range of additional benefits: in **Romania**, judges may benefit of a special pension, housing facilities and some other financial benefits. The **Russian Federation** is the only state which - apart from the benefits already mentioned for **Romania** - also applies a reduced taxation for its judges.

Sometimes, the additional benefits are granted only to judges of the Supreme Court (and presidents of the district court). This is the case in **Iceland, Norway and Switzerland**, for the special retirement pension, and in **Cyprus** for the representation costs.

Other benefits for judges can be: salary bonuses (**Albania, Malta, Montenegro, San Marino and Turkey**), bonuses for specific important responsibilities (**Cyprus, Denmark, France, Hungary and Turkey**), workload and working conditions (**Albania, Georgia and Lithuania**), allowances for running and representation costs (**Cyprus, Czech Republic, Hungary, Ireland, Montenegro**), dismissal compensation (**Estonia and Latvia**), specific health and/or life insurances (**Estonia, Hungary, Latvia, Montenegro and Romania**), housing facilities (**Hungary and Montenegro**) and availability of a car and driver (**Malta**) or transport facilities (**Romania**). **Hungary** grants also house moving assistance, social and schooling aid as well as family support.

Figure 11.22 Additional benefits for prosecutors, in 2008 (Q119)



Andorra and **Monaco** provide no additional benefits to prosecutors. **Malta** and **San Marino** provide other financial benefits.

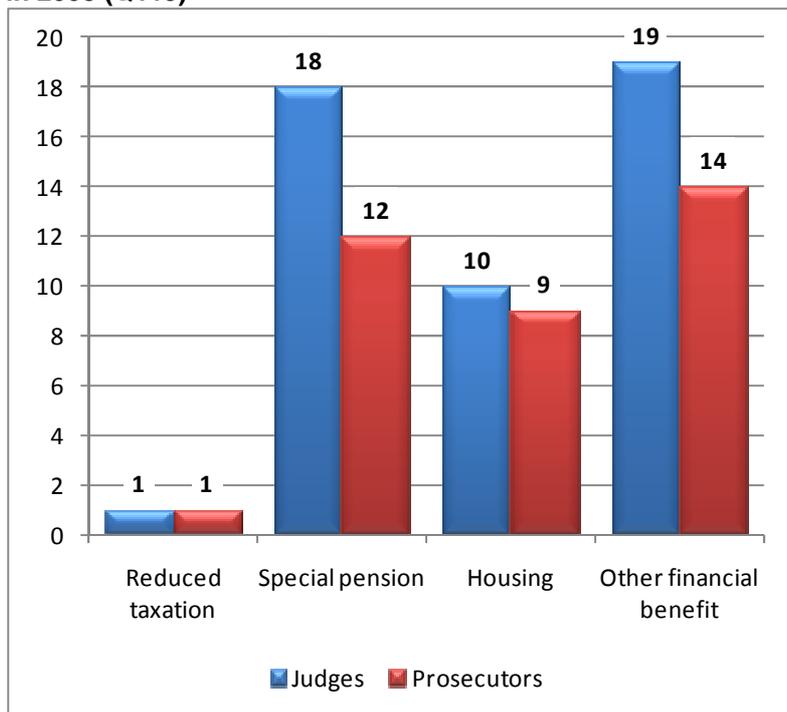
When comparing the figures 11.21 and 11.22, it can be noted that a majority of the responding states or entities (35) apply no difference between the additional benefits granted to judges or prosecutors.

However, more states and entities do not provide additional benefits to prosecutors (24 versus 16 as regards judges). As illustrated in figure 11.23 below, lesser states attribute a special pension (11 v. 18), housing facilities (9 v. 10) and other financial benefits (14 v. 20) to prosecutors. This illustrates that, in a number of states, prosecutors have a different status than judges, are less protected and sometimes are not socially recognised in the same way, depending on the functions and the position of prosecutors inside or outside of the judicial power.

Finally, there are no different financial benefits for prosecutors apart from the **Russian Federation**, where they have transport facilities for the fulfilment of official duties.

No significant changes in the attribution of benefits to judge's and prosecutors can be reported since the last evaluation period.

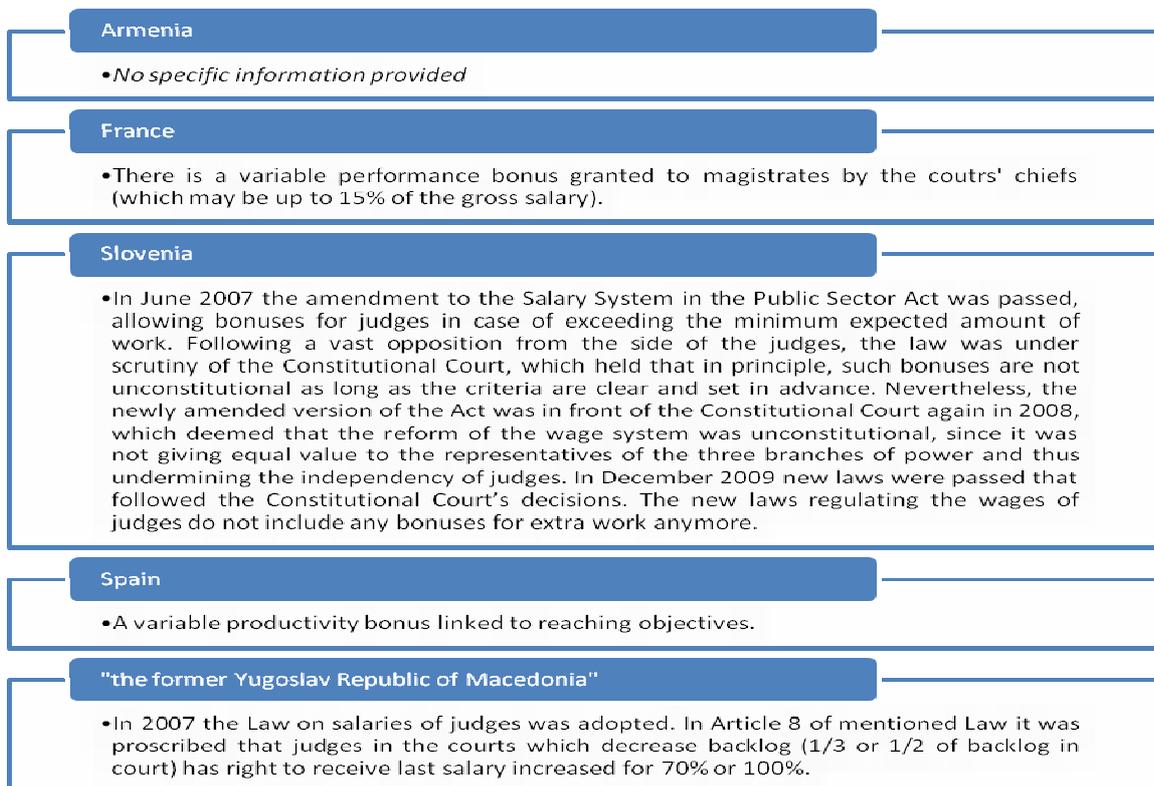
Figure 11.23 Number of states or entities which allow additional benefits for judges and prosecutors, in 2008 (Q119)



Only 3 states have replied that additional financial bonus is granted on the basis of the achievement of specific quantitative targets: **France, Spain and "the former Yugoslav Republic of Macedonia"**.

Slovenia informed that a system, which granted bonuses to judges who exceeded the minimum amount of expected work, was introduced in June 2007, but the Constitutional Court challenged it in 2008 and the new law passed in December 2009 dropped this possibility.

Figure 11.24 Bonus granted to judges on the basis of the fulfilment of quantitative objectives related to the delivery of judgements, in 2008 (Q125)



11.5 Career of judges and prosecutors

11.5.1 Terms of the judges' and prosecutors' offices

As for the last evaluation period, judges' and prosecutors' offices are of undetermined terms in a great majority of states or entities: 42 regarding the judges and 40 regarding the prosecutors.

In 2008, the retirement age of judges varies between 63 years (**Cyprus**) and 72 years (**Ireland**); the retirement age of prosecutors between 63 years (**Cyprus**) to 70 years (**Czech Republic**). In several states, the retirement age is higher for judges at the Supreme Court or other High Courts than for the judges of the lower courts.

In 2 responding states (**Bulgaria, Hungary**), the office of judges becomes irremovable after having exercised the profession successfully during a period ranging from 3 to 5 years. The 5 following states mentioned a similar situation for prosecutors: **Croatia, Hungary, Latvia, Lithuania** (for a judicial office at a district court) and **Moldova**.

Several states informed about other adjustments. In **Belgium, Estonia** and **Montenegro**, the term of office of judges with leading positions is fixed. 6 states mentioned the same situation for prosecutors: **Azerbaijan, Belgium, Latvia** (5 years), **Lithuania** (7 years), **Moldova** (5-10 years) and "**the former Yugoslav Republic of Macedonia**" (6 years). On the contrary, in **Iceland**, the General Prosecutor is given a term of office for an undetermined period whereas the office of the other prosecutors is determined. In **France**, the function of some judges and prosecutors (i.e. the presidents of the Appellate Courts) are limited in time (5 to 8 years). In **UK-England and Wales**, fee-paid judicial office holders are initially appointed for usually 5 years and the secondment of French judges and prosecutors in **Monaco** is fixed for 3-6 years. **Bosnia and Herzegovina, Finland** and **Norway** employ some judges (or prosecutors for **Finland**) on a temporary basis (see Chapter 7).

No major changes compared to 2006 need to be highlighted. Compared to judges, the prosecutor's term of office is fixed in a larger number of states or entities.

Table 11.25 Terms of office of judges and prosecutors in 2008 (Q109, Q110, Q111, Q112, Q113)

Country	Terms of office of judges			Terms of office of prosecutors		
	Undetermined	If renewable, length	Probation period	Undetermined	If renewable, length	Probation period
Albania	Yes		1 year	Yes		1 year
Andorra	No	6 years		No	6 years	
Armenia	Yes			Yes		
Austria	Yes		NAP	Yes		NAP
Azerbaijan	Yes			Yes		
Belgium	Yes			Yes		
Bosnia and Herzegovina	Yes			Yes		
Bulgaria	Yes		5 years	Yes		5 years
Croatia	Yes		5 years	Yes		5 years
Cyprus	Yes		2 years	Yes		2 years
Czech Republic	Yes		NAP	Yes		NAP
Denmark	Yes			Yes		
Estonia	Yes		3 years	Yes		NAP
Finland	Yes			Yes		
France	Yes			Yes		
Georgia	No	10 years	NA	Yes		6 month
Greece	Yes		18 months	Yes		18 months
Hungary	Yes		3 years	Yes		3 years
Iceland	Yes		NAP	No	5 years	
Ireland	Yes			Yes		1 year
Italy	Yes		1.5 years	Yes		1.5 years
Latvia	Yes		6 months	Yes		6 months
Lithuania	Yes		5 years	Yes		NAP
Luxembourg	Yes		2 years	Yes		2 years
Malta	Yes			Yes		
Moldova	Yes		5 years	Yes	5 years	
Monaco	Yes			Yes		
Montenegro	Yes			No	5 years	

Country	Terms of office of judges			Terms of office of prosecutors		
	Undetermined	If renewable, length	Probation period	Undetermined	If renewable, length	Probation period
Netherlands	Yes		NAP	Yes		1 year
Norway	Yes			Yes		
Poland	Yes			Yes		3 years
Portugal	Yes		1.5 years	Yes		1.5 years
Romania	Yes		1 year	Yes		1 year
Russian Federation	Yes		3 years	Yes		3-12 months
San Marino	Yes		3 years	Yes		NAP
Serbia	Yes			No	6 years	
Slovakia	Yes			Yes		
Slovenia	Yes		NAP	Yes		NAP
Spain	Yes			Yes		
Sweden	Yes			Yes		33 months
Switzerland	No	4 to 6 years	NAP	No	4 to 6 years	NAP
FYROMacedonia	Yes		NAP	Yes	6 years (for the State General Prosecutor)	NAP
Turkey	Yes			Yes		
UK-England and Wales	Yes			Yes		0.5 year
UK-Northern Ireland	Yes			Yes		
UK-Scotland	No	No length specified	NAP	No	No length specified	1 year

Comments

Croatia: for the first time, judges and prosecutors are appointed for 5 years, then for an indefinite time.

Ireland: prosecutors are civil servants and their initial appointment is subject to a normal probationary period of 12 months.

San Marino: a probation period is effective for judges of the Appellate Court, *Commissaires de la Loi*, judges of administrative courts, judges of conciliation and *Uditori commissariali*.

Serbia: a reform which is effective since 2010 plans that the term of office of a judge be renewable after 3 years.

Switzerland: in a minority of cantons, the judges' and prosecutor's terms of office are undetermined.

11.5.2 Promotion

In more than half of the responding states or entities (25 out of 45), the authority responsible for the recruitment of the judges is the same as the one which deals with their promotion: **Andorra, Armenia, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, Georgia, Iceland, Latvia, Lithuania, Moldova, Monaco, Montenegro, Poland, Romania, Russian Federation, Serbia, Slovakia, Sweden, "the former Yugoslav Republic of Macedonia"** and **UK- England and Wales**. In the 20 other states or entities, a different authority is entrusted with the promotion of judges, for instance the Council for the Judiciary in **Italy, Portugal** and **Spain**.

In 31 states or entities, the body dealing with the appointment of prosecutors is also responsible for the management of their career (**Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Hungary, Iceland, Ireland, Lithuania, Malta, Moldova, Monaco, Montenegro, Norway, Poland, Romania, Russian Federation, San Marino, Serbia, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", UK-England and Wales, UK-Northern Ireland** and **UK-Scotland**). Recommendation Rec(2000)19 states that the transfer or the promotion of prosecutors should be governed by known and objective criteria and by the needs of the service and: "*carried out according to fair and impartial procedures embodying safeguards against any approach which favours the interests of specific groups...*"

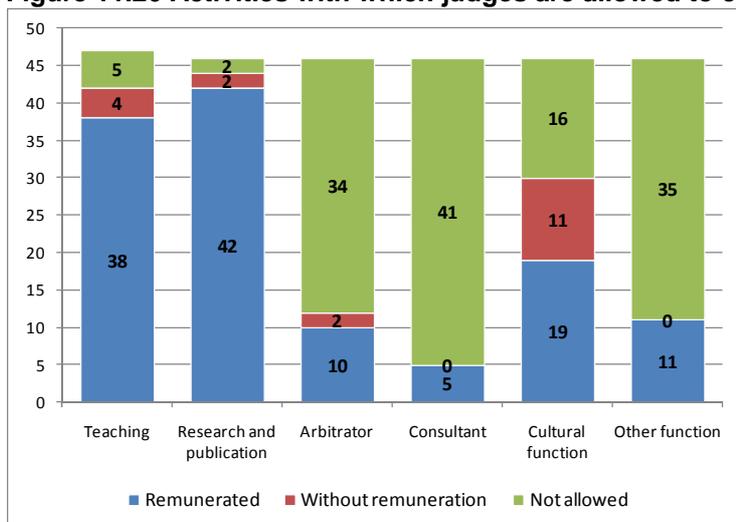
11.5.3 Combination of work with other activities

To sufficiently guarantee the independence and impartiality of judges many states prohibit or limit the possibility for judges to exercise other professions at the same time as practicing their function as a judge. As the Consultative Council of European Judges (CCJE) recommends, judges should "*refrain from any professional activity that might divert them from their judicial responsibilities or cause them to exercise those responsibilities in a partial manner*" (CCJE Opinion N^o3: 2002; para. 37).

Recommendation R(2000)19 underlines that prosecutors must act in an impartial manner and must be exclusively attentive to the smooth functioning of the criminal law system. Therefore, it would not be recommended for a prosecutor to exercise another profession which may interfere with his/her decisions or ways of prosecuting. Furthermore, the Recommendation foresees possibilities restricting the freedom of

conscience, expression and association of prosecutors only where such exceptions would be absolutely necessary to guarantee the role of the prosecutor and would be provided for by the law.

Figure 11.26 Activities with which judges are allowed to combine their function (Q121)



As regards judges, there is no objection to having activities (even remunerated) besides the ones inherent to their office in **Austria, Finland** and **the Netherlands** whilst in **Ireland** only unpaid teaching, research, publication and cultural function are admitted.

The main activities with which a judge can combine her/his function are teaching and research, (compensated or not compensated; 38 states of entities for teaching and 42 for research). In addition to **Malta, Turkey, UK-England and Wales, UK-Northern Ireland** and **UK-Scotland** do not permit any kind of teaching, and **Estonia** does not allow publications in newspapers.

Many member states and entities (30) allow judges to exercise activities in the cultural field. In more than one third of these states, however, the activity must be unremunerated. **Albania** and **UK-Northern Ireland** also mentioned the involvement in charitable organisations as “another function” that judges may exercise.

The liberty given to judges by the states has limits. **Estonia, Finland, France, Italy, the Netherlands, Norway** and **Slovenia** reported that judges need to inform or request permission before exercising a second activity. Additionally, **Austria, Slovenia** and **UK-England and Wales** stressed that such activities are not in any way to affect the judicial function of the judge and its impartiality. Thus, **Luxembourg** and “**the former Yugoslav Republic of Macedonia**”, for instance, prohibit political functions and, in **UK-England and Wales**, fee-paid judges are free to combine their judicial work with other activities and continue their primary activity as a barrister or solicitor as long as it is not contentious and does not present a conflict of interest. Eventually, the combination of work as a judge and that of an arbitrator is forbidden in most of the states or entities (34). In an even larger number of states or entities (41), working as a consultant is forbidden too. Figures 11.28 and 11.29 list the states which allow such activities (remunerated and unremunerated).

The situation for prosecutors is very similar to that of the judges’ regarding the activities that are allowed and the limits under which they can be exercised.

Denmark, Ireland (though not “other function”) and **the Netherlands** have not indicated restrictions to the exercise of additional (even remunerated) activities. On the other hand, **Cyprus** and **UK-Northern Ireland** do not allow any “other function”. In **Malta**, only unpaid teaching, research and publication are permitted for prosecutors. There are 3 states or entities which do not allow any teaching and research even when such activities are uncompensated: **Cyprus, UK-England and Wales** and **UK-Northern Ireland**. **Turkey** does not allow any teaching and **Lithuania** does not allow any research and publication. **UK-England and Wales** stressed that employees of the Crown prosecution Service have to seek permission if they want to take outside appointments.

Figure 11.27 Activities with which prosecutors are allowed to combine their function (Q123)

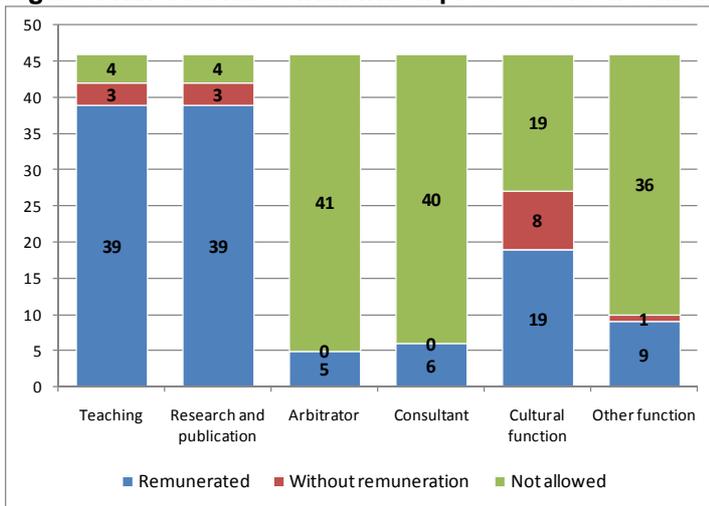


Figure 11.28 States and entities which allow the combination of the function of judge or prosecutor with arbitration (Q121, Q123)

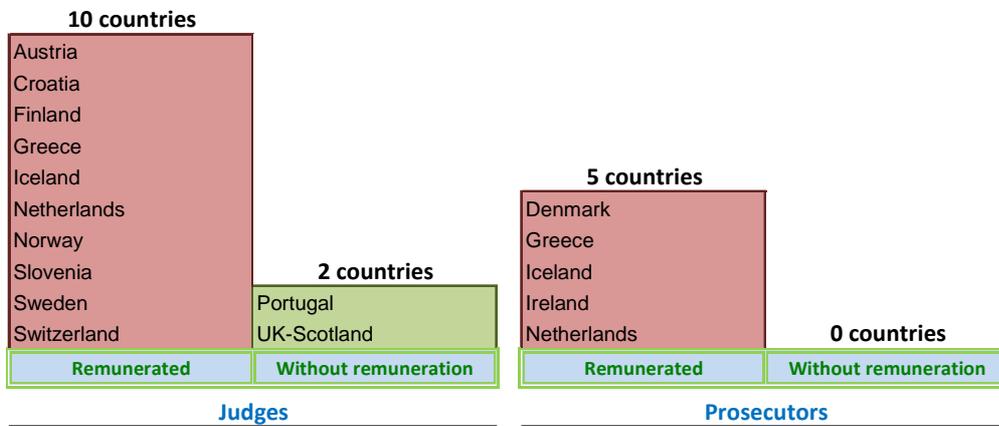
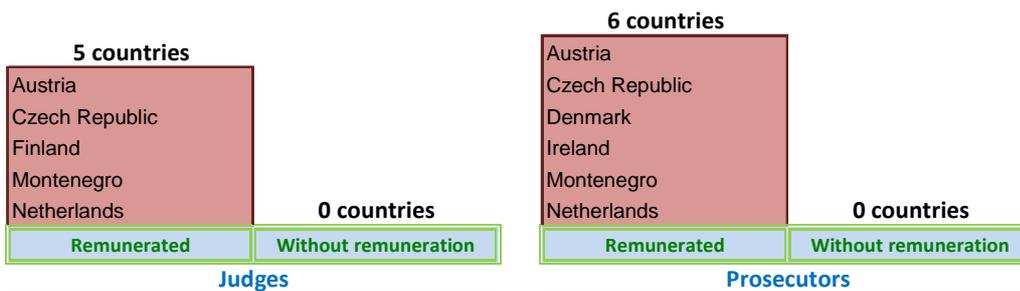


Figure 11.29 States and entities which allow the combination of the function of judge or prosecutor with consultancy (Q121, Q123)



11.6 Responsibility: disciplinary proceedings and sanctions

11.6.1 Disciplinary proceedings and sanctions against judges

The European Charter on the Status of Judges states that “compensation for harm wrongfully suffered as a result of the decision or the behaviour of a judge in the exercise of his or her duties is guaranteed by the state”. The state has the possibility of applying, within a fixed limit, for reimbursement from the judge by way of legal proceedings in the case of a gross and inexcusable breach of the rules governing the performance of judicial duties. This possibility is exceptional and in the majority of cases the only sanction imposed concerns disciplinary proceedings.

In spite of being independent during the exercise of their functions, judges have a series of responsibilities which may lead to disciplinary proceedings in case of non-fulfilment. The legality principle requires that

disciplinary sanctions can only be imposed on judges in cases expressly defined by the judges' status, where one must find the list of the various sanctions that can be imposed.

Several states or entities explicitly reported that ethical rules for judges exist and/or that a catalogue of faults and sanctions are laid down in the law (**Bosnia and Herzegovina** - where the Ethical Code is not mandatory -, **Bulgaria, Hungary, Moldova, Montenegro, Poland, Romania**). **UK-England and Wales** mentioned the Judicial Discipline Regulations which describe the procedures in disciplinary matters.

In the following tables, a distinction is made between the number of initiated disciplinary proceedings and the number of sanctions pronounced. The difference between these two figures includes discontinued cases and the fact that the years of reference are not necessarily the same, because of the length of the proceedings and the deliberation of the case.

Table 11.30 Distribution of the disciplinary proceedings initiated against judges in 2008 (Q128)

Country	Total number	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Albania	9	9	0	0	0
Andorra	1	0	1	0	
Armenia	26	26			
Austria	47	34	9	4	0
Azerbaijan	24				
Belgium	14				
Bosnia and Herzegovina	7	7			
Bulgaria	17	5	10		2
Croatia	11	1	5		5
Cyprus	0	0	0	0	0
Czech Republic	38	5	28		5
Denmark	91	NA	NA	NA	NA
Estonia	4	0	4	0	NAP
France	6	3	2	0	1
Georgia	33	1	NA	NA	NA
Hungary	25	19	NA	5	1
Iceland	0	0	0	0	0
Italy	111	26	70	15	0
Latvia	5	0	0	0	5
Lithuania	2	2	NA	NA	NA
Luxembourg	0				
Malta	NA	NA	NA	NA	NA
Moldova	15				
Monaco	0	0	0	0	0
Montenegro	6		6	NAP	
Netherlands	NA	NA	NA	NA	NA
Norway	37	37			
Poland	57	25	32		
Portugal	18	NA	NA	NA	NA
Romania	11	NAP	NAP	NAP	11
Russian Federation	371				
San Marino	0				
Slovakia	36	NA	NA	NA	NA
Slovenia	3	2	1		
Spain	45	7	31	1	6
Sweden	2	0	1	1	0
Switzerland	50	30	17	2	1
FYROMacedonia	15		15		
UK-England and Wales	59	NAP	NAP	2	57
UK-Northern Ireland	2				

Comments

Finland: the Chancellor of Justice investigated 335 complaints. The Parliamentary Ombudsman investigated 235 complaints. This information concerns the number of complaints the Chancellor of Justice and the Parliamentary Ombudsman investigated, but not the number of initiated disciplinary proceedings.

Georgia: only the number of complaints against judges (2.366) is available. Only a few of these complaints initiated proceedings, and only 5% of the complaints may generally lead to a sanction. In 2008, 33 cases were initiated in the Disciplinary Board of Judges.

Malta: disciplinary proceedings are instructed and held in camera. Therefore, no data is available.

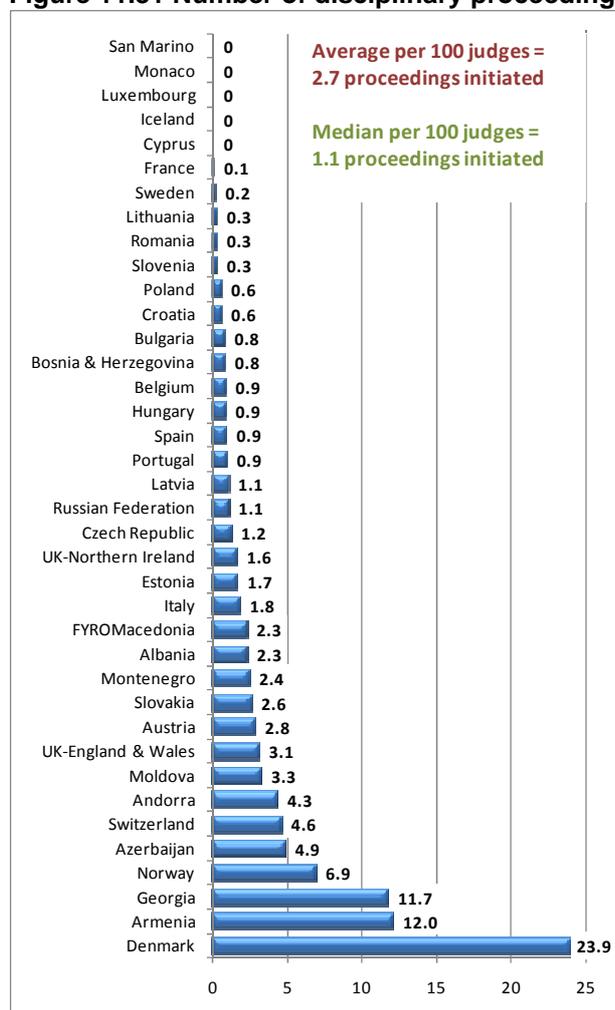
Switzerland: the data was provided by 19 cantons (out of 26).

Turkey: was not able to distinguish between proceedings initiated against judges and prosecutors: in total there were 350 disciplinary proceedings initiated, 123 for breach of professional ethics and 227 for “other”.

40 states or entities were able to indicate the total number of disciplinary proceedings. Only a few gave detailed information on the procedure. Therefore, a comparison between the states and the different periods would not be relevant here.

Most of the disciplinary proceedings are initiated for reasons of breach of professional ethics (239 cases; figures provided by 27 states or entities) and for professional inadequacy (232 cases; figures provided by 22 states or entities). For instance, in **Montenegro** and **Slovenia**, disciplinary procedures have been initiated against judges because they did not process cases in the order defined by law or did not respect time limits. Only 30 proceedings have been initiated for criminal offences (17 states or entities). In **Romania**, the breach of professional ethics, professional inadequacy and criminal offence are not disciplinary violations. For the first category, no sanctions are applied, the two latter present grounds for dismissal from office. In **Montenegro**, a criminal offence is a ground for dismissal from office but not for a disciplinary procedure. Hence, **Montenegro** (as **Romania**) makes a distinction between disciplinary proceedings and proceedings for dismissal. **Switzerland** informed that there are no disciplinary proceedings against judges of the Supreme Court (the same is true for cantonal judges in some cantons).

Figure 11.31 Number of disciplinary proceedings initiated per 100 judges in 2008 (Q128)



The number of proceedings initiated against professional judges is relatively low at the European level. Only two states reported a significant number of proceedings (more than 10 proceedings per 100 judges): **Armenia** and **Denmark**. In **Denmark**, disciplinary proceedings can be initiated by citizens (see figure below). This is also true for **Norway**, **Azerbaijan**, **Switzerland**, **Andorra** and **Austria** states where quite a lot of proceedings are initiated. However, when taking into account the low absolute numbers, no conclusion can be drawn at the moment.

Table 11.32 Authorities responsible to initiate the disciplinary proceedings against judges in 2008 (Q126)

Country	Citizen	Court	Higher Court or Supreme Court	Judicial Council	Disciplinary court or body	Ombudsman	Prosecutor	Parliament	Minister of Justice (executive power)	Total number of authorities (or other) per country
Albania										1
Andorra										4
Armenia										1
Austria		Judge								3
Azerbaijan										3
Belgium										3
Bosnia & Herzegovina										1
Bulgaria										2
Croatia										4
Cyprus										1
Czech Republic										3
Denmark										1
Estonia										2
Finland										2
France										2
Georgia										2
Greece										3
Hungary										2
Iceland										4
Ireland										1
Italy										2
Latvia										3
Lithuania										5
Luxembourg										1
Malta										1
Moldova										1
Monaco										1
Montenegro										2
Netherlands										1
Norway										5
Poland										3
Portugal										1
Romania										1
Russian Federation										1
San Marino										1
Slovakia										5
Slovenia										5
Spain										1
Sweden										2
Switzerland										3
FYROMacedonia										3
Turkey										2
UK-England & Wales										2
UK-Scotland										1
TOTAL number of countries	10	20	15	17	6	3	8	2	17	Average: 2 authorities per country

Comments

Finland: there are two kinds of Ombudsman: the Chancellor of Justice and the Parliamentary Ombudsman.

UK-England and Wales: Office for Judicial Complaints (OJC) is an associated Office of the Ministry of Justice which supports the Lord Chancellor and the Lord Chief Justice in their joint responsibility for judicial conduct and discipline. The OJC consider and investigate complaints and conduct issues involving judicial office holders in England and Wales. Tribunal Presidents consider and investigate complaints and conduct issues in relation to tribunal judicial office holders and local Advisory committees consider and investigate the same for magistrates.

Different authorities may be responsible for initiating disciplinary proceedings. Generally, it is the hierarchical superior such as the head of the court or a Higher/Supreme Court, but the Judicial Council and the Minister of Justice are also often mentioned. In 10 states, citizens may initiate the disciplinary proceedings by making

a complaint (**Andorra, Austria, Azerbaijan, Denmark, Finland, Iceland, Lithuania, Norway, Switzerland and Turkey**). In **France**, such a possibility is foreseen on conditions presently being discussed in Parliament. There are 3 states in which an Ombudsman may start proceedings on her/his own initiative (**Finland, Slovakia and Sweden**). The Parliament plays a role in **Ireland** for conducting impeachment proceedings and in **Switzerland**, the authority responsible for the nomination of judges is entrusted with disciplinary matters. In **Austria**, the judge who has been accused can initiate a disciplinary proceeding at her/his own initiative to prove her/his innocence.

In 18 states or entities, a single authority is competent for initiating disciplinary proceedings. Often, this is the Judicial Council (**Bosnia and Herzegovina, Cyprus, Malta, Moldova, Portugal, San Marino, Spain**) or a disciplinary body that comes under the control of the Council (**Romania**). In other states, the Minister of Justice (**Albania, Armenia, Monaco**) holds this function. In 10 states, two authorities may initiate proceedings and in 16 states, three to five authorities can be involved. For instance, in **Estonia, Iceland, Lithuania, Montenegro, Slovakia, Slovenia** and "**the former Yugoslav Republic of Macedonia**", different hierarchical authorities are competent depending on the function of the judge against whom the proceedings have been initiated. In **Norway**, proceedings related to a dismissal may only be initiated by the *King in Council*.

Table 11.33 Number of sanctions pronounced against judges in 2008 (Q129)

Country	Total number	Reprimand	Suspension	Withdrawal of cases	Fine	Temporary reduction of salary	Degradation of post	Transfer to another geographical (court) location	Dismissal	Other
Albania	9	2	0	0	0	0	0	1	6	0
Andorra	0									
Armenia	5					1				4
Austria	58	3	0	37	0	3	0	0	0	15
Azerbaijan	15	12						3		
Belgium	6	4				1			1	
Bosnia and Herzegovina	12	3	1	NAP	NAP	4			1	3
Bulgaria	7	NA	NAP	NAP	NAP	4	NA	NAP	3	NA
Croatia	6	3	NAP	NAP	NAP	2	NAP	NAP	1	NAP
Cyprus	0									
Czech Republic	19	7			1	11				
Estonia	4	2	0	NAP	1	0	NAP	NAP	0	1
Finland	8	7								1
France	3	0	1	1			0	1		0
Georgia	27	5	NA	9	NA	NA	NA	NA	10	3
Hungary	8	2	NA	NA	2	NA	NA	NA	NA	4
Iceland	0	0	0	0	0	0	0	0	0	0
Italy	40	18	5	NAP	NAP	NAP	9	5	3	NAP
Latvia	5	2								3
Lithuania	0	0	0	-	NA	-	-	-	0	0
Luxembourg	0									
Moldova	11	6								5
Monaco	0	0	0	0	0	0	0	0	0	0
Montenegro	10	1	4	1		2			2	
Norway	2	2								
Poland	38	23						1	3	11
Portugal	31	10	1	2	15			2	1	
Romania	13	2	NAP	NA	NAP	8	NAP	1	2	NAP
Russian Federation	371	315							56	
San Marino	0									
Slovenia	0									
Spain	28	5	2		21					
Sweden	0	0	0	0	0	NAP	NAP	NAP	0	0
Switzerland	6	2	0	1	1	0	0	0	0	NA
FYROMacedonia	12					2			8	resigned - 2
UK-England and Wales	59	33	1	NAP	NAP	NAP	NAP	NAP	25	0
UK-Northern Ireland	2									

Comments

Denmark: 84 out of the 91 initiated disciplinary proceedings were discontinued, 1 resulted in a disapproval or suspension and 6 were resolved in a different way.

Estonia: suspension is not a separate disciplinary sanction in Estonia but a preventive measure taken during the proceedings.

Malta: disciplinary proceedings are held in closed sessions.

Switzerland: data has been provided by 19 cantons (out of 26).

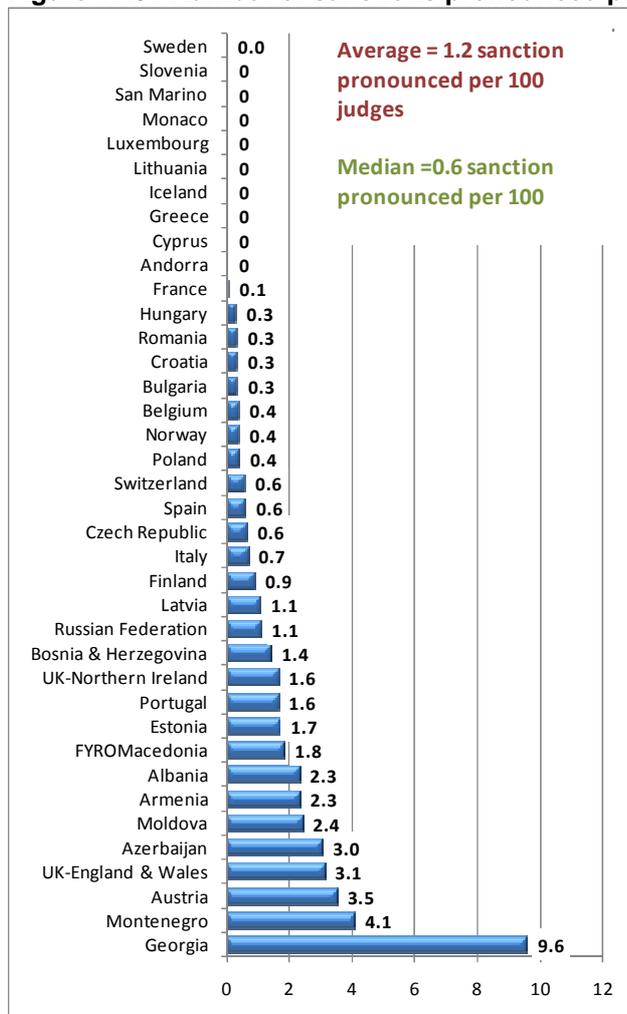
Turkey: was not able to distinguish between sanctions pronounced against judges and prosecutors: there were 123 reprimands, 35 suspensions, 8 fines, 2 degradations of post, 18 transfers to another geographical (court) location, 9 dismissal and 51 other sanctions pronounced against judges and prosecutors.

UK-England and Wales: under reprimand sanctions of formal advice, formal warning as well as formal reprimand have been included.

37 states or entities were able to indicate the total number of sanctions pronounced against judges. However, regarding the disciplinary proceedings, insufficient information was provided on the different kinds of sanctions existing. Therefore, a comparison between the states would not be relevant.

The reprimand is, by far, the most common sanction imposed on judges (469 cases; figures provided by 28 states or entities). **Austria** withdrew a lot of cases. In other states, such kind of decisions is not taken formally within the disciplinary procedure. Dismissals are rarely pronounced. It is possible that the high number of dismissals communicated by **UK-England and Wales** includes also other members of the court.

Figure 11.34 Number of sanctions pronounced per 100 judges in 2008 (Q129)



The number of sanctions pronounced per 100 judges may appear to be low. An average of 1 sanction per 100 judges is characteristic of the 37 responding states or entities. Only 7 states imposed more than 2 sanctions – the figures for **Austria** and **UK-England and Wales** must be put into perspective (see comments above).

The difference between the number of “open disciplinary proceedings” (1353) and the number of “finally imposed sanctions” (820) is explained by the fact that some cases are discontinued or ended due to the lack of an established violation, or because of the judge’s resignation before the final decision. In **Georgia**, for instance, only about 5% of complaints may lead to a sanction. As already mentioned above, it must be kept in mind that not all of the initiated proceedings were closed at the end of 2008 and that cases judged in 2008 may have been initiated in previous years.

Table 11.35 Authorities with disciplinary power against judges in 2008 (Q127)

Country	Court	Higher Court or Supreme Court	Judicial Council	Disciplinary court or body	Ombudsman	Parliament	Executive power	Total number of authorities (or other) per country
Albania								1
Andorra								1
Armenia								1
Austria								1
Azerbaijan								1
Belgium								2
Bosnia & Herzegovina								1
Bulgaria								1
Croatia								1
Cyprus								1
Czech Republic								1
Denmark								2
Estonia								2
Finland								1
France								1
Georgia								2
Greece								2
Hungary								1
Iceland								2
Ireland								1
Italy								1
Latvia								1
Lithuania								1
Luxembourg								1
Malta								1
Moldova								2
Monaco								2
Montenegro								1
Netherlands								1
Norway								2
Poland								1
Portugal								1
Romania								1
Russian Federation								1
San Marino								1
Serbia								1
Slovakia								1
Slovenia								1
Spain								1
Sweden								1
Switzerland								2
FYROMacedonia								1
Turkey								1
UK-England & Wales								2
UK-Scotland								1
TOTAL number of states/entities	4	9	14	21	1	2	5	Average: 1 authority per country

In most of the responding states or entities (34 out of 45), the sanction is imposed by a single authority. This authority is in more than half of these states a disciplinary court or independent disciplinary body (**Lithuania, Norway**), that is either part of the Judicial Council (**Georgia, Moldova, Montenegro**) or part of other courts (**Estonia, Hungary, Poland, Slovakia**). Generally, the disciplinary court is composed only of judges

(Austria, Czech Republic, Estonia, Latvia, Slovenia), yet in Georgia and Norway also non-judge staff may attend. The Judicial Council has the power of decision-making in 13 states or entities.

Two authorities may have disciplinary power against judges in 11 states or entities. In UK-England and Wales, these are the Lord Chancellor as part of the Government and the Lord Chief Justice as the head of the Judiciary. In Iceland, Monaco and Norway, the dismissal of a judge is decided by an authority different from the one responsible for the other sanctions.

Some states mentioned the possibility to appeal against the sentence of the Judicial Council (Bosnia and Herzegovina, Estonia, Georgia, Moldova, Poland, Slovakia and Slovenia), generally before a higher instance within this body. However, in Andorra and Turkey, no objection against the decision of the Judicial Council is possible.

11.6.2 Disciplinary proceedings and sanctions against prosecutors

Contrary to judges who benefit from a strong independence in exercising their functions, prosecutors are subject to additional obligations which could generate disciplinary proceedings. However, according to the principle of legality, prosecutors can only be sanctioned in cases determined by the law.

Table 11.36 Distribution of the disciplinary proceedings initiated against prosecutors in 2008 (Q128)

Country	Total number	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Albania	14	2	12	0	0
Andorra	0	0	0	0	
Armenia	4 to 5				
Austria	1	0	0	1	0
Azerbaijan	41	4	35	2	
Belgium	3				
Bosnia and Herzegovina	1	1			
Bulgaria	11	6	5		
Croatia	1	0	1	0	0
Czech Republic	6	2	4		
Denmark	2	1		1	
Estonia	0	0	0	0	NAP
France	2	0	0	2	0
Georgia	32	29	3	NAP	0
Hungary	14			0	14
Iceland	0	0	0	0	0
Italy	62	16	40	6	0
Latvia	10	1	7	0	2
Lithuania	3	3			
Luxembourg	0				
Malta	NA	NA	NA	NA	NA
Moldova	133	14	119		
Monaco	0	0	0	0	0
Montenegro	0				
Netherlands	NA	NA	NA	NA	NA
Norway	0	0	0	0	0
Poland	29	8	13	5	3
Romania	6	NAP	NAP	NAP	6
Russian Federation	2717				
San Marino	0				
Slovakia	4	0	4	0	
Slovenia	2	1		1	
Spain	3		3		
Sweden	1	0	0	1	0
Switzerland	29	21	7	1	0
FYROMacedonia	0				
UK-Scotland	2	NA	1	1	NA

Comments

Finland: the Chancellor of Justice has investigated on 127 complaints, the Parliamentary Ombudsman on 89 complaints.

Malta: disciplinary proceedings are instructed and held in camera. Therefore, no data is available.

Romania: the breach of professional ethics, professional inadequacy and criminal offence are not disciplinary violations. For the first category, no sanctions are applied, the two latter present grounds for dismissal from office.

Switzerland: data have been provided by 19 cantons (out of 26).

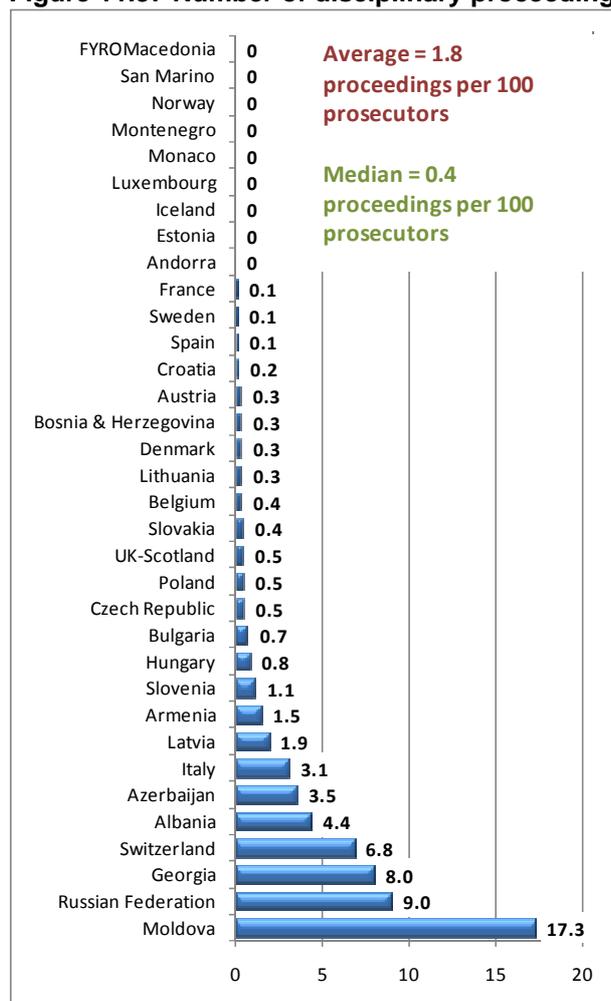
Turkey: was not able to distinguish between proceedings initiated against judges and prosecutors: in total there were 350 disciplinary proceedings initiated, 123 for breach of professional ethics and 227 for “other”.

35 states or entities gave a total number of disciplinary proceedings.

Similarly to judges, proceedings for “professional inadequacy” represent the highest number of cases (254; answers given by 25 states or entities), followed by proceedings for breach of professional ethics (109 cases; answers given by 23 states or entities), for criminal offence (21 cases; figures given by 22 states or entities).

In **Romania**, as for judges, the breach of professional ethics, professional inadequacy and criminal offence by prosecutors are not disciplinary violations. **Switzerland** informed that there are no disciplinary proceedings against some general prosecutors. In **Austria**, the disciplinary procedure for prosecutors is similar to the disciplinary procedure for judges.

Figure 11.37 Number of disciplinary proceedings initiated per 100 prosecutors in 2008 (Q128)



The number of proceedings per 100 prosecutors was calculated for 33 states and entities. Only **Moldova** had more than 10 proceedings per 100 prosecutors. For a comparison, the average number of proceedings initiated against judges is 2,5 against 1,9 for prosecutors, though these indicators cannot be truly compared as they are not based on the same number of responding states.

Table 11.38 Authorities responsible to initiate disciplinary proceedings against prosecutors in 2008 (Q127)

Country	General Prosecutor/State Prosecutor	Head of the organisational unit or hierarchical superior Prosecutor	(Judicial and) Prosecutorial Council	Disciplinary body / Prosecution Inspection Office	Professional Body/Other	Ombudsman	Executive power	Total number of authorities (or other) per country
Albania								1
Andorra								1
Armenia								1
Austria								3
Belgium								3
Bosnia & Herzegovina								1
Bulgaria								3
Croatia								2
Cyprus								1
Czech Republic								2
Denmark								1
Estonia								3
Finland								2
France								2
Georgia								2
Greece								1
Hungary								1
Iceland								1
Ireland								2
Italy								2
Latvia								2
Lithuania								2
Luxembourg								1
Malta								1
Moldova								2
Monaco								1
Montenegro								3
Netherlands								1
Norway								2
Poland								3
Portugal								1
Romania								1
Russian Federation								1
San Marino								1
Slovakia								3
Slovenia								2
Spain								2
Sweden								2
FYROMacedonia								2
Turkey								1
UK-England & Wales								2
UK-Scotland								2
TOTAL number of states/entities	19	21	6	5	3	2	17	Average: 2 authorities per country

Comments

Finland: there are two kinds of Ombudsman: The Chancellor of Justice and the Parliamentary Ombudsman.
“the former Yugoslav Republic of Macedonia”: the procedure for determining disciplinary liability shall be conducted by a commission of five members set up by the General Prosecutor. The Council of Public Prosecutors shall decide on the appeal. The prosecutor has the right to initiate administrative procedure before the relevant jurisdiction.
UK-England and Wales: are responsible the Civil Service departments for which they work, e.g. Crown Prosecution Service, and their respective professional bodies (the Solicitor’s Regulation Authority and the Bar Standards Board).

Different persons and authorities can be responsible for initiating disciplinary proceedings against prosecutors. As for the judges, generally, it is the hierarchical superior such as the head of the organisational unit and the General prosecutor. 17 states or entities mentioned that it could concern the executive power (often the Minister of Justice). As a characteristic of prosecutors, and contrary to the proceedings brought

against judges, professional bodies are authorized to initiate proceedings in **Ireland, UK-England and Wales** and **UK-Scotland**. Furthermore, in all states or entities, it seems that citizens are not allowed to file on their own a complaint against a prosecutor.

Generally, a single authority, such as the hierarchical superior or the Judicial Council, is competent for initiating a disciplinary proceeding. Two authorities may be competent in 16 states or entities. Contrary to proceedings against judges, only 7 states (**Austria, Belgium, Bulgaria, Estonia, Montenegro, Poland** and **Slovakia**) grant three authorities with such competences.

Table 11.39 Number of sanctions pronounced against prosecutors in 2008 (Q129)

Country	Total number	Reprimand	Suspension	Withdrawal of cases	Fine	Temporary reduction of salary	Degradation of post	Transfer to another geographical (court) location	Dismissal	Other
Albania	3	0	0	0	0	0	0	0	3	0
Andorra	0	0	0	0	0	0	0	0	0	0
Armenia	3	3								
Austria	0	0	0	0	0	0	0	0	0	0
Azerbaijan	41	33							8	
Belgium						1				
Bosnia and Herzegovina	1			NAP	NAP				1	
Bulgaria	3	NA	NAP	NAP	NAP	2	NA	NAP	1	NA
Croatia	1				1					
Czech Republic	6	3				2			1	
Denmark	2	1							1	
Estonia	0	0	0	0	0	0	0	0	0	0
Finland	1	1								
France	2	0	1	0			0	1		0
Georgia	21	21	0	NAP	NAP	NAP	0	NAP	0	0
Hungary	10	3				1	2		1	3
Iceland	0	0	0	0	0	0	0	0	0	0
Italy	6	2	0	NAP	NAP	NAP	1	2	0	NAP
Latvia	10	4	0	NAP	NAP	1	0	NAP	0	5
Lithuania	12	6	1						1	4
Luxembourg	0	0	0	0	0	0	0	0	0	0
Moldova	93	39					3		3	48
Monaco	0	0	0	0	0	0	0	0	0	0
Montenegro	0	0	0	0	0	0	0	0	0	0
Norway	0	0	0	0	0				0	0
Poland	28	21				6			1	
Romania	5	2	NAP	NA	NAP	2	NAP	0	1	NAP
Russian Federation	2717								34	
San Marino	0									
Slovakia	9	2	0	0	2	3	0		0	2
Slovenia	0	0	0	0	0	0	0	0	0	0
Spain	3		1		2					
Sweden	1	0	0	0	1	0	0	0	0	0
Switzerland	2	1	0	0	0	2	0	0	2	1
FYROMacedonia	0									
UK-Scotland	6	5	1	NA	NA	NA	NA	NA	NA	

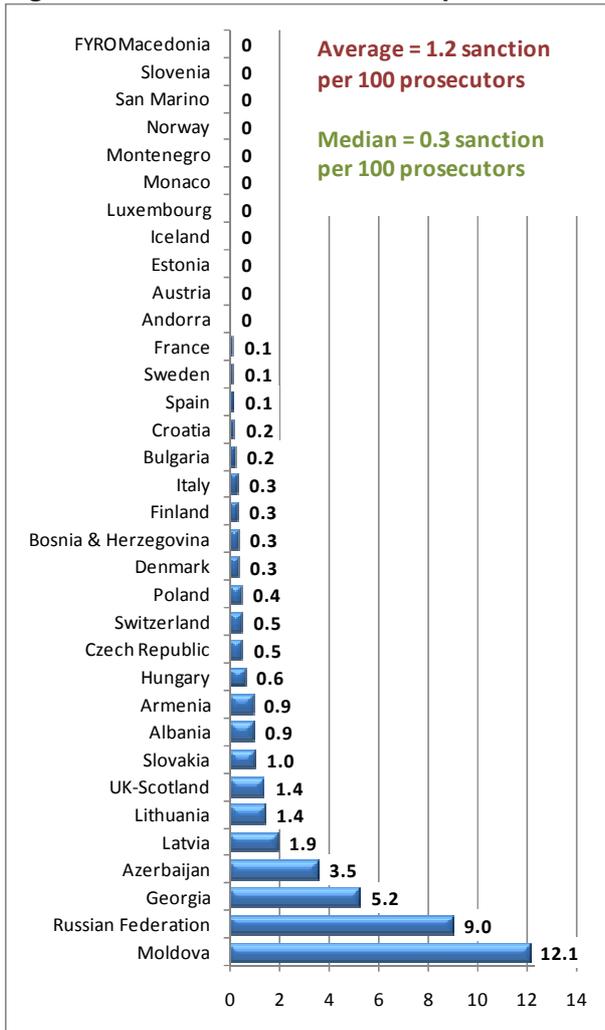
Comments

Switzerland: data has been provided by 19 cantons (out of 26).

Turkey: was not able to distinguish between sanctions pronounced against judges and prosecutors: there were 123 reprimands, 35 suspensions, 8 fines, 2 degradations of post, 18 transfers to another geographical (court) location, 9 dismissals and 51 other sanctions pronounced against judges and prosecutors.

The reprimand seems to be the most common sanction imposed on prosecutors (147 cases), but the answers of the states are very fragmentary regarding the different types of sanctions pronounced. Therefore, further analysis is not possible.

Figure 11.40 Number of sanctions pronounced per 100 prosecutors in 2008 (Q129)



Results presented in this figure are based on the data provided by 33 states or entities. An average of 1,3 sanctions has been pronounced against 100 prosecutors. **Azerbaijan, Georgia, the Russian Federation and Moldova** pronounced the highest number of sanctions per 100 prosecutors.

Table 11.41 Authorities with disciplinary power against prosecutors in 2008 (Q127)

Country	Supreme Court	General prosecutor/State Prosecutor	Head of the organisational unit/hierarchical superior Prosecutor	(Judicial and) Prosecutor Council	Disciplinary court or body	Professional body/other	Ombudsman	Executive power	Total number of authorities (or other) per country
Albania									2
Andorra									1
Armenia									2
Austria									1
Azerbaijan									2
Belgium									3
Bosnia & Herzegovina									1
Bulgaria									1
Croatia									1
Cyprus									1
Czech Republic									1
Denmark									1
Estonia									3
Finland									2
France									2
Georgia									2
Greece									1
Hungary									1
Iceland									1
Ireland									2
Italy									1
Latvia									2
Lithuania									2
Luxembourg									1
Malta									1
Moldova									1
Monaco									1
Montenegro									1
Netherlands									1
Norway									1
Poland									1
Portugal									1
Romania									1
Russian Federation									1
San Marino									1
Serbia									1
Slovakia									1
Slovenia									1
Spain									3
Sweden									1
FYROMacedonia									2
Turkey									1
UK-England & Wales									2
UK-Scotland									2
TOTAL number of states/entities	2	11	10	8	16	3	1	11	Average: 1 authority per country

As for judges, in most of the responding states or entities, the sanction is imposed by a single authority. This authority is, in 16 of these states, a disciplinary court or body.

11.7 Trends and conclusions

Judges and prosecutors fulfil different functions and obligations. However, similarities can be noted, first of all, as regards the modalities of recruitment and training. Several states mentioned recent reforms in these fields, mainly in Eastern Europe, where judicial training is being strengthened in accordance with the recommendations of the Council of Europe.

Other elements of the judges' and prosecutors' statuses and careers, in particular regarding the nomination procedure and career management, differ according to the systems: in some member states both statuses are very close (sometimes, it is a single status), whereas in other states (in particular in the *Common Law* states and in some Northern European states), both functions are clearly separated.

Such differences can also be noted regarding salaries. Generally speaking, several Eastern European states have increased considerably judges' and prosecutors' salaries since 2004, not only in order to make these professions more attractive but also to ensure (regarding judges) their impartiality and independence, prevent corruption and raise the consideration allocated to such function by the society. However, differences can be noted between the levels of remuneration of both functions, generally in favour of judges.

Chapter 12. Lawyers

Respecting the lawyer's mission is essential to the Rule of Law. Recommendation Rec(2000)21, on the freedom of exercise of the profession of lawyer, defines the lawyer as "... a person qualified and authorised according to the national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters".

It results from this definition that a lawyer may be entrusted with legal representation of a client before a court, as well as the responsibility to provide legal assistance.

In certain states or entities, other titles and definitions of a lawyer are used, such as *solicitor* (a person who gives legal advice and prepares legal documents) and *barrister* (a person who represents his/her clients in court). In the 90ies solicitors gained additional qualifications of *solicitor-advocate* and were allowed to plead in front of the higher courts. The word *attorney* is also used and is similar to the term "lawyer" as mentioned in this report (a person authorized to practice law, conduct lawsuits or give legal advice).

For practical purposes, the report and questionnaire use the definition of a lawyer as stated in Recommendation Rec(2000)21. Where possible, a distinction will be made between the above-mentioned categories.

The Council of the Bars in Law Societies of the European Union has been consulted during the elaboration of the present chapter.

12.1 Number of lawyers

Table 12.1 Absolute number of lawyers and legal advisors, number per 100.000 inhabitants and number per professional judge (Q130)

Country	Number of lawyers (without legal advisors)	Number of legal advisors	Number of lawyers and legal advisors (sum)	Number of lawyers (without legal advisors) per 100,000 inhabitants	Number of lawyers and legal advisors per 100,000 inhabitants	Number of lawyers (without legal advisors) per professional judge	Number of lawyers and legal advisors per professional judge
Albania	4 000	NAP		126.2		10.7	
Andorra	140	NAP		165.7		6.1	
Armenia	782			24.4		3.6	
Austria	7 229	NAP		86.7		4.4	
Azerbaijan	780			9.0		1.6	
Belgium	16 625	NAP		155.9		10.2	
Bosnia and Herzegovina	1 242			32.3		1.4	
Bulgaria	11 600	NAP		151.8		5.4	
Croatia	3 757	NAP		84.7		2.0	
Cyprus			2 077		260.6		20.8
Czech Republic	8 410	NAP		80.6		2.8	2.8
Denmark	5 246			95.8		13.8	
Estonia	665	NAP		49.6		2.8	
Finland	1 825			34.4		2.0	
France	48 461	NAP		75.8		8.3	
Greece	39 312	NAP		350.6		10.5	
Hungary	9 850			98.1		3.4	
Iceland	728			228.0		15.5	
Ireland	2 020	8 096	10 116	45.7	228.8	13.9	69.8
Italy	198 000			332.1		32.4	
Latvia	1 100			48.4		2.3	
Lithuania	1 590	NAP		47.3		2.1	
Luxembourg	1 732			352.0		9.4	
Malta	900	NAP		217.6		25.0	
Moldova	1 300	NAP		36.4		2.8	
Monaco	26			83.6		1.3	
Montenegro	515	150	665	83.0	107.2	2.1	2.7
Netherlands	15 547			94.8		7.2	
Norway	5 809	100	5 909	122.6	124.7	10.8	11.0
Poland	27 310	NAP		71.6		2.8	
Portugal	27 623	NAP		260.2		14.5	

Country	Number of lawyers (without legal advisors)	Number of legal advisors	Number of lawyers and legal advisors (sum)	Number of lawyers (without legal advisors) per 100,000 inhabitants	Number of lawyers and legal advisors per 100,000 inhabitants	Number of lawyers (without legal advisors) per professional judge	Number of lawyers and legal advisors per professional judge
Romania	17 593			81.7		4.2	
Russian Federation	62 353	NAP		43.9		1.8	
San Marino	145	NAP		463.7		7.6	
Slovakia	4 800	NAP		88.9		3.5	
Slovenia	1 169			57.7		1.1	
Spain	120 691			266.5		25.0	
Sweden	4 540			49.4		4.4	
Switzerland	9 498	NAP		123.3		8.7	
FYROMacedonia	1 899			92.9		2.9	
Turkey	63 487	NAP		88.8		8.8	
UK-England and Wales			153 710		282.3		80.8
UK-Northern Ireland	618	2 439	3 057	35.1	173.8	5.0	24.9
UK-Scotland	278	10 243	10 521	5.4	203.6	1.5	58.1
Average				120.1	147.6	7.3	14.6
Median				85.7	123.3	4.4	8.3
Minimum				5.4	34.4	1.1	1.8
Maximum				463.7	463.7	32.4	80.8

Comments

Finland: the number of lawyers includes members of the Finnish Bar Association who are entitled to use the professional titles 'asianajaja' or 'advokat'. In addition, there is an important number of jurists (persons who have a Master's Degree in law) who may offer similar legal services as members of the Bar.

Malta: the number of lawyers includes members of the Chamber of Advocates. However it is not mandatory to register with the Bar. One has to be given a warrant by the President of Malta to practice as a lawyer. No data is available on the number of warrants actually issued.

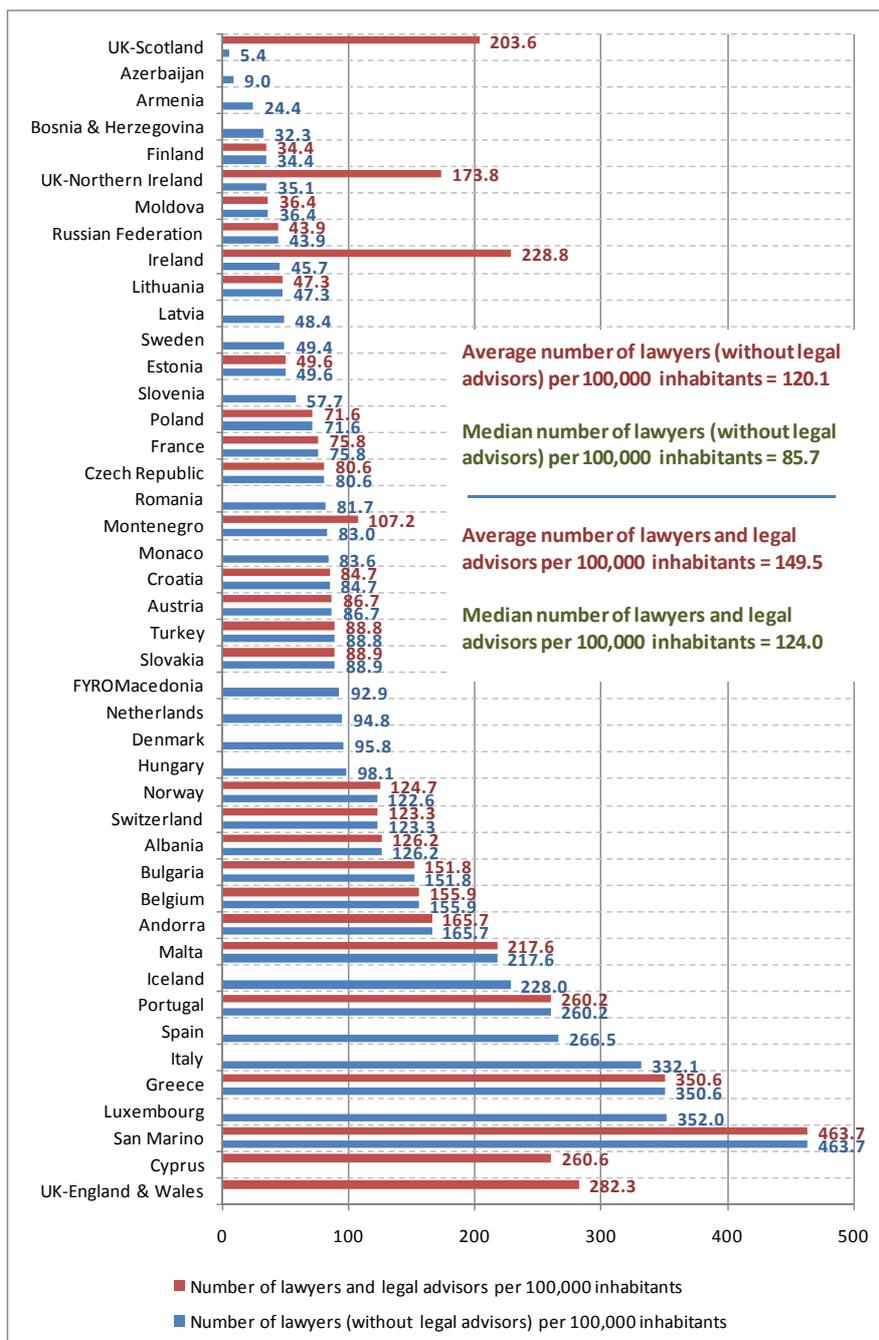
Norway: the provided number of legal advisors is an estimation.

Sweden: the number of lawyers includes only members of the Swedish Bar Association, those lawyers who may use the title 'advokat'. There are no formal requirements or licensing for practising law in Sweden or for appearing before courts.

The distinction between lawyers and legal advisors is relevant only in a few member states or entities. Most member states or entities explicitly indicated that this category does not exist as such. However, for **Cyprus** and **UK-England and Wales**, it is likely that the number of legal advisors is included in the general category of lawyers.

The following figures must be interpreted with care, as the number of lawyers and legal advisors do not refer systematically to the same reality, according to their duties and powers in the different member states or entities. For example, **Finland**, **Malta** and **Sweden** have provided the information on lawyers who are registered with a bar association, which is not mandatory to practise law. In these states, even more professionals may be performing lawyers' and legal advisors' duties. Finally, the importance of legal professionals can only be measured when taking into account the number of notaries (see chapter 14).

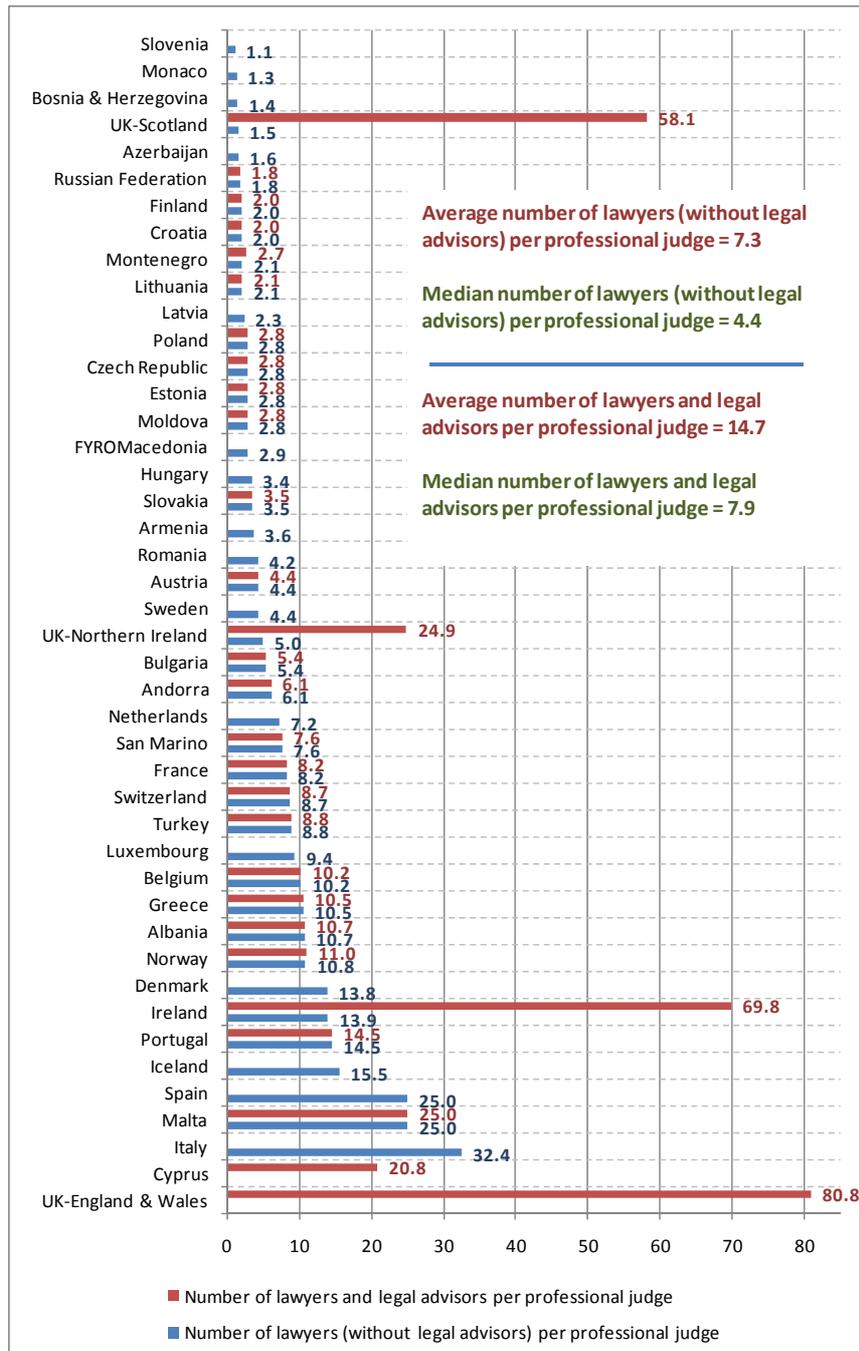
Figure 12.2 Number of lawyers (with and without legal advisors) per 100.000 inhabitants in 2008 (Q130)



When analysing the numbers of lawyers with and without legal advisors, it can be noted that several Eastern and Northern European states have a low number of lawyers per 100.000 inhabitants (less than 50), whereas Southern states tend to have larger bar associations: **Italy, Greece, Spain, Portugal** have more than 250 lawyers per 100.00 inhabitants. In these states, individuals are more prone to go to court than in other parts of Europe (see chapter 9). The figures of **Luxembourg** and **San Marino** must be related to the small number of inhabitants, which might distort the ratios, though the specific banking activity in **Luxembourg** and it being the location for the headquarters of the European Court of Justice might partly explain the relatively high number of lawyers.

The positions for **UK-Scotland, UK-Northern Ireland** and **Ireland** are very different when legal advisors are included or excluded. This is due to the important number of legal advisors compared to the absolute number of lawyers in these states or entities.

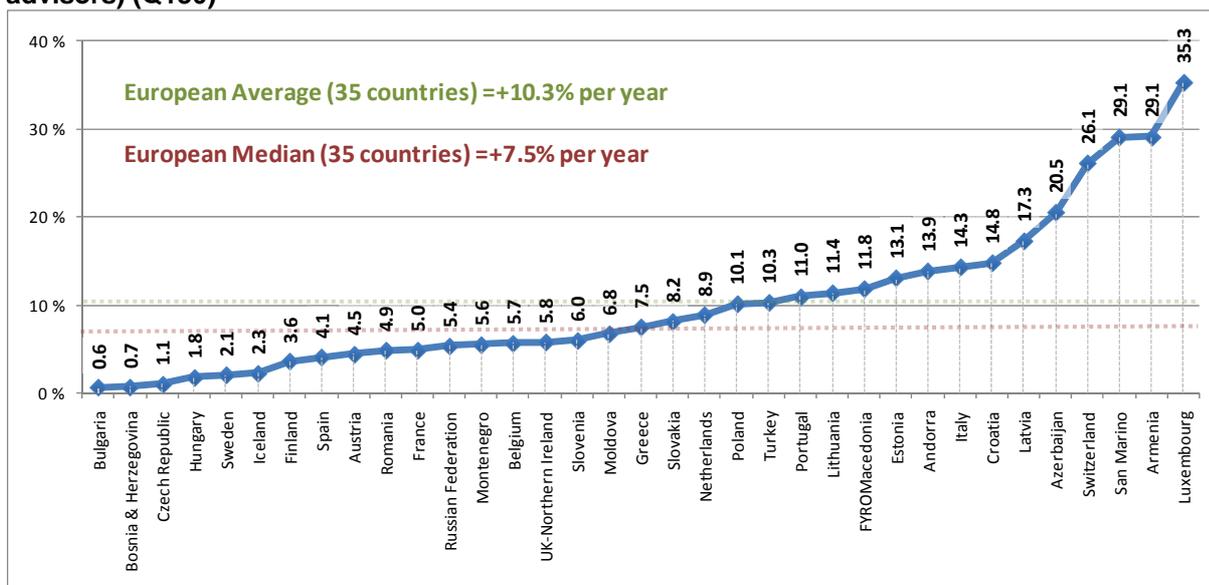
Figure 12.3 Number of lawyers per professional judge (with and without legal advisors) in 2008 (Q130 and Q49)



The number of lawyers per professional judge varies considerably across the member states or entities. When legal advisors are excluded, one can observe that there are states or entities which have less than 2 lawyers per professional judge (**Slovenia, Monaco, Bosnia and Herzegovina, UK-Scotland, Azerbaijan and Russian Federation**). The highest numbers (more than 20 lawyers per one professional judge) can be found in **Spain, Malta and Italy**. However, in these states, lawyers have wide powers that go beyond activities directly related to courts.

For further studies of comparable states or entities, the number of lawyers without legal advisors could also be related to the number of professional judges and the amount of litigation in each state or entity.

Figure 12.4 Average Annual Variation between 2004 and 2008 of the number of lawyers (without legal advisors) (Q130)



Note: For **Switzerland** and "**the former Yugoslav Republic of Macedonia**" the values concern the average annual variation between 2006 and 2008 only.

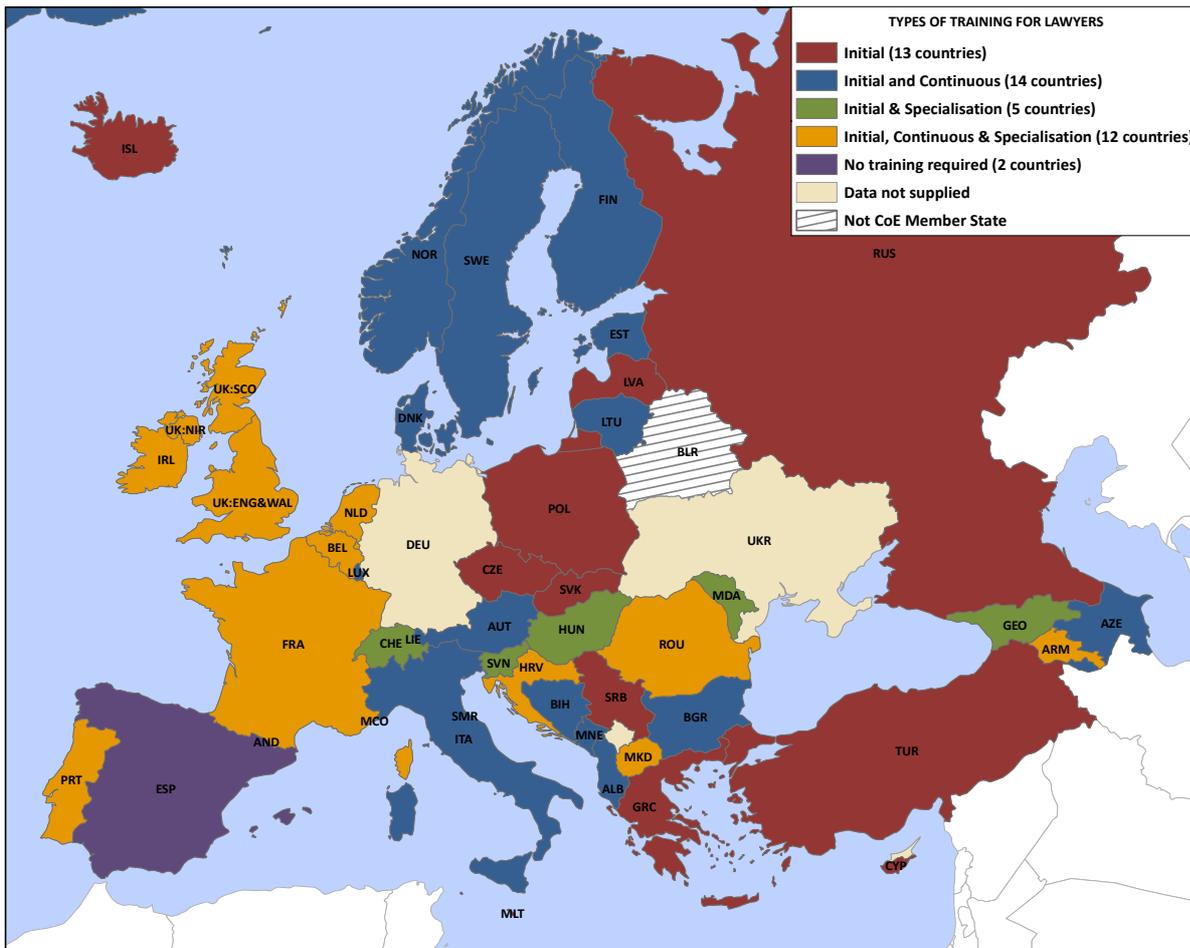
In all member states or entities of the Council of Europe, the number of lawyers increased between 2004 and 2008. The median value of the average annual variation for the 35 responding states or entities is **+7.5%** per year. The most important increases (more than 20%) can be noted in **Azerbaijan, Switzerland** (between 2006 and 2008), **San Marino, Armenia** and **Luxembourg**. For states in transition, like **Azerbaijan** and **Armenia** (where the number of lawyers remains limited), this increase can be explained by the on-going development of new legal and judicial systems. The situation is different for **Luxembourg, San Marino** and **Switzerland** which are small states with developed consulting and legal activities which could explain the rise in numbers of lawyers – though, once again, the evolution in figures must be interpreted with care when relating the number of lawyers to a small number of inhabitants.

States with the average annual variation value of 5% or lower can be considered as relatively stable: **Bulgaria, Bosnia and Herzegovina, Czech Republic, Hungary, Sweden, Iceland, Finland, Spain, Austria, Romania** and **France**.

12.2 Organisation of the profession and training

While the training and qualification in member states or entities may differ, in general, to become a lawyer, the persons concerned must obtain the relevant diploma, pass the relevant examinations and be admitted to a bar association.

Figure 12.5 Types of compulsory training required to accede and to perform the profession of lawyer (Q135, Q136, Q137)



Andorra requires no training. **Malta, Monaco** and **San Marino** require an initial compulsory training.

Comments

Ireland: no specialisation in legal fields exists for barristers, but for solicitors.

UK-England and Wales: different examinations are imposed on barristers (the BVC course) and solicitors (the LPC course) and the regime for compulsory training also differs.

Almost all the states or entities (44 out of 46) require of the person to complete an initial training before starting legal practise. This usually involves passing the relevant university exams and qualifications (stage, internship etc). Most of the states or entities (31) require also a continuous training and/or a specific training for specialisation. Yet, 12 states or entities ask lawyers to attend trainings at all three levels (initial, continuous and for the specialisation). Only **Andorra** and **Spain** do not require any specific initial or mandatory continuous professional training to practise as a lawyer.

Lawyers are in **Austria, Bosnia and Herzegovina** and **France** free to decide how to comply with his/her continuing training duty. In **France**, special conditions must be fulfilled in order to acquire a level of specialisation, while in **Romania**, the specialization in some legal field is determined by the level of continuous training certified by the Bar Association though there is no specific title for “specialised lawyers”.

Figure 12.6 Types of compulsory training classified per number of states or entities (Q135, Q136, Q137)

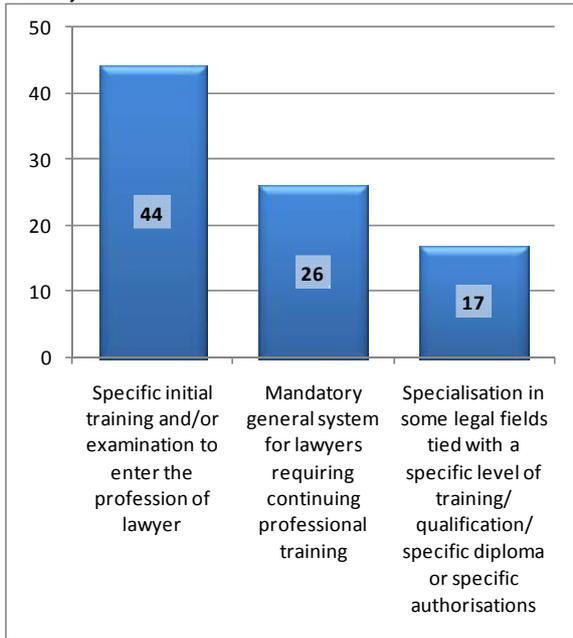
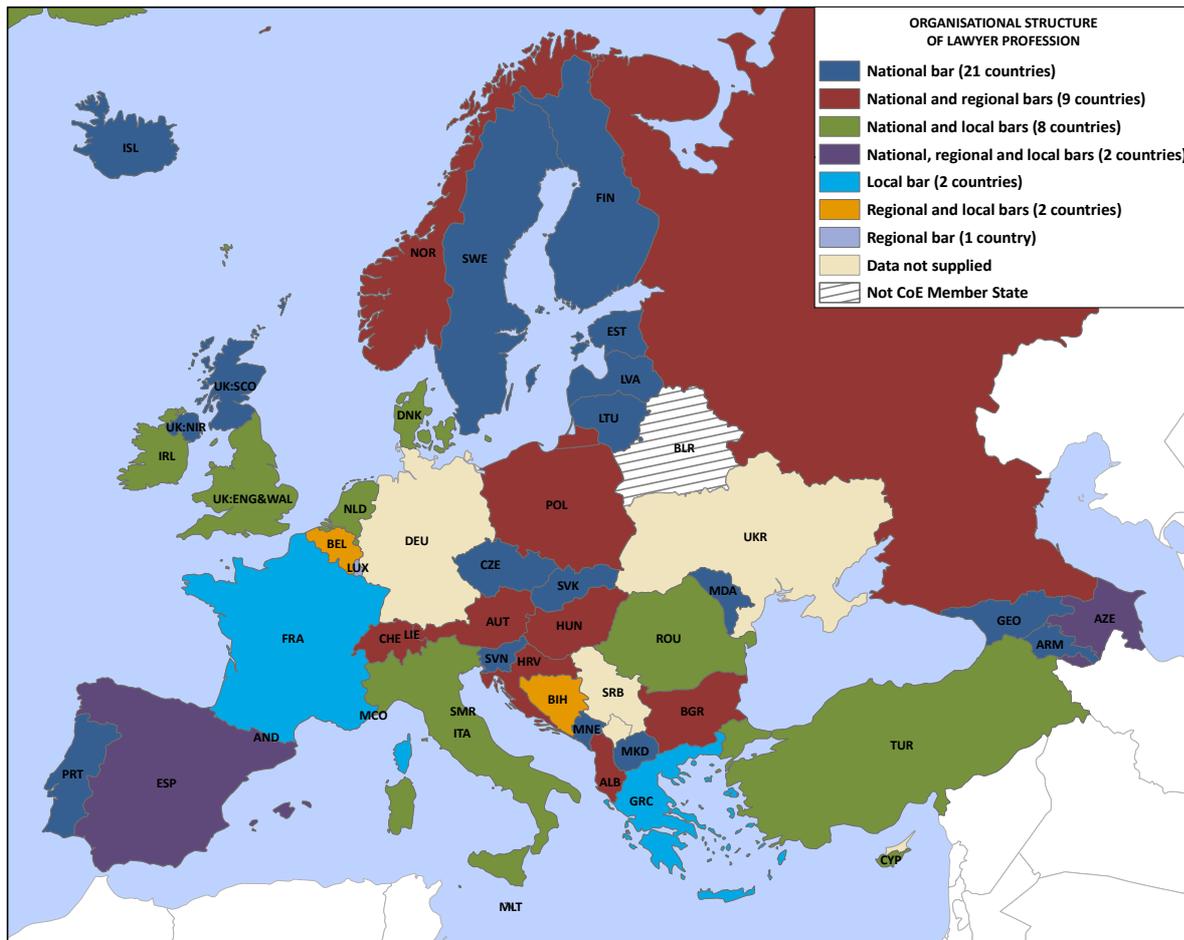
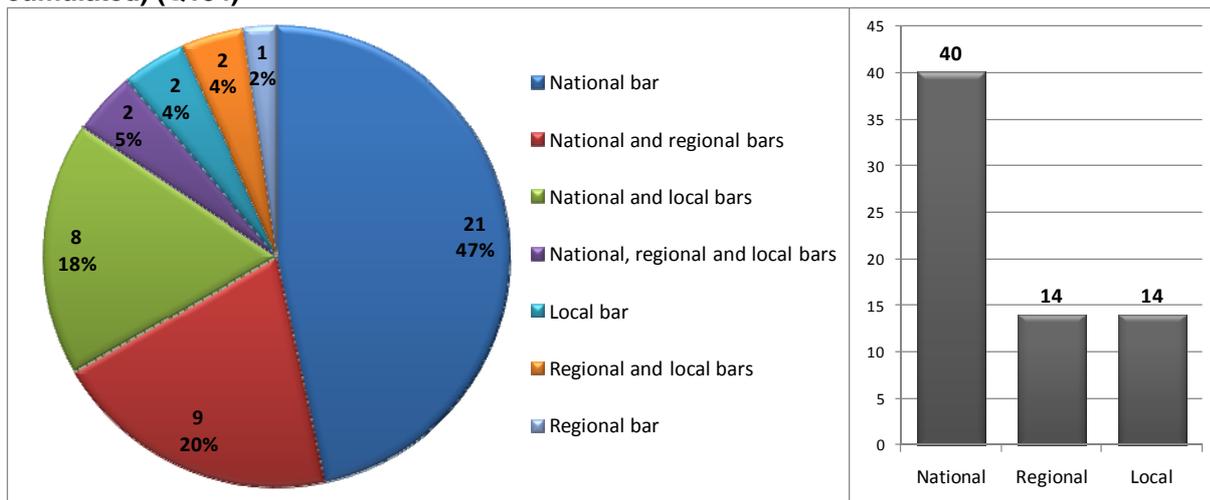


Figure 12.7 Organisational structure of the lawyer profession (Q134)



Andorra, Malta, Monaco and San Marino have a national bar.

Figure 12.8 Organisational structure of the lawyer profession (by states' structural features and cumulated) (Q134)



In all member states or entities, the profession is regulated by bar associations, which can be national, regional or local.

Lawyers are, in a large majority of states or entities (40), organised in national bars. Exceptions are **Belgium, Bosnia and Herzegovina, France, Greece** and **Luxembourg**, where the bar associations are regional and/or local. Additionally, more than half of the states or entities (24) consider the presence of one bar association as sufficient. Yet, there are several other states or entities that have, in addition to the national or regional bar, a local and/or regional bar. In **Azerbaijan** and **Spain**, lawyers are organised in national, regional and local bar associations at the same time.

12.3 Practising the profession

12.3.1 Monopoly of the representation before a court

Although the monopoly of lawyers before the courts is regularly discussed in some states, most of the member states or entities of the Council of Europe grant lawyers a monopoly in order to ensure a high protection and knowledge of citizens' rights. It may also be a guarantee for a smoother and more efficient progress of the judicial proceedings. Nevertheless, mandatory representation by a lawyer can also be seen as a financial obstacle to an open access to court, at least in small cases. Therefore, the correlation between the monopoly of lawyers and the scope of the legal aid system is particularly relevant (see Chapter 3).

In 10 states, such monopoly is effective in civil, criminal and administrative matters, at least for most of the procedures: **Andorra, Azerbaijan, Cyprus, France, Georgia, Greece, Hungary, Iceland, Ireland** and **San Marino**. 9 other states indicated that they do not impose a monopoly in any of the examined fields: **Armenia, Austria, Bosnia and Herzegovina, Bulgaria, Finland, Romania, Spain, Sweden** and **UK- England and Wales**. **Sweden** reported that family members, trade unions, NGOs and others can represent a client before a court in civil cases, criminal cases (both defendant and victim) and administrative cases.

The monopoly of lawyers is particularly important in criminal matters as they concern sensitive domains and fundamental rights and values. A legal representation of the defendant is generally necessary in 35 states or entities and the representation of the victim in 21 states. Yet, 16 states or entities make provisions for a monopoly in civil matters and 14 states, in administrative cases.

The monopoly of legal representation may vary depending on the issues involved (**Austria, Belgium, France, Hungary**), the amount subject to litigation (for instance, in **Austria** a mandatory representation in civil matters is requested when the litigation value exceeds 5.000 €) or the instance concerned (for instance, in **Austria, Azerbaijan, Czech Republic, Georgia, Netherlands, Norway, Poland, Portugal, Slovenia**, the mandatory representation is not requested at first instance courts). On the contrary, in **Monaco**, a party must be assisted by a lawyer before the Justice of the peace.

Table 12.9 Monopoly of legal representation (Q133)

Country	Monopoly of representation by lawyers in legal proceedings			
	Civil cases	Criminal cases		Administrative cases
		Defendant	Victim	
Albania	No	No	No	No
Andorra	Yes	Yes	Yes	Yes
Armenia	No	Yes	No	Yes
Austria	No	No	No	No
Azerbaijan	Yes	Yes	Yes	Yes
Belgium	Yes	Yes	Yes	No
Bosnia and Herzegovina	No	No	No	No
Bulgaria	No	No	No	No
Croatia	No	Yes	No	No
Cyprus	Yes	Yes	Yes	Yes
Czech Republic	No	Yes	No	No
Denmark	No	Yes	Yes	No
Estonia	No	Yes	No	No
Finland	No	No	No	No
France	Yes	Yes	Yes	Yes
Georgia	Yes	Yes	Yes	Yes
Greece	Yes	Yes	Yes	Yes
Hungary	Yes	Yes	Yes	Yes
Iceland	Yes	Yes	Yes	No
Ireland	Yes	Yes	Yes	Yes
Italy	Yes	Yes	Yes	No
Latvia	No	Yes	No	No
Lithuania	No	Yes	No	No
Luxembourg	Yes	Yes	No	Yes
Malta	Yes	Yes	Yes	Yes
Moldova	No	Yes	No	No
Monaco	Yes	Yes	Yes	Yes
Montenegro	No	Yes	No	No
Netherlands	Yes	Yes	No	No
Norway	No	Yes	Yes	No
Poland	No	Yes	Yes	No
Portugal	No	Yes	Yes	No
Romania	No	No	No	No
Russian Federation	No	Yes	No	No
San Marino	Yes	Yes	Yes	Yes
Slovakia	No	Yes	No	Yes
Slovenia	No	Yes	No	No
Spain	No	No	No	No
Sweden	No	No	No	No
Switzerland	Yes	Yes	Yes	No
FYROMacedonia	No	Yes	Yes	No
Turkey	No	Yes	Yes	No
UK-England and Wales	No	No	No	No
UK-Northern Ireland	No	Yes	No	No
UK-Scotland	No	Yes	Yes	No
TOTAL	17 countries (37.8%)	36 countries (80%)	22 countries (48.9%)	14 countries (31.1%)

Comments

Austria: monopoly in civil matters only exists in front of the district courts (*Bezirksgerichte*) and when the litigation value exceeds € 5.000, before the higher courts, in appeal cases and before the Civil Supreme Courts. In criminal matters, there is a monopoly only in specific cases, and a lawyer or a university professor can represent the defendant.

Belgium: lawyers have a monopoly of representation with the exception of certain fields.

Czech Republic: no monopoly exists apart from cases brought before supreme courts.

France: monopoly exists in general, with several exceptions in certain criminal matters.

Hungary: a defence attorney is necessary in criminal offence cases for which the law prescribes five or more years of imprisonment, or if the accused is being detained, is deaf, mute, blind or mentally incompetent.

Ireland: barristers are needed in all cases, solicitors neither in civil cases nor in administrative cases.

Malta: a party has to be assisted by a Lawyer before the Superior Courts and by a Lawyer or a *Legal Procurator*, before the Inferior Courts.

Norway: only advocates are entitled to lead cases before the Supreme Court. In other courts, any advocate may represent a party. With the special permission of the court, some other suitable persons may represent a party.

Switzerland: in principle, there is no obligation to be represented by a lawyer before the Swiss courts, except in criminal proceedings in case of severe offences where if necessary a public defender has to be appointed. However, when a party would like to be represented in court, it has generally to be by a lawyer or by a person with similar competences.

12.3.2 Lawyers' fees

In most of the states or entities (36), the lawyers' remuneration is freely negotiated. This is not the case in **Denmark, Greece, Italy, Montenegro, San Marino, Slovenia, Switzerland** and **UK-Northern Ireland**. In **Italy**, the Ministry of Justice lists minimum and maximum applicable fees every two years.

Generally, in a lot of states or entities, basic principles exist and the remuneration has to be adequate and proportionate to the value and complexity of the case. Often, hourly rates are applied. In some member states, there are also possibilities of lump-sum agreements, conditional fee arrangement ("no win, no fee") or agreements "paid on result".

The initial information given by the defendant on lawyers' fees is deemed by the national correspondents (appointed by the states) transparent and loyal in 29 states or entities. **Georgia, Greece, Norway, Poland, Romania** and **Sweden** mentioned (like in the previous survey) that clients can not easily establish the lawyers' fees. For this evaluation cycle, the following additional states or entities also stated the same: **Latvia, Lithuania, Monaco, the Netherlands, Portugal, Russian Federation, Serbia, UK-England and Wales** and **UK-Northern Ireland**. Some improvements concerning the information on fees still remain to be made. **UK-England and Wales** explained that solicitors are required to tell clients at the beginning of a case how they calculate their charges and give an estimate of the total cost, but this figure may increase as the case progresses.

Table 12.10 Lawyers' fees (Q138, Q139)

Country	Lawyers' fees regulated by:			Users can easily establish lawyers' fees
	Law	Bar association	Freely negotiated	
Albania	Yes	Yes (if cases of legal aid)	Yes	Yes
Andorra		Orientation standards	Yes	Yes
Armenia			Yes	Yes
Austria	Yes		Yes	Yes
Azerbaijan			Yes	Yes
Belgium		Local suggested draft agreements / regulation	Yes	Yes
Bosnia and Herzegovina		Yes	Yes	Yes
Bulgaria		Yes	Yes	Yes
Croatia		Yes	Yes	Yes
Cyprus		Yes		Yes
Czech Republic	Yes		Yes	Yes
Denmark	Yes		Yes	Yes
Estonia			Yes	No
Finland		Code of conduct	Yes	Yes
France			Yes	Yes
Georgia			Yes	No
Greece	Yes			No
Hungary			Yes	Yes
Iceland			Yes	Yes
Ireland	Fixed rates for fees in criminal and civil aid cases		Yes	Yes
Italy	Yes			Yes
Latvia	Yes (if cases of legal aid)		Yes	No
Lithuania	Yes		Yes	No
Luxembourg		Orientation standards	Yes	No
Malta	Yes	Indicative guidelines	Yes	Yes
Moldova	Yes		Yes	Yes
Monaco			Yes	No
Montenegro		Yes		Yes
Netherlands			Yes	No
Norway	Yes (if cases of legal aid)		Yes	No

Country	Lawyers' fees regulated by:			Users can easily establish lawyers' fees
Poland	Yes (if cases of legal aid)		Yes	No
Portugal		Orientation standards	Yes	No
Romania			Yes	No
Russian Federation		Yes	Yes	No
San Marino	Yes			Yes
Serbia		Yes		No
Slovakia	Yes		Yes	Yes
Slovenia		Yes		Yes
Spain		Orientation standards	Yes	Yes
Sweden	Yes (if cases of legal aid)		Yes	No
Switzerland	Yes			Yes
FYROMacedonia		Yes	Yes	Yes
Turkey	Yes	Yes	Yes	Yes
UK-England and Wales	Publicly-funded lawyers (such as legal aid lawyers) regulated by Government		Yes	No
UK-Northern Ireland	Yes			No
UK-Scotland			Yes	Yes
TOTAL (without legal aid)	14 states/entities (30.4%)	10 states/entities (21.7%)	37 states/entities (78.7%)	YES= 29 states/entities NO= 17 states/entities

Comments

Belgium: the bar recommends to the lawyers to properly advise their clients in order to create transparent and predictable fees; it does not give any indication about the amount of fees.

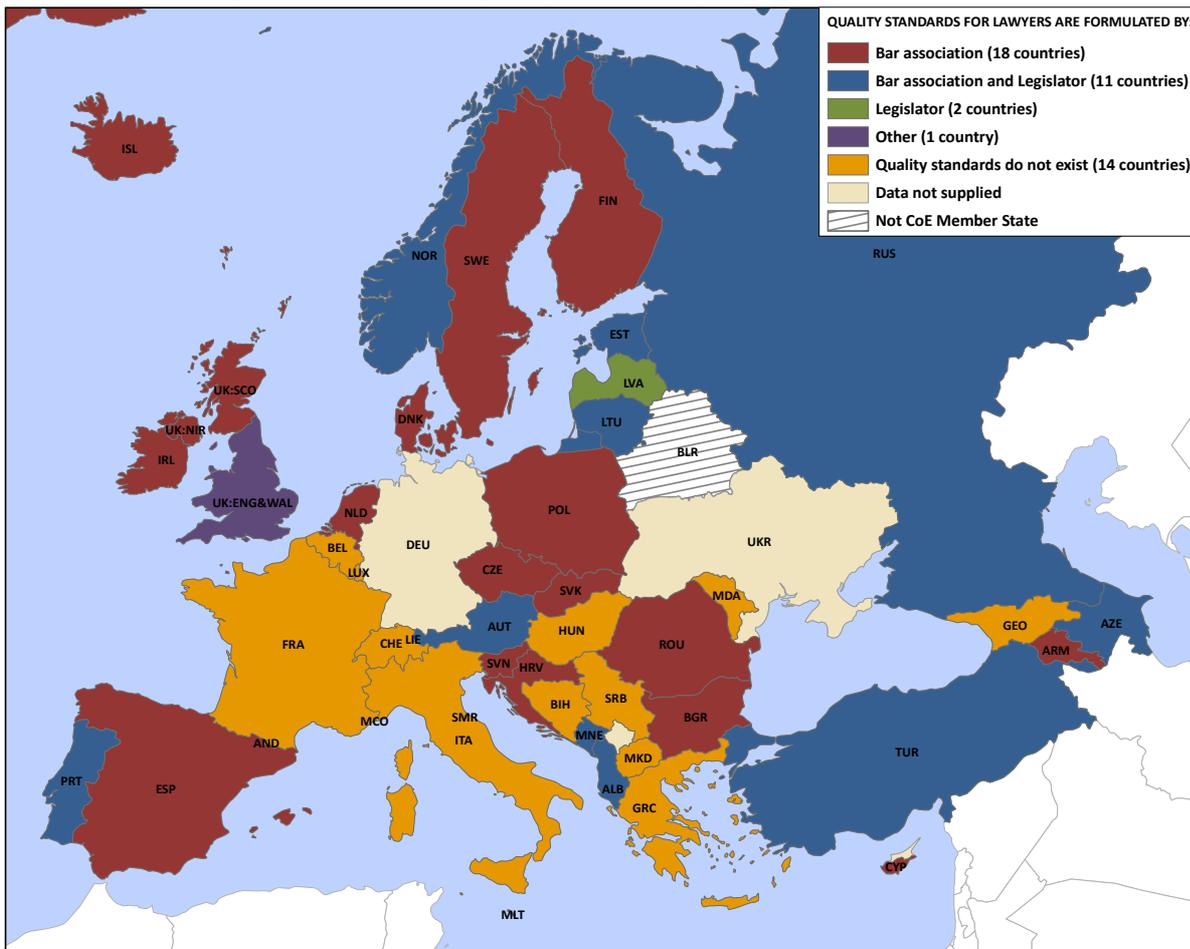
UK- England and Wales: fees vary between solicitors and solicitors' firms. Solicitors' costs may be presented to users in different ways, either as a fixed fee, hourly rate, conditional fee arrangement or as an estimate of the amount expected. The client may also have to pay expenses for completing searches, lodging documents or for experts' reports. Clients may also have to pay another party's legal costs, particularly if a client loses a case. Solicitors are required to tell clients at the beginning of a case how they calculate their charges and give an estimate of the total cost, but this figure may increase as the case progresses.

12.3.3 Quality standards and supervision of lawyers

The quality of the service provided by lawyers is fundamental for the protection of the rights of citizens. Some minimal quality standards are therefore necessary, the breach of which can lead to disciplinary sanctions.

A great part of the states or entities (32) applies written quality standards when evaluating lawyers' activity. In almost all these states or entities (except **Latvia** and **Monaco**), the bar association is entrusted (partially or exclusively) to formulate quality standards. Only **UK-England and Wales** stated that quality standards are supplied by an independent assessment society.

Figure 12.11 Quality standards for lawyers (Q140, Q141)



Andorra and **San Marino**: quality standards do not exist. **Malta**: quality standards formulated by the bar association and the legislator. **Monaco**: quality standards are formulated by the legislator.

14 states and entities answered that they do not have quality standards. However, 6 of them request a high qualification (continuous and/or specialised trainings) for lawyers: **Belgium, Bosnia and Herzegovina, Italy, "the former Yugoslav Republic of Macedonia", France, Hungary** (see figure 12.5).

In all states, the supervision and control of the lawyer's profession belongs to the bar association. The latter can, independently from all judicial proceedings, order an inquiry following a complaint or *ex officio*. It is its responsibility to defer to the disciplinary bodies in case of professional fault.

In 39 states of entities, the professional authority is the only authority responsible for disciplinary proceedings. In other states, the control is divided between the professional authority and a judge (**France, Iceland, Ireland, Monaco, Russian Federation and Turkey**) or the Ministry of Justice (**Czech Republic, Turkey**).

In all member states, it is possible to complain against the performance of lawyers, and in 38 states or entities, complaints are possible against the amount of lawyers' fees. This complaint is not possible in: **Armenia, Azerbaijan, Georgia, Hungary, Latvia, Montenegro, Russian Federation and UK- Scotland**.

Given the numerous variations within the transmitted data, the following tables and figures 12.12 to 12.16 are given only for information purposes and for specific comparisons between comparable states or entities.

Table 12.12 Number of disciplinary proceedings initiated against lawyers (without legal advisors) (Q144)

Country	TOTAL	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Andorra	(8)	8			
Armenia	(5)	5			
Azerbaijan	(6)		5	1	
Bosnia and Herzegovina	11				
Bulgaria	70	35	0	2	33
Croatia	79	79			
Czech Republic	(63)	63			0
Denmark	891				742
Estonia	17	9	0	0	
Finland	401				
Georgia	14	1	1		12
Greece	890				
Ireland	38	75%	25%	0	0
Italy	408				
Latvia	0	0	0	0	0
Lithuania	21	21	0	0	0
Luxembourg	4	4	0	0	0
Moldova	53	28	16	2	7
Monaco	0	0	0	0	0
Montenegro	18	18	0	0	0
Poland	(827)	827			
Russian Federation	5118	2559		23	2536
Slovenia	23	23	0	0	0
Sweden	(213)	95	118		NAP
Switzerland	80	69	9	0	2
FYROMacedonia	(159)	63	96		
Turkey	546				
UK-Scotland	853	104	478	2	269

Comments

Bulgaria: data of 30.10.2009. It includes only cases before the Supreme Disciplinary Court.

Denmark: 2009 data.

Ireland: 38 cases against barristers, 82 cases against solicitors.

Italy: the available statistics refer to the proceedings before the national bar council but not before all the 166 local bar councils.

Spain: the General Council of Spanish Bar Associations does not keep a register of the number of disciplinary proceedings opened against lawyers in the different Bars, but it keeps track of the sanctions that the Bars impose on lawyers.

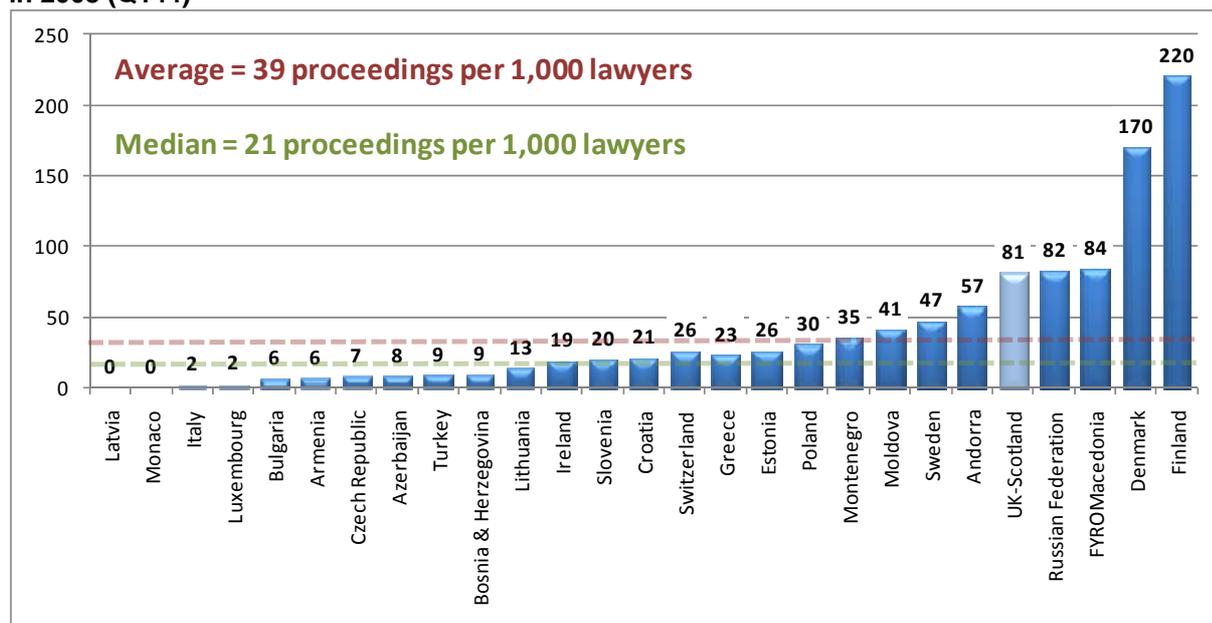
Switzerland: data provided from 16 cantons (out of 26). These cantons have 3.122 lawyers.

UK-Northern Ireland: 29 cases against barristers, 317 against solicitors.

29 states or entities were able to provide figures on disciplinary proceedings against lawyers. Several figures under the "total" heading are presented between brackets, because they do not include the totality of the distribution requested in the questionnaire. **Bulgaria, Ireland, Italy** and **Switzerland** provided figures from some disciplinary courts only. For all these reasons, the figures and the following figures should be interpreted and compared very cautiously.

Most disciplinary proceedings have been initiated for breach of professional ethics and professional inadequacy, whereas only a few proceedings were opened for criminal offences.

Figure 12.13 Number of initiated disciplinary proceedings per 1.000 lawyers (without legal advisors) in 2008 (Q144)



Comments

Switzerland: the number of lawyers in the cantons, which were able to provide the data, is 3.122. This is the number which was used for the calculations (and not the total number of lawyers for the whole state).

UK-Scotland: it was impossible to calculate the indicator for lawyers only. The figure for this entity is presented only for information purposes, and has not been used in the calculations of the average and median values.

As in 2006, **Finland** indicated a significant number of proceedings initiated against lawyers, whereas this number remains very low in **Latvia, Monaco, Italy** and **Luxembourg**.

Table 12.14 Number of sanctions pronounced against lawyers (without legal advisors) in 2008 (Q145)

Country	TOTAL	Reprimand	Suspension	Removal	Fine	Other
Andorra	1	1				
Armenia	5	5				
Azerbaijan	6	5		1		
Bosnia and Herzegovina	7	1	0	0	6	0
Bulgaria	42	2	20	1	19	0
Croatia	53	5	6	18	24	
Czech Republic	63	14	1	2	32	14
Denmark	218	26	2		190	
Estonia	9	8	0	0	1	0
Finland	89	55			2	32
Greece	51		51			
Ireland	(4)				4	0
Italy	148					
Latvia	0	0	0	0	0	0
Lithuania	10	10	0	0	0	0
Luxembourg	4	0	2	1	1	0
Moldova	3	1		2		
Monaco	0	0	0	0	0	0
Montenegro	0	0	0	0	0	0
Netherlands	281	77	62	14		128
Poland	177	120	19	2	36	
Romania	567		567			
Russian Federation	5 118	2 559		473		2 086
Slovenia	10	2	0	NAP	8	0
Sweden		60-70	1	NAP	NAP	
Switzerland	47	17	3	0	11	16
FYROMacedonia	1			1		
UK-Scotland	56	37	2	1	16	NAP

Comments

Italy: the figure refers to the second instance proceedings only.

Spain: the number of sanctions imposed in the last 5 years is 2.720.

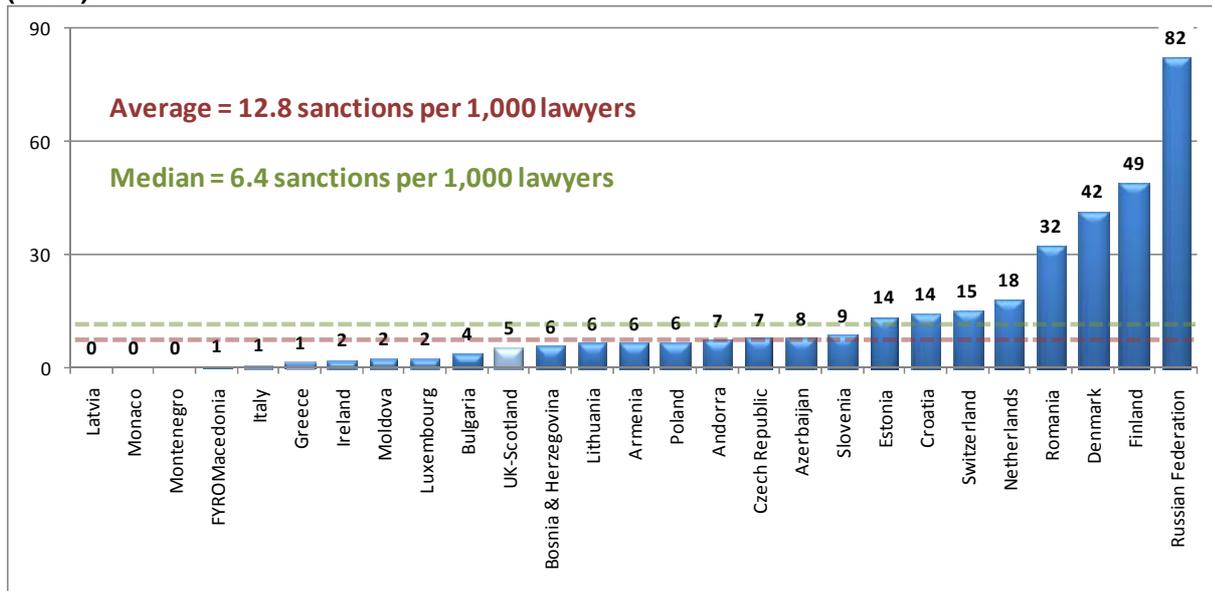
Sweden: the sanctions that can be taken against a lawyer are reprimand, warning and disbarment. Fine is not used as a separate sanction.

Switzerland: data was provided from 16 cantons (out of 26). These cantons have 3.122 lawyers.

The figures about the different sanctions pronounced against lawyers are again very fragmentary (the total figure for **Ireland** is mentioned in brackets as it is probably not complete). Therefore, a comparison with the former evaluation periods is difficult.

The most common imposed sanction is reprimand, followed by suspension, removal and fine. **Finland** mentioned as “other” sanctions caution and disbarment, the **Netherland** warnings.

Figure 12.15 Number of sanctions pronounced per 1.000 lawyers (without legal advisors) in 2008 (Q145)

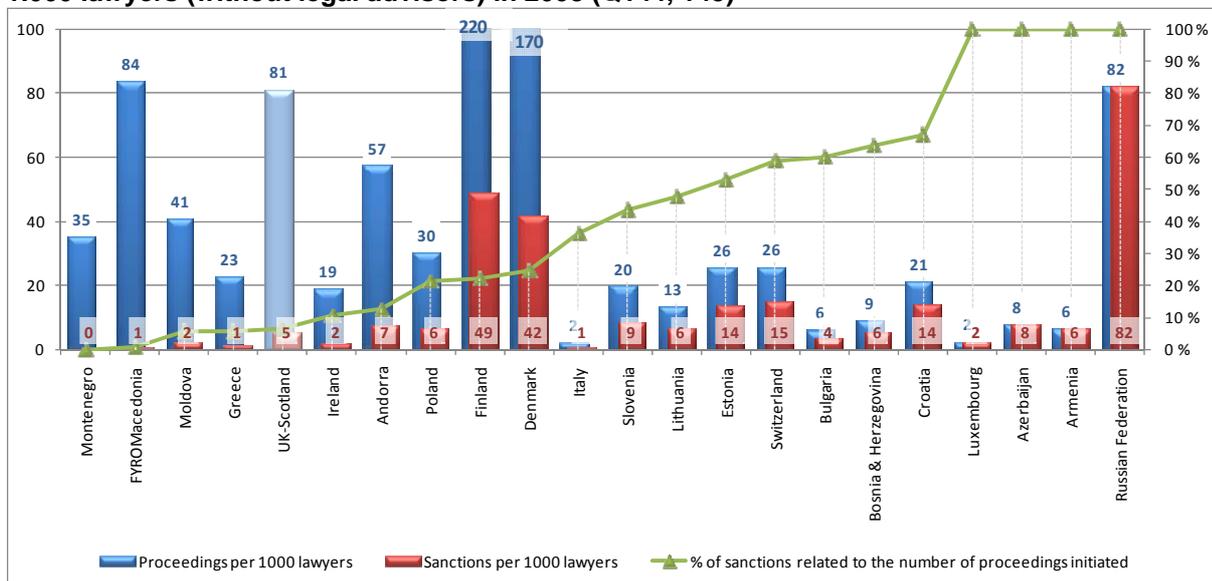


Comments

Switzerland: the number of lawyers in the cantons, which were able to provide the data, is 3.122. This is the number which was used for the calculations (and not the total number of lawyers for the whole state).

UK-Scotland: it was impossible to calculate the indicator for lawyers only. The figure for this country is presented only for information purposes, and has not been used in the calculations of the average and median values.

Figure 12.16 Number of sanctions pronounced related to the number of initiated proceedings per 1.000 lawyers (without legal advisors) in 2008 (Q144, 145)



Comments

Switzerland: the number of lawyers in the cantons, which were able to provide the data, is 3.122. This is the number which was used for the calculations (and not the total number of lawyers for the whole state).

UK-Scotland: it was impossible to calculate the indicator for lawyers only. The figure for this country is presented only for information purposes.

Effective sanctions against lawyers are not very frequent, except in the **Russian Federation** and **Finland**. While comparing the number of initiated proceedings with the number of sanctions pronounced, it can be highlighted that states which initiate an important number of proceedings against lawyers do not often pronounce sanctions. The role of proceedings in these states is probably more dissuasive than repressive. For the states— mainly Eastern European states —where the procedures are often finalised by a sanction, it can be assumed that proceedings are mainly initiated for more serious offences, or end generally with less severe sanctions (reprimand), while taking into account that most of sanctions are not severe (reprimand).

The case of the **Russian Federation** can be stressed: a lot of proceedings are initiated and sanctions pronounced, and the percentage of sanction per procedure is particularly high.

12.4 Trends and conclusions

The number of lawyers has increased in Europe between 2004 and 2008 in all the responding member states or entities. It will be interesting to observe if this trend continues, despite the financial and economic crisis.

The number of lawyers is characteristic of various geographical zones in Europe. The states of Southern Europe have the highest number of lawyers reported to the population. Societies are more prone to litigation in such states than in the states of Northern Europe. It would be an inappropriate shortcut to establish from this report a correlation between the number of lawyers and the volume and lengths of proceedings. Nevertheless, this is currently being studied, in order to see whether the number of lawyers and the organisation of the profession have a relevant impact on the court workload or not.

The sole presence of a sufficient number of lawyers is not a guarantee by itself of the effective protection of citizens' rights. The profession needs to be regulated by an appropriate organisation. While it is difficult to present a full panorama of all the duties and obligations that lawyers have in each states or entities, it can be said that the profession is generally well organised and the training of lawyers ensures a good performance of their functions.

Chapter 13. Execution of court decisions

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

In non-criminal matters, the Committee of Ministers of the Council of Europe has adopted two relevant Recommendations in the area of enforcement. Enforcement is defined in Recommendation Rec(2003)17 on enforcement as *“the putting into effect of judicial decisions, and also other judicial or non-judicial enforceable titles in compliance with the law which compels the defendant to do, to refrain from doing or to pay what has been adjudged”*. This Recommendation is primarily orientated towards the civil law area, whilst Recommendation Rec(2003)16 is focused on the execution of judicial decisions in administrative matters.

It is difficult to assess the smooth execution of court decisions in civil or commercial matters on the basis of relevant statistics, as execution is not automatic: it belongs to the parties who have won the case to decide, where appropriate, whether to request or not the execution of the court decision. Therefore, this report does not focus on the rate of execution of court decisions, but mainly on the organisation of the execution and the role of enforcement agents. The CEPEJ has, however, tried to assess the length of enforcement procedures, which is counted within the principle of “reasonable time of proceedings” considered by the case-law of the European Court of Human Rights.

In Recommendation Rec(2003)17, the tasks and duties of the enforcement agents are described, as well as the enforcement procedure and the rights and duties of the claimant and the defendant. The enforcement agent is defined in this Recommendation as *“a person authorised by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not”*. This definition is used for the purposes of this report. This definition includes the fact that enforcement agents can be public officials (i.e. judges) or private officers (i.e. bailiffs). Moreover, both statuses may coexist within a state or entity (mixed system). Having this in mind, it was possible to estimate, without interruption between 2004 and 2008, the number of enforcement agents in 33 member states or entities.

The enforcement of sentences in criminal matters is of a different nature. It concerns the state authority, often under the supervision of the judge and depends on the choices of criminal policies.

The International Union of Judicial Officers (UIHJ) has been consulted during the elaboration of this chapter.

13.1 Execution of court decisions in civil, commercial and administrative law

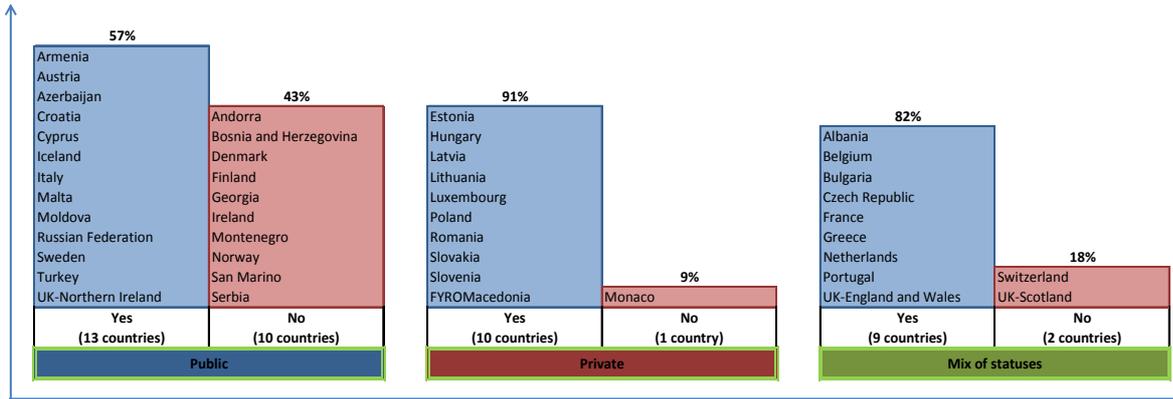
13.1.1 Organisation of the profession

Skills required to enter the profession of enforcement agent

The professional training of enforcement agents is important for the proper administration of enforcement itself. It is essential to instruct future enforcement agents on their responsibilities in order to guarantee uniformity of skills.

In Europe, candidates for enforcement agent posts are often required to have accomplished a practical traineeship and/or hold a law degree. The prerequisite skills for enforcement agents should place them at the same level of expectation and training as judges and lawyers.

Table 13.1 Initial training or examination to enter the profession of enforcement agent (Q155)



Regarding the training given to future agents and the possible existence of a final selection procedure, there is diversity among member states. Around 70% of the responding states or entities (32 out of 45) said that there was specific initial training (as opposed to the “in-service training” given to agents already practising) or an examination for entry to the profession of enforcement agent.

There appears to be a link between the status of agents (public or private) and the existence of initial training or a final selection process.

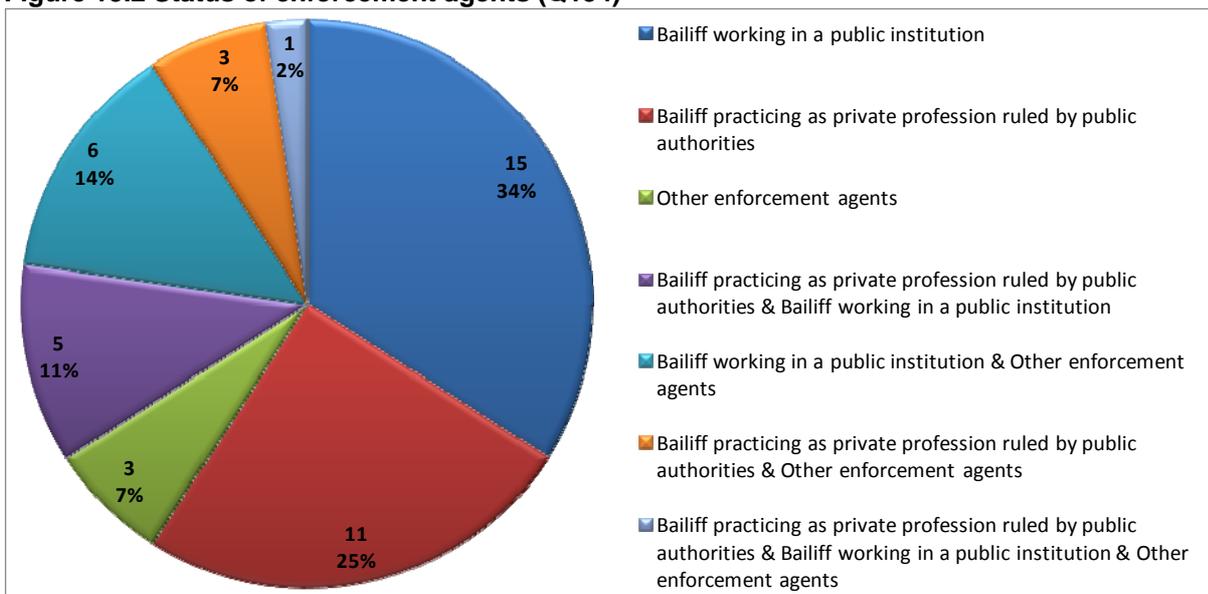
The states or entities with no specific initial training or examination often entrust the enforcement of court decisions to civil servants working in the administration of justice under the authority of a competent judge (**Andorra**) or to court employees (**Denmark, Montenegro**); if they use the services of bailiffs, they usually work directly in a public institution (**Bosnia and Herzegovina, Denmark, Finland, Georgia, Ireland, Norway, Serbia**), or at least, a system, mixing statuses (private and public), exists in the state or entity (**UK-Scotland, Switzerland**).

Conversely, there are initial trainings or final selection procedures in almost all the states where enforcement agents have exclusively a private status (the only exception being **Monaco**).

Among the responding states or entities, **Spain** highlights the fact that the initial training or examination is not applicable, as the duties of enforcement agents are carried out by judges or other court staff.

Status of enforcement agents

Figure 13.2 Status of enforcement agents (Q154)

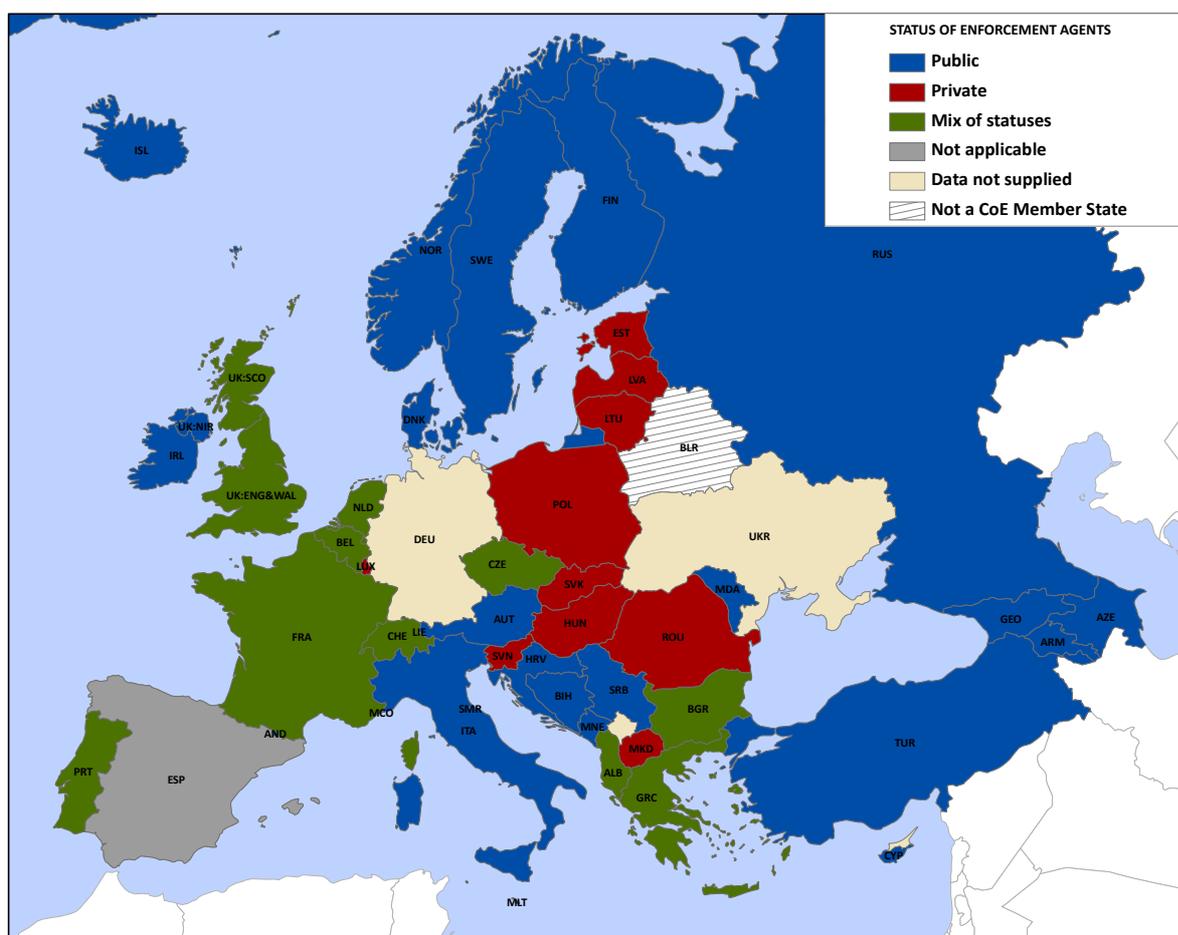


Almost all member states or entities defined a status for enforcement agents including bailiffs (41 states/44 responses).

In 11 states, the enforcement agents practice exclusively within a private profession ruled by public authorities. In 15 states or entities, bailiffs work in a public institution. The rest of the member states or entities combine the status of bailiffs working in public institutions with bailiffs practicing within a private profession (5 states), or combine private or public status with other enforcement agents who could themselves have public or private status, like in **Belgium** (notaries, enforcement agents in tax affairs), in **France** (*huissiers du Trésor*, responsible for the collection of taxes), in **Ireland** (sheriff/solicitor and revenue sheriffs responsible for the collection of taxes), in **Portugal** (execution solicitors), and in **UK-Scotland** (Sheriff Officers and Messengers at Arms).

To conclude, the status of enforcement agents can be public, private or mixed.

Figure 13.3 Status of enforcement agents (Q154)



Andorra, Malta and San Marino: public status. **Monaco:** private status.

Enforcement agents have private status in 11 states or entities; in 22 states or entities, they have a public status and there is a mix of statuses in 11 states or entities.

Organisation structure

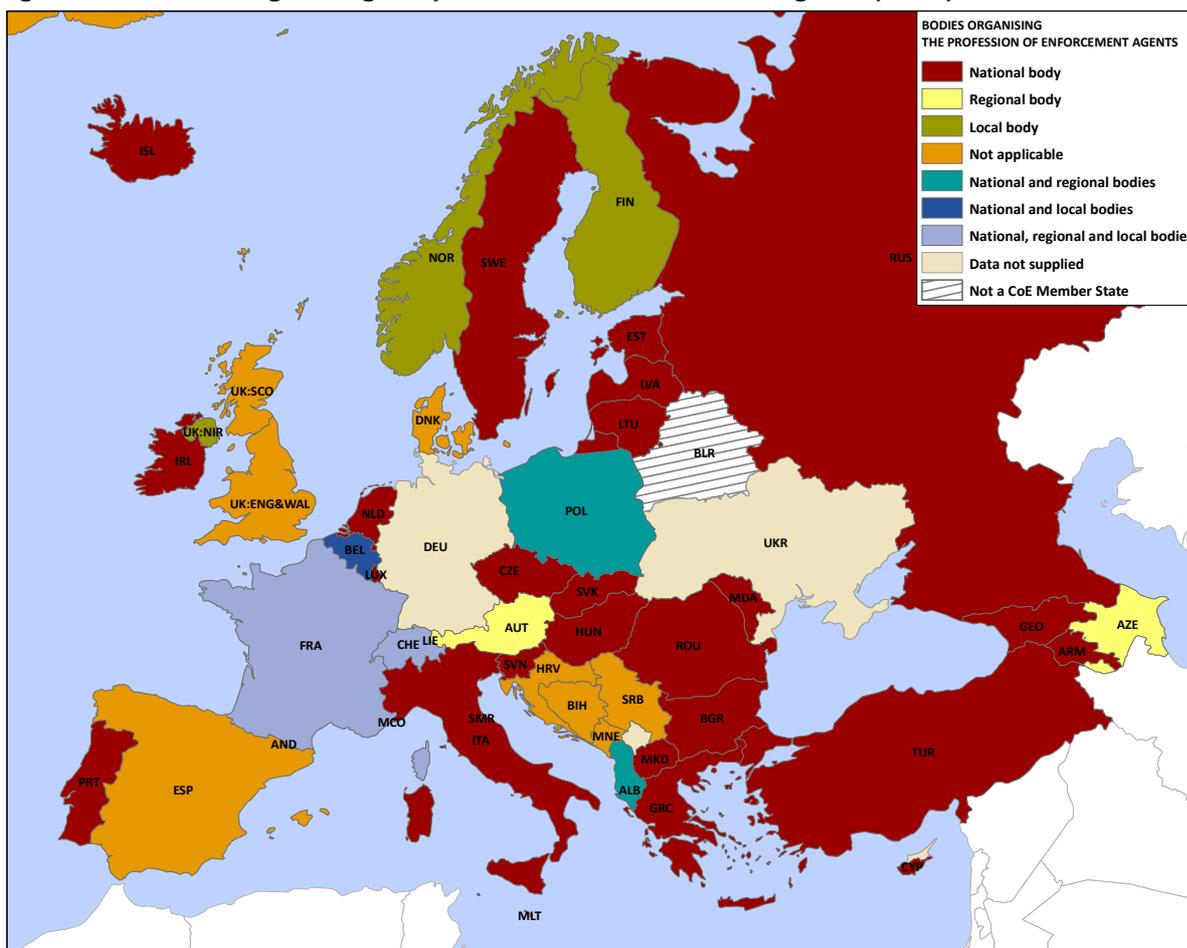
Should it be national, regional and/or local, the degree of centralisation of the professional body – where one exists – varies greatly among member states or entities, without any relevant link to the status of the profession.

In most of the European states (25 states on 46 responses), the structure is solely national. The obvious preference for the national structure could be explained by the fact that there is a great interest in creating a group dynamic by establishing a feeling of professional identity while homogenizing competences and practices. A national structure can also be more relevant for a state primarily seeking an official spokesman for the whole profession. It can also be more relevant for the profession, which makes economies of scale regarding communication with its members: in this way, the profession can speak to the state with a single voice. This is the most widespread system.

The profession can also be organised only at a regional level (**Austria, Azerbaijan**) or at a local level (**Finland, Norway, UK-Northern Ireland**). A low degree of centralisation probably fosters presence at the local level. Such proximity makes it easier to take into account the problems enforcement agents encounter and thus, communicate such problems upwards. However, it is certainly more difficult to have an overall view of the difficulties encountered by the profession. This is probably why only a few states have purely local or regional bodies.

Some member states choose neither a purely national body nor a purely regional or local body. They tend to have multiple levels, either to combine the advantages of systems or because of the number of enforcement agents, the structure or the area of the state (**Albania, Belgium, France, Poland, Switzerland**).

Figure 13.4 Bodies organising the profession of enforcement agents (Q156)

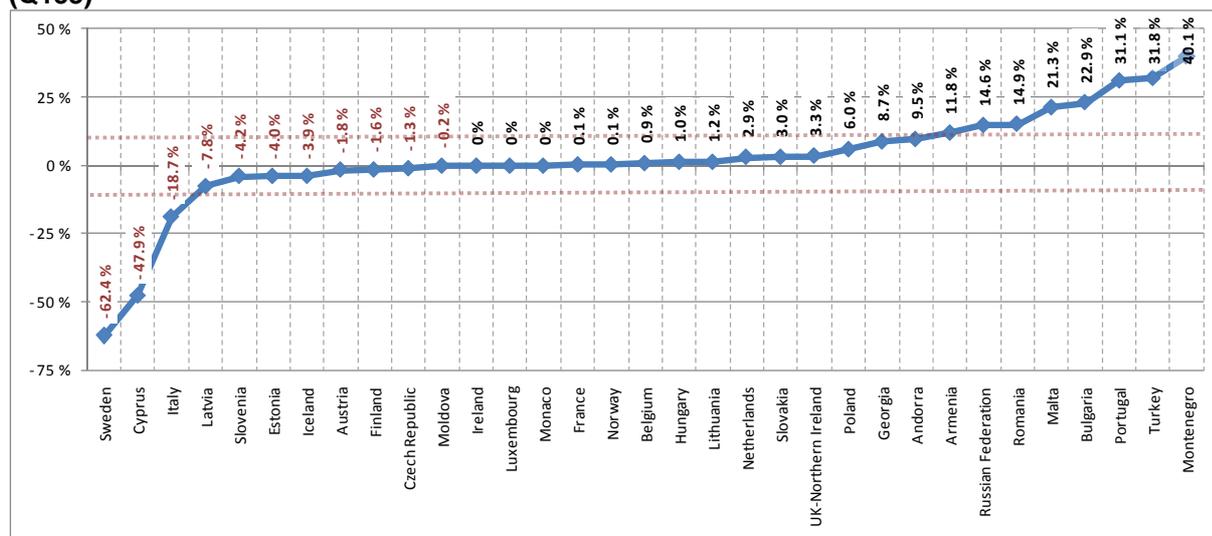


Andorra, Malta and Monaco: not applicable. **San Marino:** national body.

Number of enforcement agents

In 2008, 41 member states provided the number of their enforcement agents. Between 2004 and 2008, it was possible to estimate, without interruption, the number of enforcement agents in 33 member states.

Figure 13.5 Annual adjusted variation in the number of enforcement agents between 2004 and 2008 (Q153)



Comment

Netherlands: the absolute number used for 2008 is the number of 384 bailiffs without taking into account the number of bailiff candidates and trainees (555). This adjustment was necessary in order to ensure the comparability with entries from previous years.

In most of these states (21 states or entities), the number of enforcement agents is stable (the annual adjusted variation is less than 10%). **Montenegro** presented the highest average annual variation. However, it is important to keep in mind that absolute numbers are very low (26 in 2004, 44 in 2006 and 51 in 2008), so trends should be relativised. The decrease of the trend in **Sweden** is explained by the fact that from 1st January 2008, the Enforcement Authority was detached from the Swedish Tax Agency and became a fully independent authority. For **Cyprus**, one could presume that the decrease in the number of enforcement agents is due to the change of their status, yet this hypothesis is to be confirmed.

Between 2004 and 2008, the global number of enforcement agents in these 33 member states or entities grew constantly (2004: 36.319 agents; 2006: 42.022 agents; 2008: 46.909 agents), especially because the number of enforcement agents grew in the **Russian Federation** (2004: 18.625 agents; 2008: 24.468 agents). The European trend is positive with a median of +0.9% per year.

In 2008, on 41 states or entities which provided the number of enforcement agents, 30 are under the European average value (which is 7,5 agents per 100.000 inhabitants). Only five states (**Finland, Switzerland, Russian Federation, Greece and San Marino**) had more than 10 agents per 100.000 inhabitants in 2008.

For **the Netherlands**, the European average and median are calculated including the total number of bailiffs and bailiff candidates and trainees (939, i.e. 555+384). For practical reasons, **Azerbaijan's** number of enforcement agents per 100.000 inhabitants (69,5) is excluded from figure 13.6.

Figure 13.6 Number of enforcement agents per 100.000 inhabitants in 2008 (Q153)

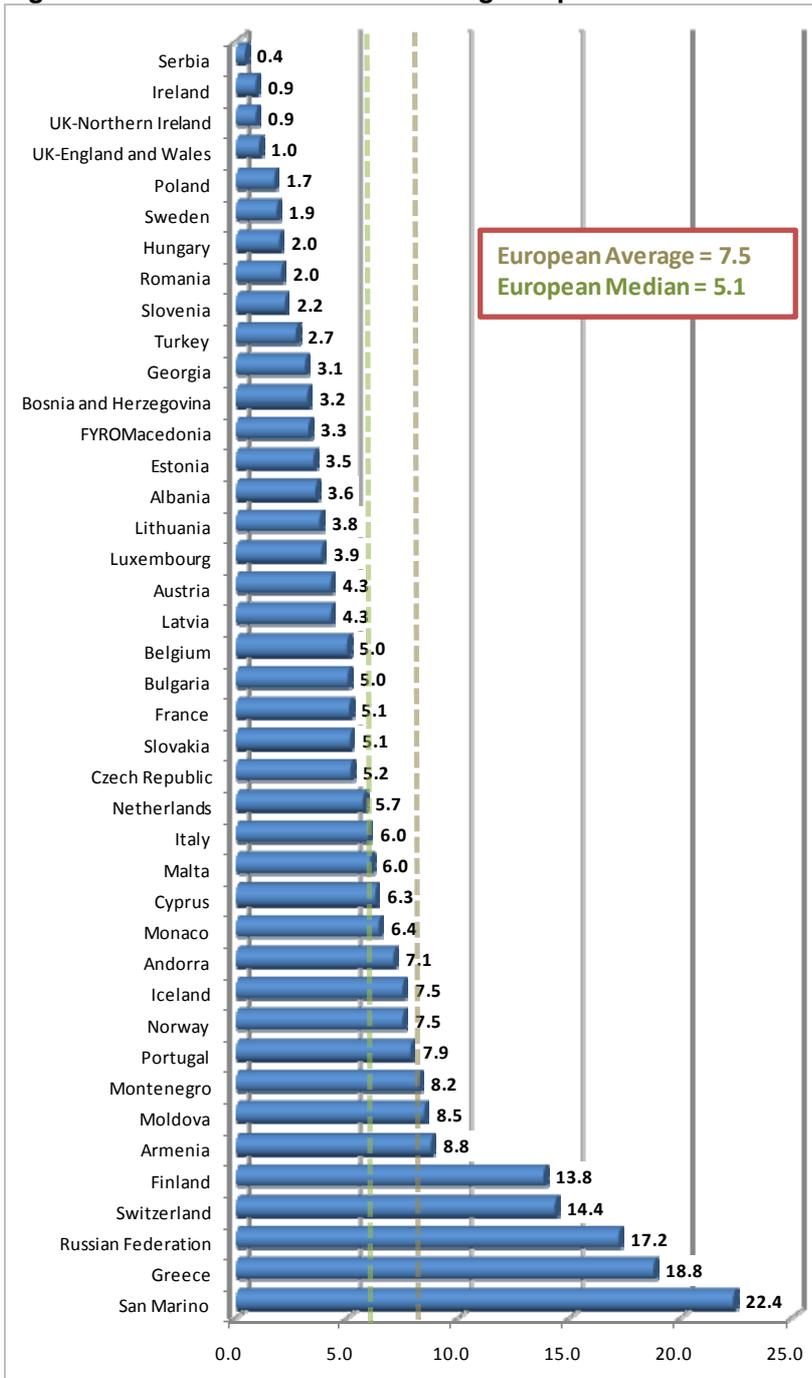
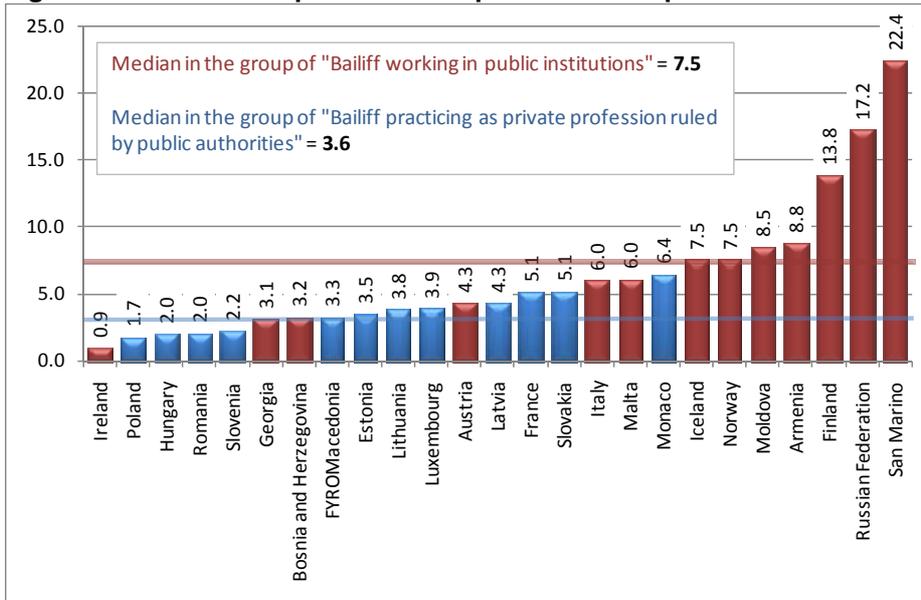


Figure 13.7 Number of public versus private bailiffs per 100.000 inhabitants (Q153 and Q154)



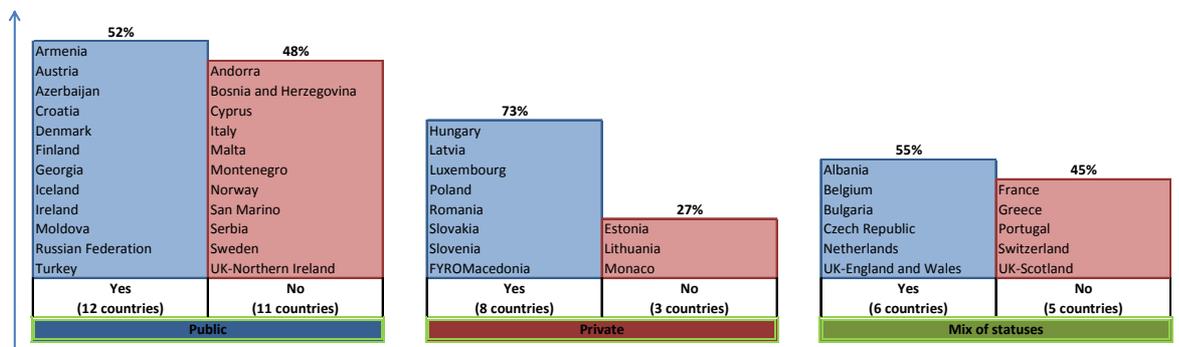
Taking into account only states where enforcement agents are bailiffs practicing exclusively as private professionals and states or entities where they are bailiffs working exclusively in public institutions, (states or entities with a mix of statuses were excluded), a correlation becomes visible between the status and the number of bailiffs. For several states or entities, it was possible to calculate the number of bailiffs per 100.000 inhabitants accordingly to their status. In the figure 13.7 are presented two groups of states or entities: on the one hand, those which have only bailiffs working in public institutions and, on the other hand, those which have bailiffs practicing as private professionals ruled by public authorities. One can notice that the median in the group of “public bailiffs” is two times higher (7,5 bailiffs per 100.000 inhabitants) than the median in the group of “private bailiffs” (3,6 bailiffs per 100.000 inhabitants).

Moreover, the comparison between the two groups (“public bailiffs” and “private bailiffs”) shows that the annual average variations are stable in both of them. In the past 4 years, the number of “public bailiffs” might have increased in some states (**Malta, Russian Federation, Armenia, Georgia**), but the european average remained stable because of the decrease in other states (**Italy, Iceland, Austria, Finland**). The conclusion is exactly the same in the “private bailiffs” group, where the number of bailiffs increased in some states (**Romania, Poland, Slovakia, Lithuania, Hungary**), but such increase was compensated at the european level by the decrease observed in other states (**Latvia, Slovenia, Estonia**).

13.1.2 Efficiency of enforcement services

The existence of quality standards

Table 13.8 Are quality standards formulated for enforcement agents? (Q161)



In states or entities where enforcement agents exist, quality standards for enforcement agents are available in more than half of the states or entities.

The existence of quality standards is an important guarantee to the proper enforcement of court decisions. Through their dissemination, these standards help to ensure greater efficiency of enforcement services and equality before the law¹.

There appears to be a link between the status of agents (public or private) and the existence of quality standards. The states or entities, where enforcement of court decisions is entrusted to public agents, have no significant differences between agents subject to standards and agents having none. Conversely, in states where enforcement agents have an exclusively private status, the proportion of quality standards is clearly higher (73%). Logically, states or entities having a mix of statuses have a proportion of agents subject to standards between these two values.

Another correlation seems to exist. If member states or entities are considered according to the year when they joined the Council of Europe, it is worth mentioning that the states following quality standards are generally states which became members after 1st January 1990 ("new" members). There are 16 "new" states among the 26 states having responded "yes", and 11 "old" states among the 18 having responded "no".

Authorities responsible for supervision or control of activities

Table 13.9 Authority responsible for the supervision and the control of enforcement agents and number of authorities responsible in each state or entity (Q160)

Country	The Ministry of Justice	The judge	A professional body	Other	The prosecutor	Number of responsible authorities
Albania						3
Andorra						1
Armenia						1
Austria						1
Azerbaijan						2
Belgium						5
Bosnia & Herzegovina						1
Bulgaria						3
Croatia						2
Cyprus						1
Czech Republic						3
Denmark						1
Estonia						2
Finland						2
France						4
Georgia						1
Greece						1
Hungary						3
Iceland						1
Ireland						1
Italy						1
Latvia						3
Lithuania						2
Luxembourg						3
Malta						1
Moldova						3
Monaco						2
Montenegro						1
Netherlands						3
Norway						2
Poland						3
Portugal						2
Romania						3
Russian Federation						3
San Marino						1
Serbia						1
Slovakia						1

1 On the European Standards on execution, please see: CEPEJ, Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement, CEPEJ(2009)11REV2.

Country	The Ministry of Justice	The judge	A professional body	Other	The prosecutor	Number of responsible authorities
Slovenia						3
Sweden						1
Switzerland						2
FYROMacedonia						1
Turkey						3
UK-England & Wales						3
UK-Northern Ireland						1
UK-Scotland						1
	30 states/entities	22 states/entities	17 states/entities	14 states/entities	6 states/entities	

Supervision of activities means the process whereby an authority makes observations to the enforcement agent on his or her working methods (scheduling problems, lack of courtesy, etc.); it is a sort of simplified control that does not involve actual examination of a complaint, but the aim of which is to guarantee proper administration of justice. Control of activities means control of the lawfulness of the actions carried out by enforcement agents.

Supervision and control of the activities of enforcement agents are almost systematic. The nature of such authority of supervision or control varies considerably and actually exists in 45 states or entities. A combination of several authorities is not unusual.

In civil matters, prosecutors are responsible for the supervision and control of enforcement agents in 6 states, but they are never the only responsible body. Prosecutors may share this task with a judge (**Monaco**) or with a professional body (**Belgium, France and Luxembourg**). Often they even share it with several bodies.

The very existence of a professional body leads to the assumption that states use it to supervise and control enforcement agents. 17 states or entities have indeed chosen a professional body as the competent authority. This may seem, at last, a low proportion, in view of the large number of member states or entities having a professional body (38 states). The proportion of professional bodies with powers to supervise and control enforcement agents does not appear to be linked to the status of enforcement agents: a professional body is more likely to be the competent authority when enforcement agents have a private status.

While 22 states or entities have decided to entrust judges with the responsibility to supervise and control the activities of enforcement agents, a trend is apparent according to the year when states joined the Council of Europe: of the 45 states with a control authority, the proportion of states in which judges are the authority is higher among the states that became members after 1st January 1990 (only 7 of the 23 responding "old" states use a judge, while 15 of the 24 "new" states do so). This may reflect a certain "judge culture" within the process of controlling enforcement activities in the states of Central and Eastern Europe.

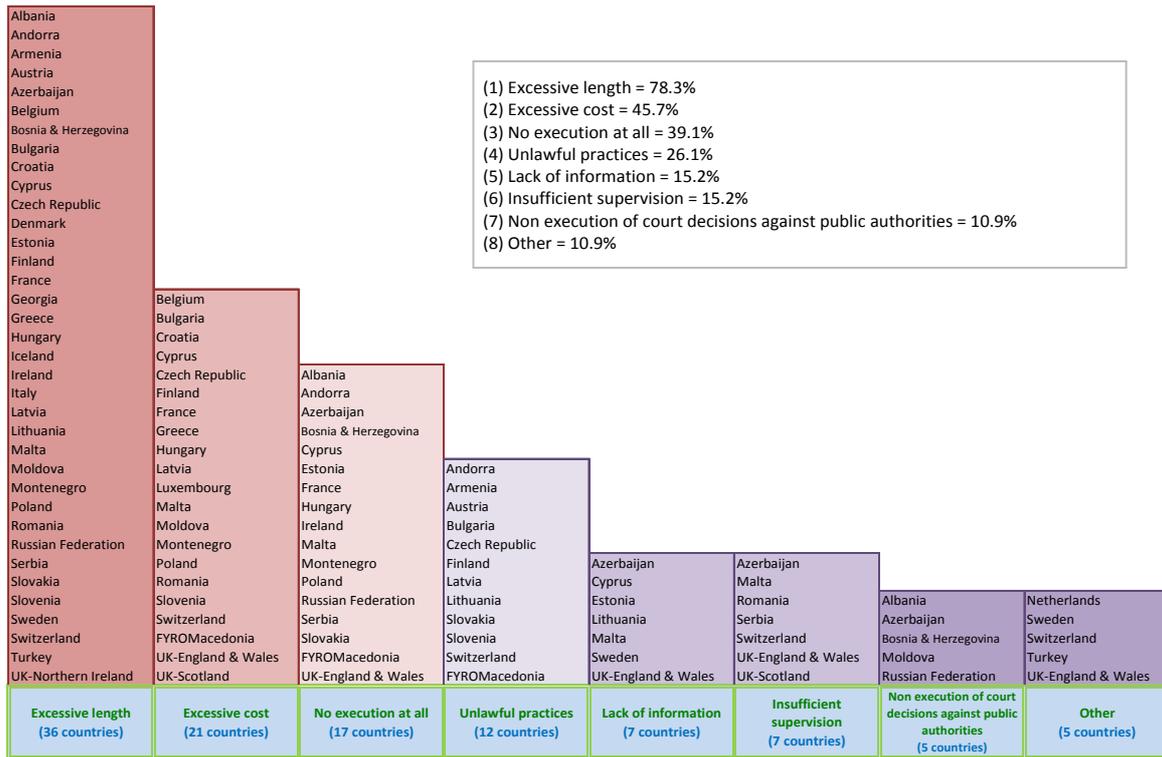
In more than half of states or entities, it is the Ministry of Justice who is in charge of supervising the activity of enforcement agents. The trend is strongest where enforcement agents are bailiffs working in a public institution (19 states out of 30). Most of the time, where the Ministry of Justice is the authority responsible, there is a joint judge-ministry system of control and supervision (14 states out of 22).

In practice, supervisions are often supported by the analysis of statistical data (**Albania, Croatia, Hungary, Sweden**) or by inspections (**Czech Republic, Moldova, Turkey**). In **Portugal**, a specific Commission (Commission for the Efficiency of the Enforcement Procedures) was set up in 2009: the goal is to create a system for monitoring the execution and to gather information useful for issuing recommendations on the efficiency of the system and training of enforcement agents.

Complaints against enforcement agents

In more than half of states or entities, it is the Ministry of Justice who is in charge of supervising the activity of enforcement agents.

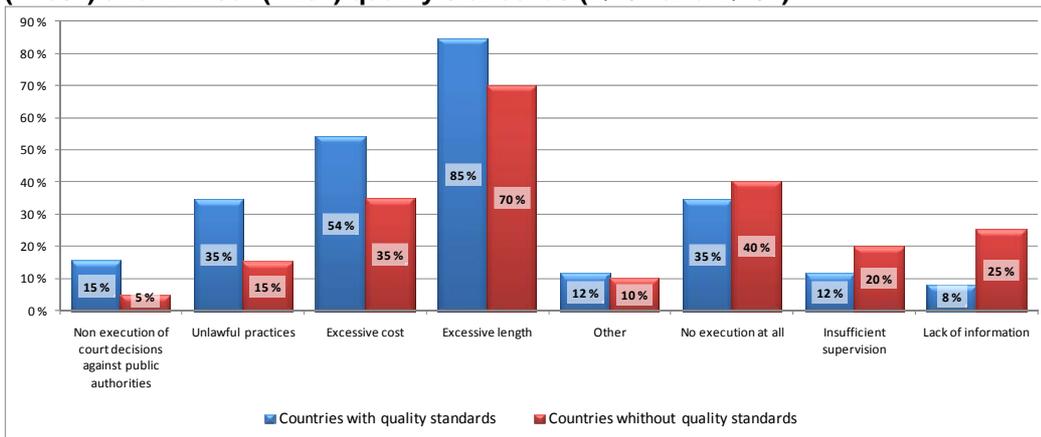
Table 13.10 Reasons for complaints concerning enforcement procedures (Q164)



The “excessive length of enforcement procedures” is the main complaint in the member states (36 states or entities). The second important complaint concerns the “excessive cost of enforcement procedures”; 21 states or entities declare being confronted to this problem. 17 states or entities mentioned the “non-execution at all” as one of the main problems; there is an increase of 10% compared to the answers provided in 2006 (12 states or entities). A decrease of 10% between 2006 and 2008 data is pointed out for the complaint “lack of information” (went from 11 states or entities in 2006 to 7 in 2008). All other types of complaints remained relatively stable.

It is interesting to relate the complaints with the existence of quality standards (see figure 13.11).

Figure 13.11 Reasons for complaints concerning enforcement procedures in states or entities with (“Yes”) and without (“No”) quality standards (Q161 and Q164)



Conversely, the proportion is greater for complaints regarding the “non execution of court decision against authorities”, “unlawful practices”, “excessive cost” and “excessive length”. Where states have quality standards, the proportion of states in which there are complaints about “lack of information”, “insufficient supervision” and “no execution at all” is lower. How is this finding, at first sight surprising, to be explained? One hypothesis is that quality standards play a dual role: on the one hand, they help reduce certain failings in enforcement systems (“lack of information”, “insufficient supervision” and “no execution at all”), which would have the effect of reducing the number of such complaints; on the other hand, they enhance the identification of certain unacceptable behaviours (“non execution of court decisions against public

authorities”, “unlawful practices”, “excessive cost” and length), which would have the effect of increasing the proportion of such complaints.

If the most common grounds of complaint are taken into consideration, it is notable that the states with quality standards give the “main complaints” in the following order: 1) excessive length – 2) excessive cost – 3) unlawful practices and no execution at all (placed equal), while the states that do not have quality standards give the “main complaints” in a different order: 1) excessive length – 2) no execution at all – 3) excessive cost.

Disciplinary proceedings and disciplinary sanctions

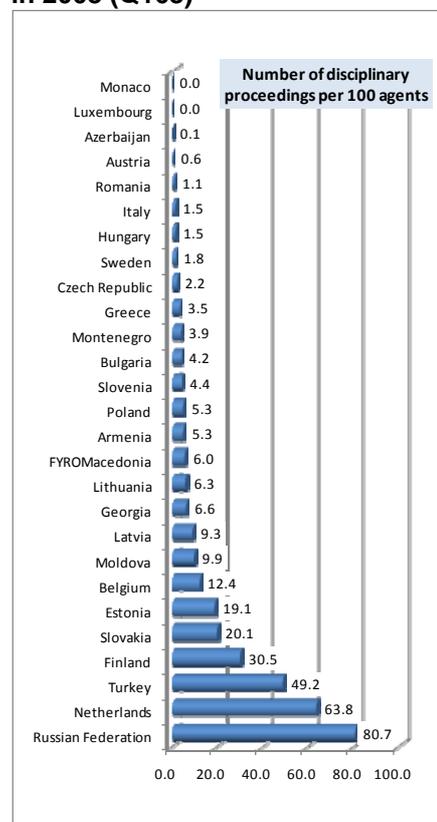
The number of complaints, lodged against enforcement agents, seems to be a useful indicator. It should, however, be analysed with extreme caution for two reasons. Firstly, the number of complaints is to some extent increased by proceedings that have nothing to do with breaches of discipline (proceedings concerning the principle of the enforcement itself or the principle of the court decision, proceedings to apply for postponement of enforcement and payment). Secondly, disciplinary proceedings and efficiency of services are not synonymous: the larger or smaller number of proceedings – including in relative terms compared with the number of enforcement agents working – can in no case be interpreted as a lack of competence or honesty on behalf of enforcement agents, since the number of proceedings may equally well be an indication of a more litigious society or simply of greater zeal or suspicion on the part of disciplinary authorities.

It is interesting to compare the proceedings for breach of professional ethics and for professional inadequacy with the existence of quality standards. The proportion of states with these sorts of proceedings is higher in member states that follow quality standards. These findings are not surprising: quality standards can help define the concepts (professional ethics and professional inadequacy) and may be used to justify proceedings when the objective is not reached.

Table 13.12 Number of disciplinary proceedings initiated against enforcement agents in 2008 (Q168)

Country	Total number	For breach of professional ethics	For professional inadequacy	For criminal offence	Other
Albania		1			
Armenia	15	0	15	0	0
Austria	2	0	1	1	0
Azerbaijan	8				
Belgium	66				
Bulgaria	16	0	0	0	16
Czech Republic	12	12	0	0	0
Estonia	9	0	9	0	0
Finland	224	0	0	0	224
Georgia	9	0	9	0	0
Greece	74	70	0	4	0
Hungary	3	3	0	0	0
Italy	53			14	
Latvia	9	0	9	0	0
Lithuania	8	4	4	0	0
Luxembourg	0	0	0	0	0
Moldova	30				
Monaco	0	0	0	0	0
Montenegro	2	0	2	0	0
Netherlands	599				
Poland	35				
Romania	5	2	0	3	0
Russian Fed.	19 752	317	626	1 071	
Slovakia	56				
Slovenia	2	2	0	0	0
Sweden	3	0	0	0	3
FYROMacedonia	4				
Turkey	950	92	14	50	794

Figure 13.13 Number of disciplinary proceedings initiated against enforcement agents per 100 agents in 2008 (Q168)



The number of disciplinary measures against enforcement agents cannot be considered a sufficient indicator of the efficiency of the system, neither can the number of proceedings. A large number of measures in a

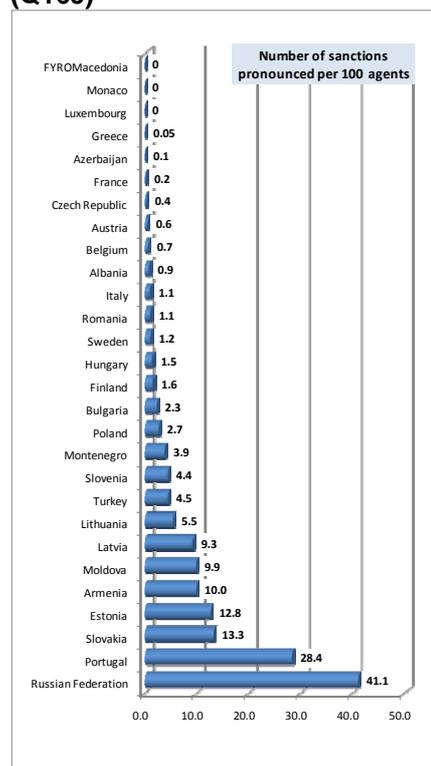
state – including measures in relation to the number of working enforcement agents – may equally well reflect a society’s high tendency to litigate or to be more rigorous.

Considering the 31 states or entities which were able to provide figures on the sanctions pronounced, reprimand appears to be the main sanction in 8 of them; the second main sanction is a fine (4 states: **Austria, Bulgaria, Estonia, Montenegro**); and then come dismissals and suspensions. 7 other states (**Finland, Latvia, Lithuania, Netherlands, Portugal, Slovakia and Turkey**) report that other types of measures are frequent as well.

Table 13.14 Number of sanctions pronounced against enforcement agents in 2008 (Q169)

Country	Total number	Reprimand	Suspension	Dismissal	Fine	Other
Albania	1	1				
Armenia	28	24		4		
Austria	2				2	
Azerbaijan	5					
Belgium	4					
Bulgaria	9	2	2		5	
Czech Republic	2	1	1			
Estonia	6	3	0	0	3	0
Finland	12					12
France	8					
Georgia		9	8		1	
Greece	1		1			
Hungary	3	1		1	1	
Italy	38	18	10	3	7	
Latvia	9	2	0	1		6
Lithuania	7	2				5
Luxembourg	0	0	0	0	0	0
Moldova	30	22				8
Monaco	0	0	0	0	0	0
Montenegro	2				2	
Netherlands		21	2	1		28
Poland	18	16		1	1	
Portugal	237	103	3		27	104
Romania	5	0	2	3	0	
Russian Fed.	10 066		24	522		
Serbia				1		
Slovakia	37	9			10	18
Slovenia	2	2	0	0	0	0
Sweden	2	2				
FYROMacedonia	0	0	0	0	0	0
Turkey	86	24	5	5	9	43

Figure 13.15 Number of sanctions pronounced against enforcement agents per 100 agents in 2008 (Q169)



13.1.3 Efficiency of enforcement measures

The efficiency of enforcement measures is assessed in terms of systems for monitoring the execution, timeframes for the enforcement and costs.

Systems for monitoring the execution

Less than half of the states or entities (17 out of 38) have a system for monitoring the procedures and a very small proportion of them has a system for monitoring the execution in specific cases (most of them have systems of statistical data or inspections, please see above).

When a system for monitoring the execution in a specific case exists, the parties usually initiate the proceedings (**Albania, France, Luxembourg and “the former Yugoslav Republic of Macedonia”**).

Some states or entities have specific mechanisms for executing court decisions rendered against public authorities. It is interesting to compare these mechanisms with the systems for monitoring the execution: 19 states or entities do not have any specific mechanisms for executing court decisions rendered against public authorities, nor any systems of monitoring the execution; 9 states have a specific mechanism for executing court decisions rendered against public authorities and also have a system for monitoring the execution; 13 states or entities do not have a specific mechanism for executing court decisions rendered

Table 13.17 Timeframe for notification of a court decision on debt recovery to a person living in the city where the court is sitting (Q167)

Armenia	Albania		
Austria	Cyprus	Bulgaria	
Azerbaijan	Finland	Croatia	
Bosnia and Herzegovina	France	Ireland	
Estonia	Georgia	Netherlands	
Iceland	Hungary	Norway	
Luxembourg	Latvia	Poland	
Malta	Lithuania	Slovakia	
Russian Federation	Moldova	Spain	
Switzerland	Montenegro	Sweden	Czech Republic
Turkey	San Marino	FYROMacedonia	Greece
	Serbia		
Between 1 and 5 days	Between 6 and 10 days	Between 11 and 30 days	More than 30 days

More than half of the responding states or entities (23) stated to be able to notify the person in a timeframe between 1 and 10 days. Only two states (**Czech Republic** and **Greece**) need more than 30 days to provide the decision to the person concerned. Compared to previous years (2004 and 2006 data), one can notice that several states reduced these timeframes: **Azerbaijan**, **Hungary**, **Malta** and **Moldova**. Other states stated that their timeframes increased: **France**, **Georgia**, **Lithuania**, **Montenegro**, **Serbia** and **Spain**.

Several specific situations were highlighted in the notes: in **Belgium** – the winning party may take the responsibility of notifying the decision the same day; in **Croatia** – according to the adopted procedure in courts' writing-offices, when the order to send out the court decision is rendered, the decision can be delivered between 6 to 30 days if the parties live within the seat of the court; in **France** – a reform was implemented in 2008 in order to reduce the timeframes; in **Norway** – the maximum authorized timeframe is 90 days; in **Monaco** – the clerk office has 1 to 5 days to notify the decision, but bailiffs have between 11 and 30 days to take action.

Enforcement costs

In matters other than criminal ones, it is generally up to the creditor to appreciate the opportunity of enforcing a decision with respect to the costs of the enforcement. On 42 states or entities, 3 have replied that users cannot easily establish what the fees of enforcement agents will be (**Bosnia and Herzegovina**, **Greece** and **Serbia**).

The enforcement costs are made of enforcement expenses *stricto sensu* (cost of the procedures) and of the fee of the enforcement agent, which can depend – when it exists – on the result obtained. In question 158, states and entities were invited to indicate whether the fees were regulated by law or freely negotiated between the enforcement agent and the creditor. In the great majority of states or entities (37), procedure costs are strictly regulated by the state. **Lithuania**, **the Netherlands** and **UK-England and Wales** were the only ones to indicate that the fees are freely negotiated. The **Czech Republic** has presented an intermediary situation: enforcement costs are mainly regulated by law, however they may also be negotiated. This question is very important, as, whether in private or mixed systems, enforcement agents are paid in part or in total by enforcement fees, or by bonuses resulting thereof. It must be noted in addition that in **the Netherlands**, the fees are freely negotiated only for the creditor: debtors' fees are determined by the law.

Where procedure costs are regulated by the state, this allows a relevant supervision of the cost of the act, but does not permit to check its expediency. It therefore often comes with the possibility of lodging a complaint against the enforcement agent and/or allowing the judge to decide on the payment by the enforcement agent of unjustified costs.

13.2 Execution of court decisions in criminal matters

The CEPEJ has deliberately excluded the prison system from its evaluation of justice systems, since it is addressed by other bodies of the Council of Europe (for instance, the European Committee for the

Prevention of Torture – CPT, the Council for Penological Co-operation – PC-CP²). Therefore this chapter is limited to a few data directly in line with the functioning of courts.

The enforcement of decisions in criminal matters is, in almost all the member states, in the hands of a public structure. However, there is great disparity within the competent authorities.

In 28 states, execution is entrusted to a judge specifically in charge of the enforcement of decisions in criminal matters. Other bodies may intervene: prosecutors (**Albania, Andorra, Bulgaria, France, Lithuania, Monaco, the Netherlands** and **Turkey**), prison administrations (**Denmark, Iceland, Ireland, Slovakia** and **Sweden**), police (**Ireland**), parties (**France**) or specialised entities from the Ministry of Justice (**Finland** and **Russian Federation**).

Table 13.18 Authority in charge of the enforcement of judgments in criminal matters (Q170)

Albania		Prosecutor	
Andorra	Judge	Prosecutor	
Austria	Judge		
Azerbaijan	Judge		
Belgium	Judge		
Bosnia and Herzegovina	Judge		
Bulgaria		Prosecutor	Other
Croatia	Judge		
Czech Republic	Judge		
Denmark			Prison and Probation Service
Estonia	Judge		
Finland			Criminal Sanctions Agency
France	Judge	Prosecutor	Parties
Georgia	Judge		
Greece	Judge		
Hungary	Judge		
Iceland			Prison and Probation Service
Ireland			Police and Prison Service
Italy	Judge		
Latvia	Judge		Other
Lithuania		Prosecutor	
Luxembourg			Non-special judges
Moldova	Judge		Non-special judges
Monaco	Judge	Prosecutor	
Montenegro	Judge		
Netherlands		Prosecutor	
Poland	Judge		
Portugal	Judge		
Romania	Judge		
Russian Federation			Fed. Service of Execution of sentences
San Marino	Judge		
Serbia	Judge		
Slovakia	Judge		Prison and Probation Service
Slovenia	Judge		
Spain	Judge		
Sweden			Prison and Probation Service
FYROMacedonia	Judge		
Turkey	Judge	Prosecutor	
UK-England and Wales	Judge		
UK-Scotland			Court Staff

It should be noted that only 11 states or entities have carried out studies on the effective collection of fines imposed by a criminal jurisdiction: **Bosnia and Herzegovina, Finland, France, Georgia, Ireland, Latvia, Poland, Romania, Sweden, UK-Scotland** and **UK-Northern Ireland**. Generally, these studies are performed annually. In **UK-Scotland**, the Scottish Court Service, since November 2009, has published quarterly reports on fines. **France** reported a recovery rate of about 58% for fines ordered by criminal courts.

² The latest available report can be found at: http://www.coe.int/t/e/legal_affairs/legal_cooperation/prisons_and_alternatives/statistics_space_i/PC-CP%282010%2907_E%20SPACE%20Report%20I.pdf: Abebi M.F., Delgrande N., *SPACE I – Council of Europe Annual Penal Statistics: Survey 2008*. In this report are presented the data on forty-eight prison systems.

In **Poland**, the recovery rate was, in 2008, of 80% and 12,5% of the fines were collected through enforcement proceedings. For increasing fines' collection rates, the Courts' Service in **Ireland** has introduced, in 2008, an online payment facility for fines via its website and recently has started issuing on a routine and timely basis reminders for outstanding fines. This system has proven to be very popular.

13.3 Trends and conclusions

Organisation of the profession, efficiency of the enforcement services, efficiency of the enforcement measures contribute to effective execution of court decisions. Considering the Article 6 of the European Convention of Human Rights, it can constitute a pertinent indicator of fair administration of justice.

The status of enforcement agents is highly variable in the different member states or entities. Judges can play a role in the enforcement procedure, but in most cases their role is limited to the supervision of such procedure.

It is essential that the enforcement agents have a reliable and suitable training and an adequate qualification in order to efficiently and reasonably apply enforcement proceedings, while safeguarding the fundamental rights and individual freedoms. It is, therefore, coherent that the control of such activity applies not only to the consistency of the proceedings undertaken according to the law, but also to the opportunity of the acts taken by the enforcement agent. To provide the means to such end, the CEPEJ has recently published European Standards on execution³.

³ CEPEJ, Guidelines for a better implementation of the existing Council of Europe's Recommendation on enforcement, CEPEJ(2009)11REV2.

Chapter 14. Notaries

The notary is a legal official who has been entrusted, by public authority, with the safeguard of the freedom of consent and the protection of rightful interests of individuals. A signature by the notary confers on the legal acts the character of authenticity. Furthermore, notaries have duties that exceed the simple authentication of acts and, indeed, often advise citizens about the different possibilities available regarding the adoption of acts and their derived legal consequences.

As a guarantor of legal security, the notary has an important role to contribute to the limitation of litigation between parties. In this function, he/she is a major actor of preventive justice. It is under this aspect that the CEPEJ has addressed the profession, being aware that notaries, depending on each state or entity, may intervene in other fields, such as the social or economic fields.

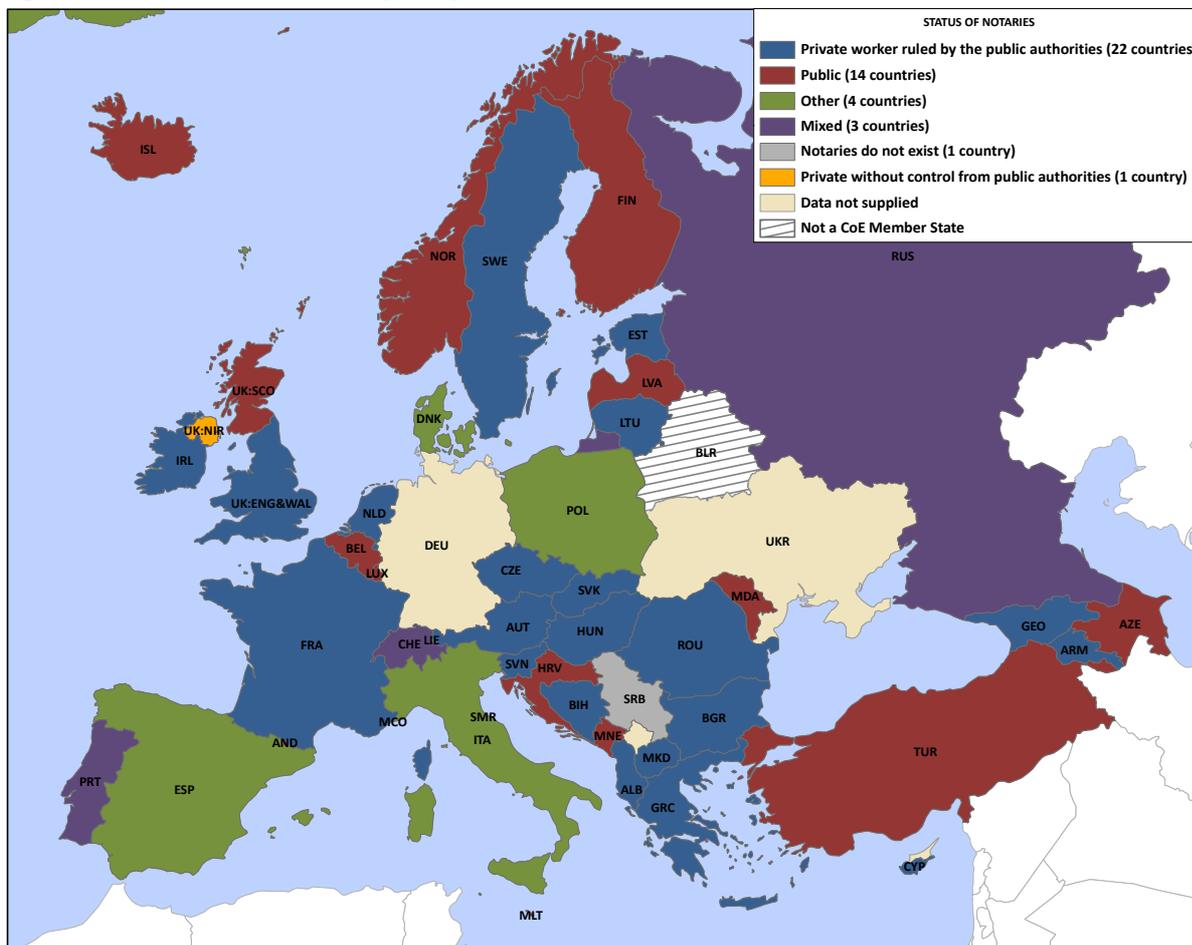
A notary is generally in charge of receiving acts, acknowledging signatures and statements, providing evidence, ensuring that documents comply with the law and, in some states or entities, issuing subpoenas or executing court decisions.

14.1 Status, number and functions

Notarial offices are widely spread among the member states. Out of 46 responding states or entities, only **Serbia** reported that this office was not a separate profession within its legal system.

In most states or entities (22), notaries are private professionals ruled by public authorities, which implies that they exercise an independent practice though they are supervised by a public authority. The second most common status of notaries (17 states or entities) is a public one. 5 states (**Denmark, Italy, Poland, Spain and Switzerland**) stated that notaries have another status. In **Denmark**, city courts act as notaries. In **Poland** and **Spain**, notaries are likely to be compared to public officials. **UK-Northern Ireland** is the only entity to state that notaries have a strictly private status, without any control from public authorities.

Figure 14.1 Status of notaries (Q173)



Andorra and **Malta**: public status. **Monaco**: private worker ruled by public authorities. **San Marino**: no data supplied.

Table 14.2 Status and number of notaries in 2006 and 2008 (Q173). Evolution between 2006 and 2008 (in %)

Country	Private		Private professional ruled by the public authorities		Public		Other		Total number (calculated sum)		2006-2008 (%)
	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008	
Albania			327	319					327	319	-2.4
Andorra					4	4			4	4	0.0
Armenia			71	73					71	73	2.8
Austria			478	490					478	490	2.5
Azerbaijan					159	149			159	149	-6.3
Belgium					1 239	1 235			1 239	1 235	-0.3
Bosnia & Herzegovina				159	NA				NA	159	
Bulgaria			526	605					526	605	15.0
Croatia			259			308			259	308	18.9
Cyprus	NA			NA					NA	NA	
Czech Republic			450	451					450	451	0.2
Denmark					NA			NA	NA	NA	
Estonia			100	100					100	100	0.0
Finland					NA	NA			NA	NA	
France			8 645	8 856					8 645	8 856	2.4
Georgia				224			235		235	224	-4.7
Greece			NA	NA					NA	NA	
Hungary			313	314					313	314	0.3
Iceland					24	24			24	24	0.0
Ireland				162	NA				NA	162	
Italy							NA	NA	NA	NA	
Latvia					131	125			131	125	-4.6
Lithuania			251	267					251	267	6.4
Luxembourg					36	36			36	36	0.0
Malta					NA	NA			NA	NA	
Moldova					283	282			283	282	-0.4
Monaco			3	3					3	3	0.0
Montenegro					NA	NA			NA	NA	
Netherlands			1 473	3 662					1 473	1 478	0.3
Norway					76	76			76	76	0.0
Poland							1 773	1 871	1 773	1 871	5.5
Portugal			351	410	31	22			382	432	13.1
Romania			NA	2 119					NA	2 119	
Russian Federation			7 226	NA	139	NA	NA		7 365	NA	
San Marino										NA	
Serbia									NAP	NAP	
Slovakia			324	325					324	325	0.3
Slovenia	91			98					91	98	7.7
Spain							2 857	3 212	2 857	3 212	15.7
Sweden				156						156	
Switzerland			896	1 133	619	604		280	1 515	2 017	33.1
FYROMacedonia			126	143					126	143	13.5
Turkey						1 578	1 473		1 473	1 578	7.1
Ukraine			3 897		1 288				5 185	NA	
UK-England & Wales				830	900				900	830	-7.8
UK-Northern Ireland	27	NA							27	NA	
UK-Scotland					NA	NA			NA	NA	

Comments

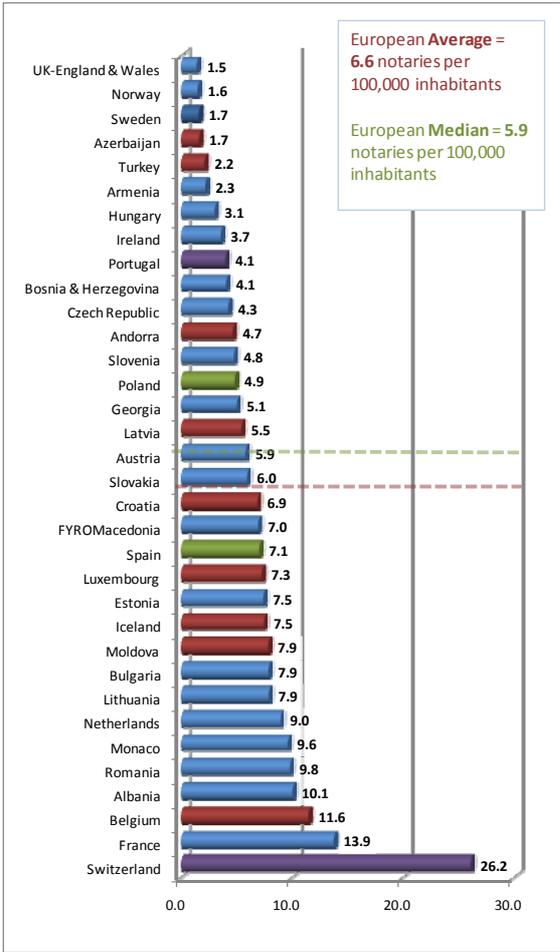
Netherlands: the category of "junior notaries", which represented 2.184 persons, was excluded from the final account.

Switzerland: in many cantons, it is possible to cumulate the professions of notaries and lawyers. The 280 "other" notaries are from the Canton of Grisons.

UK-England and Wales: notaries should be practicing solicitors, but not all solicitors are notaries.

The evolution of the total number of notaries, between 2006 and 2008, is generally stable or has increased. A significant increase (more than 10%) can be noticed in **Bulgaria, Croatia, Portugal, Spain, Switzerland** and "**the former Yugoslav Republic of Macedonia**". **Portugal** is implementing a reform on the status of notaries. The percentage of change of **Switzerland** should be put considered carefully since, in 2006 and 2008, different numbers of cantons were considered when calculating the number of notaries.

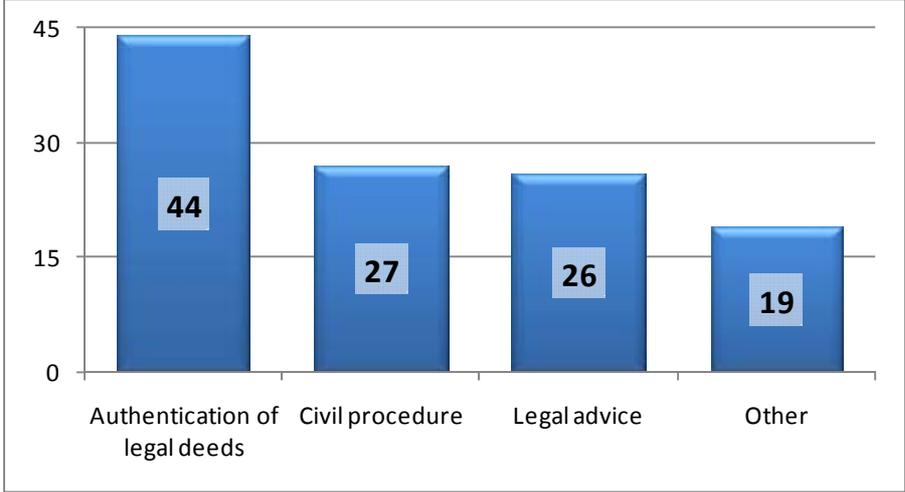
Figure 14.3 Number of notaries per 100.000 inhabitants in 2008 (Q173)



On average, in the responding states or entities, 6 notaries per 100.000 can be counted in 2008.

Considering the diversity in the status and roles of notaries in Europe, it would not be relevant to make comparisons between the member states. For example, the very high number of notaries in **Switzerland** is due to the fact that lawyers can in many cantons cumulate their functions with those of notaries. Moreover, it is not possible to establish a correlation between the status (figure 14.1) and the number of practicing notaries.

Figure 14.4 Functions of notaries – number of states/entities (Q174)

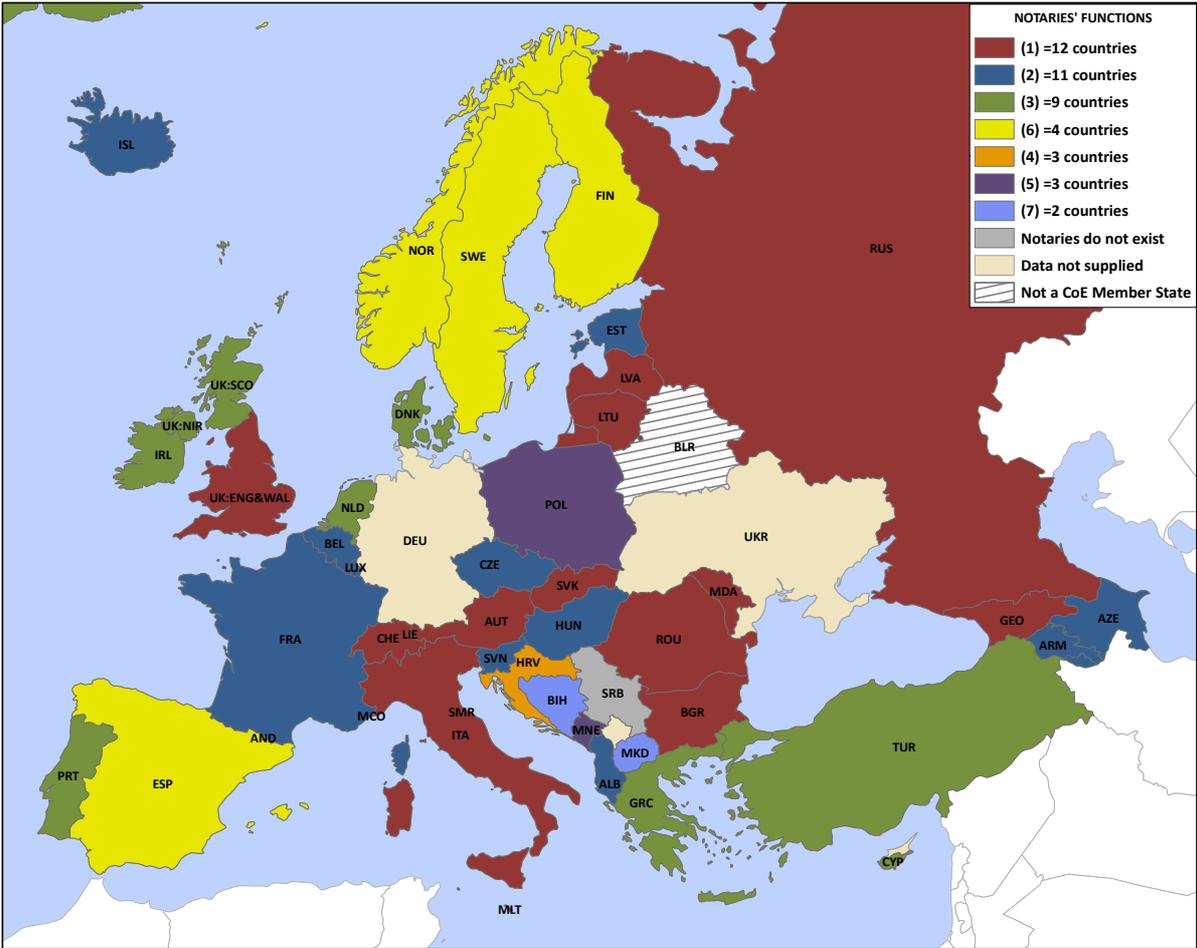


Like in other sectors, the functions of notaries vary considerably according to the various states or entities.

Obviously, the main duty notaries provide is the authentication of legal deeds (100% of the 44 responding states or entities). In more than half of the states or entities (27), notaries can also perform duties within the framework of civil procedure. 26 states or entities authorise notaries to provide legal advice. Finally, 19 of the responding states or entities also stated "other" functions to be performed by notaries. For example, notaries often can receive money, and other objects in deposit, for delivery to third persons (**Croatia, Czech Republic, Estonia, Georgia, Lithuania, Moldova, Montenegro, Slovenia, "the former Yugoslav Republic of Macedonia"**) or for bailment (**Latvia**). In few a states or entities, they can handle complaints regarding bills, cheques or promissory notes (**Croatia, Finland, Lithuania, Moldova, Norway, Romania**). In other states or entities, notaries may be executors of wills, administrators of estates (**Bulgaria, Slovakia**) or trustees in bankruptcy and composition proceedings (**Czech Republic, Estonia**). They provide various services within the framework of real estate transactions and corporate affairs (**Albania, Austria, Croatia, France, the Netherlands**) and perform different commercial activities (**Switzerland**). In **Belgium**, notaries have monopoly on the organisation of public sales of property, rents and mortgages. In **Estonia** notaries organise and attest auctions. In **Georgia**, they have a monitoring function related to the detection and prevention of illicit income. In **Malta**, they collect the government taxes on behalf of the Commission of Inland Revenue when publishing contracts.

Only 8 states and entities stated that the notary's duty is limited to the authentication of legal deeds (**Cyprus, Greece, Denmark, Ireland, Portugal, Turkey, UK-Northern Ireland, UK-Scotland**).

Figure 14.5 Functions of notaries (Q174)



Andorra and Monaco: authentication and legal advice (in orange on the map). **Malta:** authentication, civil procedure and "other" duties (in purple on the map). **San Marino:** no data supplied.

Categories represented by colours on the map

Table 14.7 Authority entrusted with the supervision and the control of the notaries in 2008 (Q176)

Country	Professional body	Judge	Ministry of Justice	Prosecutor	Other	Number of authorities
Albania						1
Andorra						3
Armenia						1
Austria						3
Azerbaijan						1
Belgium						2
Bosnia & Herzegovina						2
Bulgaria						3
Croatia						2
Cyprus					Ministry of Interior	1
Czech Republic						3
Denmark						1
Estonia						2
Finland					Ministry of the Interior, Ministry of Justice, Chancellor of Justice and the Parliamentary Ombudsman.	5
France						4
Georgia						1
Greece						2
Hungary						1
Iceland						1
Ireland					Chief Justice	1
Italy						1
Latvia						3
Lithuania						3
Luxembourg					Administration of Register and Control of the formal legality of acts.	5
Malta						1
Moldova						2
Monaco					Commission de contrôle des études notariales (enquiry board)	1
Montenegro						3
Netherlands					Bureau Financieel Toezicht (disciplinary board)	3
Poland						3
Portugal						2
Romania						3
Russian Federation						3
Slovakia						2
Slovenia						3
Spain						1
Switzerland						2
FYROMacedonia						2
Turkey						3
UK-England & Wales					Faculty Office on behalf of the Archbishop of Canterbury (until 1 st January 2010).	1
UK-Northern Ireland					Lord Chief Justice	1
UK-Scotland						1
	26 countries	17 countries	29 countries	7 countries	8 countries	

Comments

Finland: the Ministry of Justice is responsible for legal matters whereas the Ministry of the Interior in generic matters. Public notaries are also supervised by the Chancellor of Justice and the Parliamentary Ombudsman.

Ireland: the Chief Justice appoints Notaries Public.

Luxembourg: the Registration and Domains Administration is in charge of the formal accountability of the acts produced by Notaries.

Netherlands: the "Financieel Toezicht Bureau", a disciplinary board, checks and investigates the financial situation and administration of notary offices.

UK: England and Wales: the Faculty Office on behalf of the Archbishop of Canterbury carries out the admission to and the regulation of the notarial profession

UK: Northern Ireland: the Lord Chief Justice nominates the public notaries and decides hers/his removal. The college of Notaries of Northern Ireland is responsible for the Code of conduct.

Chapter 15. Court interpreters

Court interpreters play a major role in guaranteeing access to justice for court users who do not understand and/or speak the official language of the court. The fair trial and equality of arms principles of the ECHR include the right to understand and participate actively in the proceedings as well as the right to be informed of the evidence presented and thus, to reply with any necessary observations and to organise the defence system. This is even more important in such a linguistically rich environment as the member states of the Council of Europe.

Therefore, an evaluation of this profession has been included for the first time in the 2010 Edition of this report.

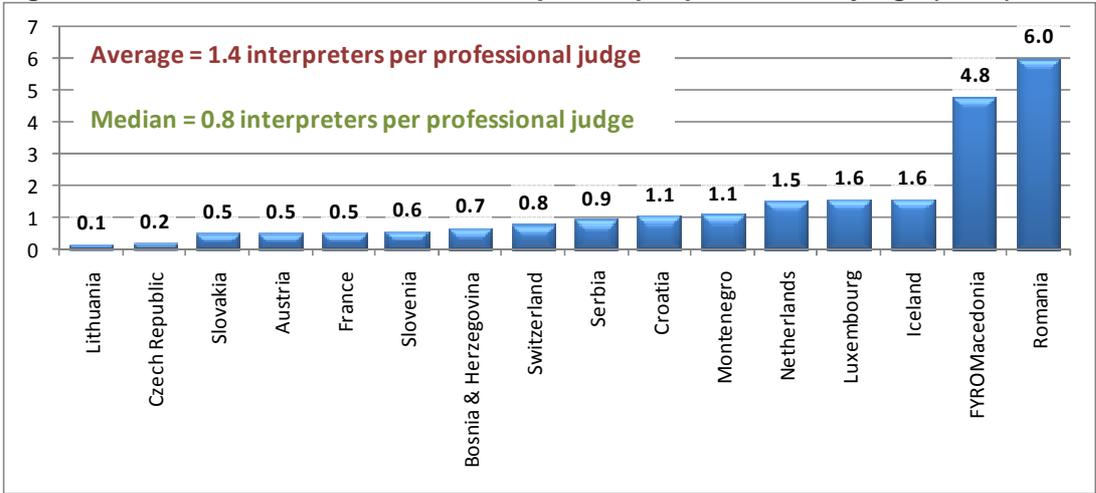
15.1 Number of court interpreters

All states, except **Monaco**, indicated having court interpreters. However, only a few countries were able to indicate the total number of their court interpreters. **Sweden** could only provide a figure for 2009 and distinguished between certified legal interpreters and other authorised interpreters. Furthermore, **Switzerland** based its total number on data from 5 cantons only (out of 26). For all these reasons, one must be very careful when making comparisons between the states.

Table 15.1 Number of certified court interpreters (Q179)

Country	Absolute number of certified court interpreters
Austria	820
Bosnia & Herzegovina	576
Croatia	1 978
Czech Republic	550
France	3 000
Iceland	74
Lithuania	107
Luxembourg	288
Montenegro	264
Netherlands	3 270
Romania	24 902
Serbia	2 300
Slovakia	683
Slovenia	600
Switzerland	843
FYROMacedonia	3 161

Figure 15.2 Number of certified court interpreters per professional judge (Q179)

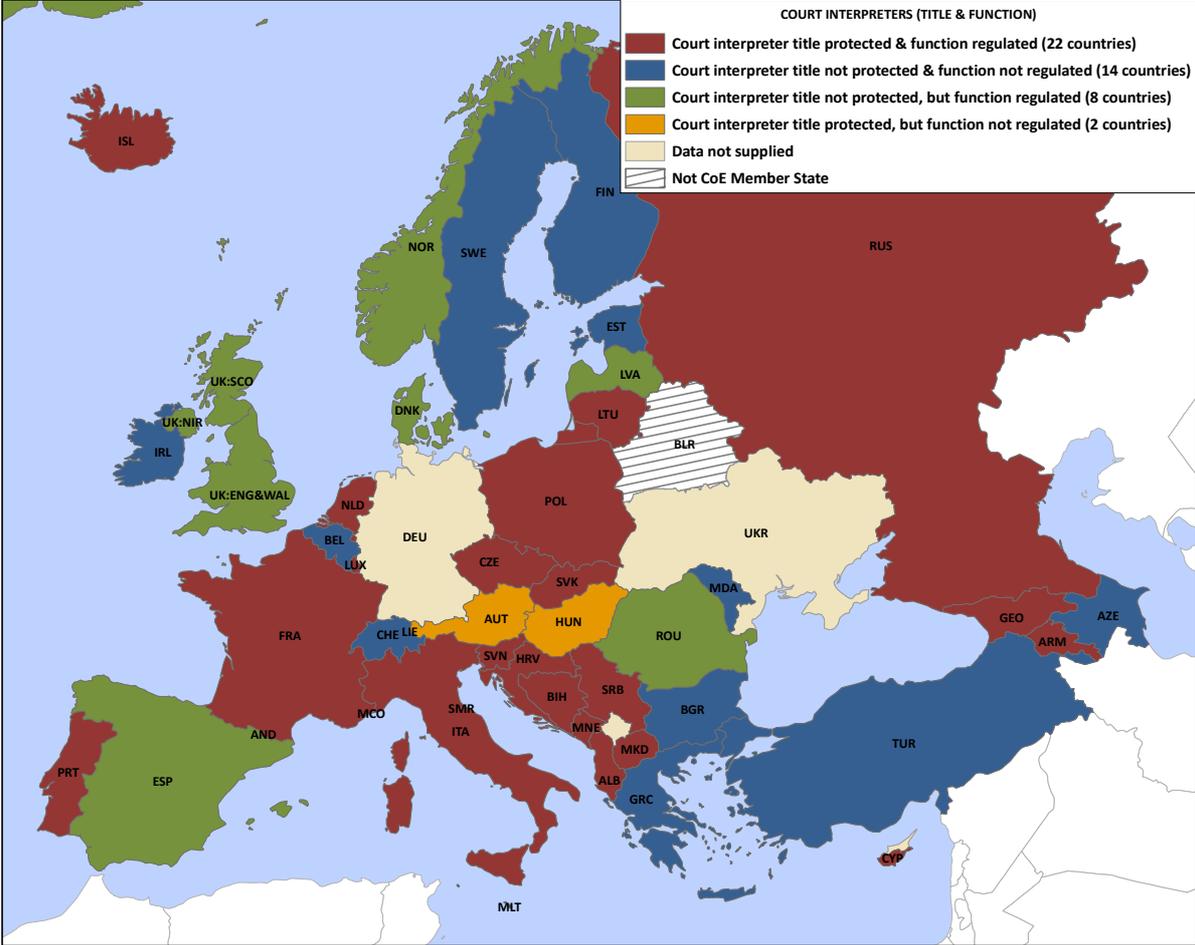


"The former Yugoslav Republic of Macedonia" and **Romania** report a very high number of court interpreters (in absolute numbers and per professional judge). In **Romania**, the situation can be

explained by the entry into force in 2007 of a law which has successfully promoted access to the profession of court interpreter that was previously insufficient. This country further reported that not all accredited court interpreters actually practice the profession. The same is probably true for the "the former Yugoslav Republic of Macedonia".

15.2 Title, function and quality of court interpreters

Figure 15.3 Title and function of court interpreters (Q177, Q178)



Andorra: the court interpreter title is protected and the function regulated. **Malta, Monaco and San Marino:** the court interpreter title is not protected and the function is not regulated.

Comment

Switzerland: only 6 cantons (out of 26) regulate the function of court interpreters, whereas the title is not protected in any canton.

Most states or entities regulate the function of court interpreters. The title is protected in more than half of the responding states. 14 other states or entities neither protect the title nor regulate the function.

Figure 15.4 Title and function of court interpreters – number of states or entities (Q177, Q178)

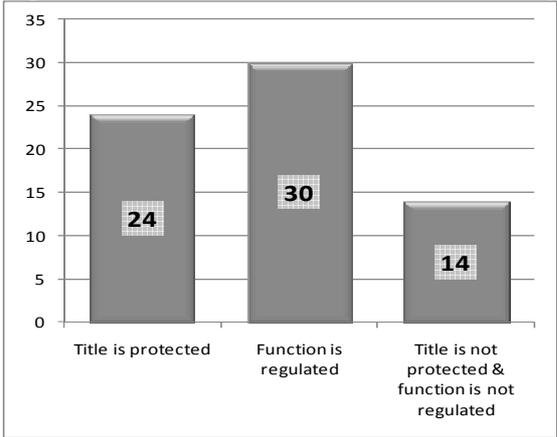


Table 15.5 Binding provisions regarding the quality of court interpreters in judicial proceedings (Q180)

Albania	Andorra
Armenia	Azerbaijan
Austria	Bulgaria
Belgium	Cyprus
Bosnia and Herzegovina	Denmark
Croatia	Finland
Czech Republic	France
Estonia	Greece
Georgia	Hungary
Iceland	Ireland
Lithuania	Italy
Luxembourg	Latvia
Montenegro	Malta
Netherlands	Moldova
Poland	Monaco
Romania	Norway
San Marino	Portugal
Slovakia	Russian Federation
Slovenia	Serbia
FYROMacedonia	Spain
UK-Northern Ireland	Sweden
UK-Scotland	Switzerland *
	Turkey
	UK-England and Wales
Yes (22 countries)	No (24 countries)
48%	52%

Comment

Switzerland: only 2 cantons (out of 26) informed having stipulated provisions regarding the quality of court interpreting.

22 states or entities indicated binding provisions regarding the quality of court interpreters. Often, these requirements are provided for by the law (**Albania, Austria, Croatia, Czech Republic, Georgia, Iceland, Lithuania, Luxembourg, Poland, Romania, Slovakia, Slovenia**). In **UK-England and Wales**, the Code of Conduct of the National Register of Public Service Interpreters applies to the

registered interpreters, and in **UK-Northern Ireland**, interpreters are bound by their agency's Code of Practice and by Terms of Reference agreed between the Northern Ireland Court Service and the interpreting agency.

Several states or entities require the interpreters to pass an exam in order to evaluate and ascertain their skills (**Bosnia and Herzegovina, Croatia, Poland, San Marino, UK-Northern Ireland**). Often a certain level of experience is necessary (**Austria, Slovakia**). It is also common to require high level of confidentiality and clear interpretation (**Albania, Estonia**). Those criteria are sometimes combined in order to achieve a higher quality of interpretation.

15.3 Selection of court interpreters by the courts

Courts are often responsible (30 states or entities) for the selection of court interpreters. The nature of the participation of the court may vary. In some countries, the court is competent for the recruitment and appointment of court interpreters in some other countries, the court is competent to select a court interpreter in a given proceeding.

Table 15.6 Selection of court interpreters by the courts (Q181)

Recruitment and appointment of court interpreters by the courts	Selection of a court interpreter by the courts in a given proceeding
Austria	Austria
Bosnia and Herzegovina	Belgium
Croatia	Bosnia and Herzegovina
Czech Republic (if vested by the Minister of Justice)	Croatia
France	Cyprus (in criminal cases)
Latvia (Supreme Court for its own interpreters)	Denmark
Poland	France
UK-England and Wales (courts may refuse interpreters)	Latvia
	Malta
	Montenegro
	Netherlands
	Slovakia
	Slovenia
	Switzerland (in 15 cantons)
	UK-Scotland

The 14 states or entities that do not bestow the courts with the responsibility of selecting court interpreters are: **Andorra, Azerbaijan, Cyprus, Hungary, Iceland, Luxembourg, Moldova, San Marino, Serbia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia"** and **UK-Northern Ireland**. In most of these countries, the Ministry of Justice is responsible for the selection of court interpreters. In **Ireland**, the Court Service has a contract with a private company to provide interpreters. In **Sweden**, the National Police Board provides interpreting services on behalf of all governmental agencies, including the courts.

Frequently, certified court interpreters are appointed on an official list (**Austria, Croatia, France, Poland, Slovakia, Switzerland** in 8 cantons). Often this list is made public.

15.4 Trends and conclusions

The organisation of an efficient court interpretation system is part of a fair trial and a quality court system. The growing European concern is the promotion of efficient access to translation and interpretation and the quality of these services.

Chapter 16. Judicial Reforms

The quality of justice remains a priority for all member states of the Council of Europe. Numerous institutional and legislative reforms aiming to create a modern, accessible and efficient justice system have been undertaken by all member states that responded to question 182 (**Cyprus** and **Ireland** reserved). These changes are summarized below. They cover a diverse spectre of areas – (comprehensive) reform plans, courts and judges, public prosecution, management and working methods of the courts, reforms in civil, criminal and administrative law, judicial efficiency and cases backlogs, legal aid, mediation and other ADR, judicial training and schools and more.

For more details on these reforms we invite you to visit the country profiles and the states' answers to the Evaluation scheme on www.coe.int/cepej.

(COMPREHENSIVE) REFORM PLANS

AZERBAIJAN	Judicial Modernization Project (funded by the World Bank)
BOSNIA & HERZEGOVINA	Justice Sector Reform Strategy (2008-2012)
CROATIA	2008 Action plan of the judicial reform strategy Revised strategy of the judicial reform (by the end of 2010)
GEORGIA	On-going reforms to develop an independent judiciary
LATVIA	Judiciary Development Guidelines 2009-2015
LITHUANIA	Courts reorganization reform
LUXEMBOURG	2009 governmental programme for a modern, efficient and accessible justice
MONTENEGRO	Strategy of Reform of Judiciary 2007-2012 and Action Plan
RUSSIAN FEDERATION	Federal Target Programme "Development of Judicial System" for 2007-2011: enhancing the transparency and accessibility of the courts, raising of the citizens' trust in justice, wider use of mediation, better use of IT. Prolongation of the programme until 2012 under debate.
SAN MARINO	Reform of the judicial system (foreseen)
SERBIA	Reform of the judiciary: new judicial network, institutions and mechanisms
SPAIN	Strategic Plan for Modernization of the Justice System 2009-2012
FYROMACEDONIA	Strategy for reform of the judicial system" and Action Plan Council for Monitoring the Reforms established
TURKEY	Judicial Reform Strategy and Action Plan 2009
UK-NORTHERN IRELAND	Devolution of justice under way

INDEPENDENCE AND TRANSPARENCY

CROATIA	Introduction of objective and transparent criteria for admission and promotion of judicial professions
GREECE	Measures to strengthen the independence of the judiciary
LATVIA	Single visitor service system in district (city) and regional courts
LUXEMBOURG	New information and press service (under way)
MALTA	Code of Ethics (approved)
MOLDOVA	Change in the Law regarding the assessment of citizens' petitions on issues of judicial ethics.
MONTENEGRO	Strengthening transparency of work of judicial bodies (under way) Establishment of department of court practice in the Supreme Court. Code of Judicial Ethics (adopted)
SERBIA	Law on the Protection of Personal Data (passed on 23.10.2008)
TURKEY	Draft Law on Data Protection Code of Ethics for judiciary members (foreseen) Raising awareness of media professionals on impartiality Standard interpretation services (foreseen)

COURTS AND JUDGES

A. POWERS AND ORGANISATION	
ALBANIA	Change in the role of the court chancellor (under way) Draft law on National Judicial Conference (High Council of Justice election)
BELGIUM	Reorganisation of the districts of the courts (at the political level)

BULGARIA	Decree for the indicators and the order for attestation of judges, prosecutors, investigators, administrative heads and deputies of administrative heads (adopted)
CROATIA	Amendment of the Law on Courts (end of 2010)
DENMARK	2007 Court reform
FRANCE	Reform of the judicial organization at first instance (under way)
ITALY	Separation of careers between judges and prosecutors (under way)
IRELAND	Draft legislation on establishment of Judicial Council and of Judicial Conduct committee published Separate case progression regimes introduced in Circuit Court for family law cases and civil cases other than family law Legislation introduced enabling establishment of a combined court office model permitting a single cross-jurisdictional administrative support arrangement
LITHUANIA	Courts reorganization reform (balance workload, etc)
MOLDOVA	Change in Law on the status of judges and Law on the disciplinary board
MONACO	New laws on the legal system (under discussion), on legal assistance (under discussion), on the status of the Judiciary (passed)
MONTENEGRO	Amendments to the Laws on Courts (Constitutional Court, competencies etc) Rulebook on organisation and job classification in courts (adopted); High Courts: creation of two specialised departments (organised crime, etc)
RUSSIAN FEDERATION	Federal constitutional law "On the disciplinary judicial presence" (November 2009, in force since 10 March 2010), introducing a specialized judicial body authorized to review the decisions of the bodies of judicial community on the early termination of the judge's powers for committing a disciplinary offence
FYROMACEDONIA	Setting up of new bodies: Court Council, Council of Public Prosecutors, Academy for Training of Judges and Public Prosecutors, Administrative court, Appellate court Gostivar, High Public Prosecution Office Gostivar, Department for organised crime and corruption in Basic Court Skopje 1, Basic Public Prosecution for organised crime and corruption, Agency for management of confiscated property, Department for trial in reasonable time within the Supreme Court
SLOVENIA	Change in Courts Act (from 01.01.2010): creation of a specialized department (organized and economic crime), etc
TURKEY	Change in Laws on Courts (Cassation, military, high courts) Strengthen capacity of the Forensic Medicine Institution Complete the National Judicial Network Project
UK-NORTHERN IRELAND	Devolution of justice (under way) More civil cases to be heard at local venues (foreseen)
B. STRUCTURAL MODIFICATIONS	
ALBANIA	Projet de loi sur la justice administrative (en cours d'adoption).
ARMENIA	Specialised courts are abolished (from 01.05.2009)
AZERBAIJAN	Functional administrative courts (2010)
BOSNIA AND HERZEGOVINA	Specialized commercial courts established on 1 May 2010 in Republika Srpska.
CROATIA	Reduction of the number of courts: municipal courts reduced from 108 to 67; misdemeanour courts reduced from 114 to 63; county courts reduced from 21 to 15; commercial courts reduced from 13 to 8 New organization of administrative courts: administrative courts for the territory of one or several counties (Zagreb, Split, Rijeka and Osijek) and the High Administrative Court Number of municipal state attorney offices has been functionally reduced from 71 to 55
BELGIUM	Merged entire districts, without touching existing internal boundaries
DENMARK	Reduced district courts from 82 to 24 (in 2007)
ESTONIA	Separated whole court system from executive power
FINLAND	Reduced of the number of district courts from 51 to 27 (2010) Developing Court of Appeal and Administrative Court networks (foreseen)
ICELAND	8 district courts replaced by single district court for entire country (2010). Temporary increase of judges by 5 (until 01.01.2013)

LUXEMBOURG	Creation of the office of a Family Affairs judge (foreseen)
MALTA	Study of the right number of Judges and Magistrates needed in the Judiciary
MOLDOVA	Liquidation of economic and military jurisdictions (to be approved)
MONACO	Creation of the office of custodial judge (25.12.2007)
MONTENEGRO	Reformed organisation of the prosecutor's office Analysis of the existing network of courts (under way)
NETHERLANDS	Reorganisation of courts
PORTUGAL	Gradual implementation of the judicial map
SERBIA	New judicial institutions (Supreme Court of Cassation, Appellate Courts, Administrative Court) Restructuration of court network
SLOVAKIA	Military courts abolished (from 01.04.2009)
SPAIN	Increased of judicial units, posts for judges, prosecutors and Rechtspfleger
SWITZERLAND	Judicial districts or courts, namely administrative courts, brought together in some cantons (VD, GR) and foreseen in other cantons (GE, GR, NE, SG, ZH)
FYROMACEDONIA	New fully established, finalized and functional Administrative Court, Appellate Court Gostivar, Court Department for organized crime and corruption Agency for Management of Confiscated Property
TURKEY	Restructured the Constitutional Court Functional Courts of Appeal in civil, criminal and administrative jurisdiction Establishment of a Union of Judges and Prosecutors Strengthen awareness on independence and impartiality of judiciary Increase quantity of judges, public prosecutors and judicial staff Geographic reorganisation of courthouses to balance the workload Establish and make operational Courts of Appeal in administrative, civil and criminal judiciary
UK-NORTHERN IRELAND	Geographical jurisdiction of courts (under consideration)
UK-SCOTLAND	Appointment of District judges A specialist personal injury court established
UK-ENGLAND & WALES	32 Tribunals in the Tribunal Service - more will join in 2010

PUBLIC PROSECUTION

AUSTRIA	Preliminary procedure led by the public prosecutor (instead of the investigational judge) working closer with the police
FRANCE	Establishment of a true separation between the investigating authority and the duty of supervising the inquiry Right to challenge the actions or inaction of public prosecutors
GEORGIA	Expansion of community prosecution (foreseen)
MONTENEGRO	New competencies and powers to the Prosecutorial Council Number of deputies of the Special Prosecutor has increased
POLAND	Separation of Minister of Justice and Prosecutor General (under way)
SERBIA	Creation of the State Prosecutorial Council
FYROMACEDONIA	More active role of the public prosecutor in preliminary criminal procedures and investigations. New fully established, finalized and functional Council of Public Prosecutors, Basic Public Prosecution Office for Organized Crime and Corruption, Higher Public prosecutor's office Gostivar

JUDICIAL COUNCILS

CROATIA	Following the Constitutional amendments, amendment of the Draft Law on State Judicial Council and Law on amendments to the State Attorney's Act (selection of judges and public prosecutors)
FRANCE	Change in composition of High Council of Judiciary (under way)
ICELAND	Role of Judicial Council extended to become a central administrative unit
LATVIA	Establishment of the Judicial Council (foreseen)
LUXEMBOURG	Creation of the National Judiciary Council (under way)
MOLDOVA	Transfer of Judicial Administration to the High Council of Judiciary
MONTENEGRO	New role for an autonomous and independent Judicial council

SERBIA	Creation of the High Judicial Council, and the State Prosecutorial Council
SLOVENIA	Extension of competences of the Judicial Council
FYROMACEDONIA	Judicial Council fully established, finalized and functional
TURKEY	High Council of Judges and Prosecutors represents the whole judicial system Reorganised Secretariat of the High Council and inspection system Revised promotion system for judges and prosecutors

MANAGEMENT AND WORKING METHODS OF COURTS

ALBANIA	Draft law on court administration staff (remains to be approved) and ethics
ANDORRA	Work on a legislative framework for the judicial career
ARMENIA	Change in Judicial Code to allow appointments of judges from one court instance to another
AUSTRIA	New system of calculating the input of personnel needed to handle the judicial workload ("PAR"-project) Improved quality and service level of the judiciary Established Service Centres at some pilot courts
BELGIUM	Reform on a more autonomous court management New management entities at local level and common management service at central level (at the political level) Creation of a college of courts and tribunals representing the courts, taking part in management (at the political level)
CROATIA	Adjustment of the legislative framework in order to relief judges from non-judicial tasks
FRANCE	New management of human resources within the judiciary
LATVIA	Strengthened judges' wages and social security principles (foreseen)
PORTUGAL	Development of management tools Central courts to deal with issues with a high level of specialisation
ROMANIA	Transfer of administrative tasks from judge to clerk (under way) Institution of court manager (under way)
SERBIA	Evaluation of the work of judges will now be done by judges themselves Election procedure for judicial posts is regulated in a new way
SLOVENIA	Institution of Director of the court Justice administration for local courts held by district courts
SPAIN	Creation of the new judicial office with common services for procedural management (case-management, service of documents, enforcement) Better use is made of highly skilled professionals like Secretarios Judiciales (Rechtspfleger) to whom tasks and responsibilities in the direction of the new office are attributed
TURKEY	Improved court management system to transfer these duties to a professional administrative staff (under way) Reduced administrative and financial duties and responsibilities of judges and public prosecutors Prescription of duties and working standards of judicial professionals

INFORMATION TECHNOLOGIES

AZERBAIJAN	Creation of automated case and document management system in courts, judicial institutions and the judicial council
BOSNIA AND HERZEGOVINA	Case management system introduced in all courts and prosecution offices Judicial Web portal, including module "Online access to court case management", implemented Registry of fines introduced in all courts, police stations, inspections and tax administrations
CROATIA	Networking of Ministry of Justice and courts in a single IT judicial system (2009). ICMS (e-file) introduced in 50 courts (11 commercial, 27 municipal courts and permanent offices and 12 county courts) CTS introduced in 4 pilot state attorney offices (Zagreb, Zlatar, Karlovac and Pula). JCMS introduced in all misdemeanour courts Overall implementation of prison IT system
CZECH REPUBLIC	All registers computerised (under way)

	Computerised service of summons for public and legal entities
ESTONIA	Implementation of "E-file" system in police, Prosecutor's Office and courts
GEORGIA	Established computerised case management system (foreseen)
GREECE	Setting up of a database recording judicial decisions
ITALY	Increased use of "electronic notifications" to parties and dematerialization of paper documentation (under way)
LATVIA	Implementation of sound recording and video conferencing equipment in administrative, civil and criminal proceedings Development of standardized electronic procedural documentation
LITHUANIA	Audio recording of all court proceedings (from 01.07.2010)
LUXEMBOURG	Setting up of an information and press service and use of interactive communication means between the courts and the users (under way)
MONTENEGRO	Implementation of Judicial Information System (PRIS) (under way)
NORWAY	Video conference tested in pilot courts. Proposal to regulate the use of video conferences on a permanent basis
POLAND	"E-court" - fully digitalized and paperless civil procedures for small claims (2010) Deprivation of liberty executed by electronic monitoring means
PORTUGAL	Broadband internet access for courts and provision of more reliable, useful and safer computer applications Consolidation, strengthening and expansion of the computer applications available to justice's agents
RUSSIAN FEDERATION	Federal law "On the provision of access to information about the courts' activities" (December 2008, in force since 1 July 2010, aimed at enhancing the transparency and accessibility of the courts to the public (courts are obliged to publish all their judgments on their websites, with a few exceptions; court users can obtain information about the progress of both their own cases and the cases of other applicants through Internet)
SERBIA	Automated case management systems introduced in 16 commercial courts and training of users of such programmes in general jurisdiction courts
SPAIN	New Integrated System of Administrative records (2010) New centralized case information system for the General Prosecution Office Improvement of Lexnet, IT system that facilitates communications between judicial authorities and legal actors that interact with them Civil Register of Services available to citizens
SWEDEN	Video-conferences/recording made available in courts, unless inappropriate
FYROMACEDONIA	Introduction of automated court management information system
TURKEY	Opening web sites of courthouses, E-filing, Use of electronic signature

FINANCING JUSTICE AND COURTHOUSES

AZERBAIJAN	New court houses built according to international standards
CZECH REPUBLIC	Financing of the judicial system is being debated
GEORGIA	Reconstruction of court buildings and equipment with modern technologies Installation of special recording system of the court hearings
LATVIA	Development of standards for court buildings, security requirements, etc.
MOLDOVA	Plan for financing the judicial system passed on 18.03.2010
MONTENEGRO	Premises and technical equipment provided for Judicial Council Action Plan for construction, reconstruction and adaptation of buildings of judicial bodies
NETHERLANDS	Financial crisis will influence judiciary systems
SERBIA	Implementation of an independent judicial budget Improvement of security conditions and equipment
SPAIN	Budgetary increases have been steadily maintained
SWITZERLAND	Introduction of a global budget for justice in the canton of Solothurn and planned in the canton of Bern (2011); in Solothurn, the counterpart of the increased financial independence is a service contract containing such targets regarding time processing business
FYROMACEDONIA	Improved court budget management
TURKEY	Improved physical capacity of courthouses

REFORMS OF CIVIL, CRIMINAL, ADMINISTRATIVE LAWS – INTERNATIONAL CONVENTIONS

ANDORRA	Introduction of urgent applications and payment orders
ARMENIA	Right to trial and principle of revision by higher instances (from 01.01.2009) Amendment to the Administrative Procedure Code (April 2009)
AUSTRIA	Reform of criminal procedure (foreseen)
BOSNIA & HERZEGOVINA	Change in legislation regulating court proceedings (civil and enforcement)
BULGARIA	New Family Code (from 01.10.2009) New Civil Procedure Code (from 01.03.2008)
CROATIA	New Criminal code (end of 2010) Act on Rehabilitation and Criminal Database (draft underway) Act on amendments to the Civil Procedure Act (end of 2010)
CZECH REPUBLIC	New Criminal Code (from 01.01.2010) New Code of Criminal Procedure (under way) Law on Mutual Legal Assistance in Criminal matters/Extradition (under way)
FRANCE	Reform of Code of Criminal Procedure (under discussion) New law on the judgment and the application of sentences (foreseen). Reform of the 1945 Order on Juvenile Delinquency (under way)
GEORGIA	New Code of Criminal Procedure (from 01.10.2010)
HUNGARY	New Civil Code (from January 2011)
LUXEMBOURG	Change in Family law, Bankruptcy law and Corporate law (underway) Reform on plaintiffs' right to inspect the case-file (under way)
MALTA	Change in Code of Organization and Civil Procedure (under way)
MONACO	Change in Criminal Procedure Code (from 25.12.2007) Law on trade matters (passed on 08.01.2007) Change in Criminal Code (from 25.06.2008)
MOLDOVA	Amendments of the Civil and Criminal Procedure Codes (foreseen)
MONTENEGRO	New laws in criminal matters European Conventions ratified (human trafficking, terrorism, cybercrime, etc.) Code of Criminal Proceedings (passed)
NORWAY	New Penal Code / "Straffeloven" (into force in 2012) Appointment of a commission (June 2010) to produce a report on the Jury system in criminal cases
PORTUGAL	Reform of civil procedure
ROMANIA	Civil and Criminal Code (adopted in 2009) New codes of procedure (under discussion)
SERBIA	New Anti-Corruption Laws (namely on the Anti-Corruption Agency) European Conventions ratified (human trafficking, terrorism, cybercrime, etc) Different reforms on juvenile delinquency Change in Criminal Law Change in Law on Criminal Proceedings
SPAIN	Promotion of individual rights before justice administration (foreseen)
SWEDEN	Reform on "More modern court proceedings" (into force 01.11.2008)
SWITZERLAND	Replacement of the 27 codes of civil procedure and criminal codes unified it by two: one for civil procedure and the other for criminal proceedings Removal of investigation judges: their tasks are transferred to the prosecutors In all procedures the cantons are obliged to provide at least two instances before a case can be brought before the Supreme Court (Federal Court)
FYROMACEDONIA	Codification of civil law (under preparation) Reform of the civil procedure Reform of the criminal procedure Reform of criminal legislation (foreseen) Reform of the system of juvenile justice (foreseen)
TURKEY	Change in commercial, trade, banking, obligations and criminal laws Change in laws on procedures (civil, administrative, military) Draft Law on the Organization of the Ministry of Justice
UK-SCOTLAND	Reforms of criminal procedure, civil and administrative justice systems (2012) Criminal Justice and Licensing Bill (into force late 2010)
UK- ENGLAND & WALES	Rules to enable collective "class" actions

BACKLOG OF CASES AND EFFICIENCY

ALBANIA	Right of a party to complain against delays of proceedings (under way) Change in Civil Procedure Code to shorten duration of court proceedings
BOSNIA & HERZEGOVINA	Reduction of backlogs (under way) System of foreseeable timeframes in processing cases in courts Improved performance measurement system for judges and prosecutors
CROATIA	Drafting of the Action Plan for reduction of backlog (reduction of the number of cases older than 3 years) underway
ESTONIA	Participant to court proceedings may file a petition to accelerate the case
ITALY	Reducing the volume and duration of outstanding civil and criminal proceedings Introduction of filters for proceedings to reduce their admission to Supreme Court
LUXEMBOURG	Simplify and accelerate judicial proceedings without touching the quality of decisions (foreseen)
MALTA	Introduction of a pre-trial stage to accelerate the judicial process
MONTENEGRO	Law on Protection of the Right to Trial in Reasonable Time (passed) Reduction of the backlog from previous years of about 67% Priority processing of cases on corruption and organised crime
POLAND	Improved efficiency of speedy "24-hour" court in criminal, petty offences etc.
ROMANIA	Creation of remedies to accelerate judicial proceedings (foreseen) Grant of compensations for material and moral prejudices Determination of optimum volume of activity for judges (under way)
RUSSIAN FEDERATION	Federal law "On the compensation for the violation of the right to trial within reasonable time and the right to execution of judicial acts within reasonable time" (April 2010, in force since 4 May 2010), providing for a mechanism of compensation: citizens can apply to a court for a compensation if they find that criminal investigation, civil or criminal court proceedings or execution of a judicial act has lasted unreasonably long
SWEDEN	More flexible rules and more responsibility for the parties Requirements to draw up time plans in civil cases
TURKEY	Cooperation with Bar Association to increase efficiency of the defence

COURT FEES

ITALY	Review of administration of justice costs (from 06.2009)
LUXEMBOURG	Reduction of court fees (foreseen)
SERBIA	Change in Law on Court Fees

LEGAL AID

BOSNIA & HERZEGOVINA	Change in free legal aid legislation
CROATIA	Value of the point for rendering free legal aid increased for 50% and application form for uses simplified (2010)
ESTONIA	Introduction of new legal aid system (2010)
LUXEMBOURG	Revision of requirements to benefit from legal aid
MONTENEGRO	Draft Law on Free Legal Aid (under way)
NORWAY	White paper on the civil legal aid scheme (2008-2009); pilot projects on a Legal Aid front line service initiated in 2010
FYROMACEDONIA	Law on legal aid adopted
SPAIN	Improved legal aid system (foreseen)
TURKEY	Revision of legal aid system (under way)
UK-NORTHERN IRELAND	Revised priorities in legal aid legislation (under way)
UK-ENGLAND & WALES	Revised priorities in legal aid legislation (under way)

VICTIMS' AND WITNESSES' RIGHTS

CROATIA	Sector for witnesses' and victims' support became a part of Directorate for Probation within the Ministry of Justice; network of 7 offices to be established for
----------------	--

	the purpose of witnesses and victims protection (4 already established)
GEORGIA	Victim assistance Units
LUXEMBOURG	Reinforcement of victims and witnesses rights
MONTENEGRO	European Convention on the Compensation of Victims of Violent Crimes (ratified)
NORWAY	Setting up of a nationwide network of children's shelters, including new methods of questioning and medical examination
SPAIN	Improved protection and assistance to victims
FYROMACEDONIA	Fund for victims to be set up within the framework of the new law on criminal procedure

CRIME AND PENITENTIARY SYSTEM

CROATIA	Setting up of the Probation Directorate within the Ministry of Justice and of 5 probation offices (2009); legislation and Action Plan for the Development of Probation Service 2011-2015 to be adopted Construction of a new building for the penitentiary in Glina to accommodate 420 inmates and adaptation of facilities for 37 persons in Varaždin; additional premises to be built for the prisons in Zagreb and in Šibenik; special departments refurbished to accommodate elderly and disabled inmates in Lepoglava, Lipovica-Popovača and Valtura
FRANCE	Modernization of the custody system (foreseen)
GEORGIA	General Crime Survey (GCS)
MONTENEGRO	Normative and institutional reform of the imprisonment system Improvement of prison standards
SWEDEN	New Prison Act on efficient and humane prison service (from 01.01.2011)
FYROMACEDONIA	Reform of the penitentiary system
TURKEY	Draft Law on External Security Services on Penitentiary Institutions Improved penitentiary system
UK-NORTHERN IRELAND	Better information about the offender's means to the court of deciding on the suitability of a fine

ENFORCEMENT

ANDORRA	Creation of the office of the court bailiff for civil enforcement
CROATIA	Introduction of public bailiffs system (under way), including a new Enforcement Act and Public Bailiffs Act
ESTONIA	New self-governing bodies of bailiffs and interim trustees
MALTA	Change in law to facilitate enforcement of executive titles
MOLDOVA	Institution of private bailiffs, guarantee of easy access to bailiff services
MONTENEGRO	Law on Enforcement procedure (under way)
PORTUGAL	Simplification of civil enforcement action (introduction of procedural celerity devises)
SERBIA	Change in the Law on the Execution of Penal Sanctions (under way) Draft Law on the Execution of Prison Sentences for Organized Crime Cases
SWEDEN	1981 Enforcement Code is in need of a general overhaul Standardised and less complex rules regarding attachment of salary Modernization of the rules pertaining to enforced sales (foreseen)
FYROMACEDONIA	Enforcement agents introduced
TURKEY	Draft Law on the Enforcement and the Implementation of Commercial Code Enhancing efficiency of civil enforcement and bankruptcy system

MEDIATION AND OTHER ADR

ANDORRA	Implementation of mediation
CROATIA	Measures taken to strengthening mediation. Drafting of a new Mediation Act
ESTONIA	Law on Mediation (from 01.01.2010). Mediators can be lawyers, notaries or natural persons both sides agree upon
ITALY	Reinforcement of ADR methods which are often made mandatory
LATVIA	Introduction of mediation in civil dispute resolution system
LUXEMBOURG	Development of mediation in all areas, including prisons (foreseen)
MONTENEGRO	Establishment and operation of the Centre for Mediation, non profit institution

	Adoption of the Ethical Code of Work of Mediators
PORTUGAL	New law on Arbitration which may facilitate and encourage ADR
RUSSIAN FEDERATION	Federal law "On the alternative procedure for dispute resolution with the participation of a facilitator (mediation procedure)" (July 2010, into force on 1 January 2011), promoting non-litigious resolution of disputes arising from civil, employment, family and commercial relations
SLOVENIA	Obligation of all first instance courts and courts of appeal to offer ADR
SPAIN	Development of new mechanisms for ADR
SWITZERLAND	In a half-canton (Nidwalden), removal of judges of the peace, replaced by a centralized conciliation
FYROMACEDONIA	Law on mediation adopted and mediators appointed
TURKEY	Improvement of ADR mechanisms

INTERNATIONAL AND REGIONAL JUDICIAL COOPERATION

CROATIA	The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters of 18 March 1970 entered into force (November 2009) Convention of 25 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children entered into force (January 2010) Agreement on Co-operation between the Republic of Croatia and EUROJUST entered in force (June 2009) Act on Judicial Cooperation in Criminal Matters with Member States of the European Union (underway) Agreement on the mutual enforcement of judgments in criminal matters with Bosnia and Herzegovina amended (February 2010); Agreement on Extradition between Croatia and Serbia signed (June 2010)
MONTENEGRO	Law on Cooperation with the International Criminal Court (passed)
SERBIA	Draft Law on Cooperation with ICJ
FYROMACEDONIA	Draft law on cooperation in criminal matters under parliamentary procedure

JUDICIAL SCHOOLS AND TRAINING

AZERBAIJAN	Activity, structure and curricula of the Justice Academy (improved)
CROATIA	State School for Judicial Officials effective (October 2010).
FRANCE	Reform of the National School of Magistrature
GREECE	Improved education of new agents, judges and prosecutors.
LUXEMBOURG	Training programs for court members will be extended Awareness programs for judges on sensitive situations
MONTENEGRO	Improved education for agents of the administration of justice function
POLAND	Unification of training for legal professions Functional National School for Judges and prosecutors
FYORMACEDONIA	Academy for Training of Judges and Public Prosecutors (established)
TURKEY	Increased efficiency of law education Change in structure of Turkish Justice Academy (foreseen) Foreign language training for judicial staff Translation of the ECtHR case law and other international documents

LAWYERS

MOLDOVA	Change in the law on the organization of the lawyers' profession.
TURKEY	Restructuring the positions of counsellors, government and treasury lawyers
UK-SCOTLAND	Solicitors allowed to secure external investment and business expertise

NOTARIES

MONTENEGRO	Established notary service (under way), change in Notarial examination
TURKEY	Change in the Law on Notaries (new criteria for setting up notaries)

Chapter 17. Towards more efficiency and quality in the European judicial systems

The series of judicial data between 2004 and 2008 show, after analysis, that the European judicial landscape has evolved. The CEPEJ has tried, on the basis of statistical data and qualitative information which appear in this report, to describe this landscape and its main trends.

The Commission was created in 2002 with the aim of improving the efficiency and quality of justice in the European member states or entities of the Council of Europe. Key areas of interest include the protection of the independence of judges and the statute and role of legal professionals, the safeguard of the principles of a fair trial within a reasonable time, the promotion and protection of access to justice, efficient and effective court organisations, adequate judicial proceedings adapted to the needs and expectations of the society as well as the development of the public service of justice aimed at court users.

Looking at these key areas and confronting them with the facts and figures addressed in this report, it is possible to draw some conclusions and highlight main trends for the European judicial systems. It is understood that these various issues deserve to be further studied, within the framework of an in-depth analysis that the CEPEJ will carry out in a second phase of this evaluation process.

17.1 Access to justice

Member states or entities must take measures to remove financial barriers for citizens who do not have sufficient means to initiate a judicial proceeding. In practice this implies the introduction of a system of **legal aid**. In all member states or entities, systems of legal aid are made available, at least in criminal matters, in the form of legal representation or legal advice. The European trend, which is being confirmed, is to go beyond this requirement and offer legal aid for non criminal cases too. Budgets for legal aid in Europe are generally increasing (+ 23% between 2004 and 2008). The amount of legal aid per case that is made available by the state or entity varies in Europe from a small contribution (7 € per case) to a high one (3.742 € per case). Equally, the number of cases that are granted with legal aid varies among member states or entities. Some states have chosen to allocate high amounts of money to a limited number of cases, whereas other states have made the opposite choice. A limited number of states are generous both as regards the amounts allocated per case and the volume of cases concerned. It is worth mentioning that five states apply, in addition to their legal aid system, the principle of free access to courts. Several states of Central and Eastern Europe which did not have legal aid systems a few years ago are strongly involved in developing such systems, which is an encouraging trend since the last evaluation exercise.

Legal aid may be used to pay (partly or as a whole) the costs for hiring a lawyer. In certain states or entities, lawyers may provide their services for free as part of the legal aid system - *pro bono* system. Legal aid may also be needed in situations where the parties have to pay a court tax or court fees (see below) - it is common in Europe for litigants to pay court fees/tax for initiating a proceeding before the court; in a limited number of states or entities this is even necessary for certain criminal law cases (compensation procedures for victims of crime and their families).

Access to justice is not only limited to financial resources, but is also related to the time that is needed to meet a judge (geographical access to justice). Considering the evolution of the number of first instance courts in Europe, it is difficult to perceive a strong trend as regards the **organisation of the judicial map**. While a majority of states have not modified their court organisation between 2004 – 2008, some of them have decreased the number of courts and other have increased this number. Among those states which are modifying their judicial maps, the main trend for court organisation in Western and Northern European states or entities would be rather in favour of limiting the number of courts, mainly for budgetary reasons, but sometimes also for seeking more efficiency and / or increasing the court competences. On the contrary, the main trend in the Eastern European states, which are embarked on major judicial reforms, goes towards an increase in the number of courts: access to the court for the highest number of users is then promoted.

The consequences regarding proximity and the geographical access to court may be partly compensated by other measures. One of the concrete examples is the use of **Information and Communication Technology (ICT)** for this purpose. The development of e-justice and e-courts is a

strong trend, and states that were late in the previous surveys have recently invested in ICT. Recent and ongoing reforms can be noted in many states or entities in fields such as electronic registers, databases for judicial decisions, electronic court files and electronic signature or case management systems. Reforms have a clearly visible impact on the improvement of computer equipment used for the direct assistance of judges and court clerk as well as for a better communication between the court and parties. It is foreseeable that ICT will keep being used in the judicial systems in order to increase effectiveness and quality. New interesting solutions will be implemented, such as the development of video-conferencing, the possibility of making use of electronic (registration) forms and electronic exchange of documents between litigants, lawyers and courts, or the recovery procedure for uncontested claims through the Internet. As long as the judicial debate can always take place and that the rights of defense are safeguarded, the development of e-justice may have a positive effect on access to justice; it should contribute to reduce backlogs and to shorten court proceedings – or at least to improve their *foreseeability*.

Lawyers have an essential role in guaranteeing access to justice. The number of lawyers (as defined by the Council of Europe) has increased in Europe between 2004 and 2008 in all the member states or entities - it will be interesting to observe if this trend continues despite the financial and economic crisis. However, the number of lawyers varies between the various parts of the continent, according also to functions which are more or less wide, beyond the legal representation before courts. The states of Southern Europe have the highest ratio of lawyers per inhabitant; the level of judicialisation of the society in such states is usually higher than in the states of Northern Europe. This report does not have the means to establish a direct link between the number of lawyers and the volume and lengths of proceedings, but it might be interesting to further analyse the information available and see whether the number of lawyers and their role vis-à-vis the development of judicial proceedings, reported to the role of the judges, have or not a relevant impact on the court workload and the length of proceedings.

The sole presence of sufficiently numerous lawyers is not a guarantee by itself of the effective protection of citizens' rights. The profession needs to be regulated by an appropriate organisation entrusted with rules of ethics. While it is difficult to present a full panorama of all the duties and obligations that lawyers have in each country, one can assert that the trend to a better organisation of the profession and an improvement in the training of lawyers is a progress.

Access to justice may also be facilitated thanks to the promotion of **alternative dispute resolution** (ADR). They contribute to limiting the need to bring issues before a court and to involving professionals other than judges. From the 2008 data, it can be inferred that mediation (recommended, carried out or approved by justice) is a growing field in Europe: more and more states or entities are introducing mediation and the number of accredited mediators is growing. Mediation is successfully applied in many states or entities especially in the field of family law (divorce cases), commercial disputes and criminal law (compensation procedures for victims). An increasing number of states or entities grant legal aid for initiating a mediation procedure. However it must be noted that other kinds of ADR, such as arbitration and conciliation, are widely used in some member states or entities.

With respect to the protection of access to justice, special attention is given to **vulnerable persons**. Victims of rape, children, and juvenile offenders are the categories which are the best protected in judicial proceedings. This is done mostly by providing these categories with special hearing facilities, special procedural rights or support in terms of a specific supply of information adapted to their needs. To a much lesser extent, disabled persons or minorities receive support in particular thanks to special hearing facilities.

The role of public prosecutors in assisting **victims** of crimes becomes increasingly important in Europe (34 states or entities, which is 6 more than in 2006). A majority of states or entities also have a compensation procedure for victims of crime. Often a public fund is set up for that reason. A judicial decision is usually necessary to obtain compensation.

17.2 Effective functioning of the judicial systems

The distribution of **responsibilities between the legislative, executive and judicial powers as regards the operation of justice** is arranged differently across the European states or entities. A majority of states or entities designate the Ministry of Justice as responsible for the management of the overall budget for the courts, the public prosecution and legal aid. In certain states or entities, this responsibility may be partly delegated to judicial authorities, such as the Council for the Judiciary or the Supreme Court. Some specialised courts may be funded by other ministries, for example a Ministry of Finance or a Ministry of Labour. With respect to the management of courts, it is first of all the court president, or a court (administrative) director who is responsible for the management of the financial resources at the court level.

Until 2008, the European trend was, in general, an increase in **budgets** for justice and, in particular, the judiciary. The development of the judicial system remains a priority for governments in Europe, even though large differences are noted among the member states or entities.

The budgets of the judicial systems have increased in most of the European states until 2008 - only 4 member states had experienced decreasing budgets. It is worth mentioning in particular the states that have more recently changed into a democratic system and implemented major structural reforms of their judicial systems. These states are often those that provide a consistent budgetary effort and dedicate for the operation of the systems an important public budget according to the country's level of wealth. For many of them, the funds from international organisations (including World Bank, IMF) or European institutions (mainly the European Union) contribute to this evolution. However, it will be interesting to follow-up the evolution of these budgetary efforts devoted to the courts, the prosecution system and legal aid in Europe, in order to assess the **effects of the financial and economic crisis of 2009 / 2010**. Looking at the first trend indicators, one can fear that, at the European level, the growth rate of justice budgets, like all public budgets, will slow down significantly and perhaps, the curve will invert as well.

Although it is not for the CEPEJ at this stage to define the proper level of financial resources to be allocated to the justice system, a correlation can be noted between the lack of performances and efficiency of some judicial systems and the weakness of their financial resources. However, the opposite is not always true: high financial resources do not always guarantee good performance and efficiency of judicial systems. Other elements must be considered here (efficient organisation of judicial system, relevance of the procedures, management of the human and financial resources, responsabilisation of the players in the judicial system, training, etc).

More than half of the member states or entities spend more resources in other areas of justice than the judicial system (e.g. prison system, protection of minors, etc.), while others direct public budgetary efforts mainly to court operation.

Within the framework of the budget allocated to the judicial system, the highest budgetary amounts are allocated to the salaries (70 % of the budget at the European level), apart from the states which rely in particular on non-professional judicial staff and hire a smaller number of judges, usually very experienced (they are generally *Common Law* states or entities, with the exception of Ireland). A larger budget is devoted to the prosecution system in states or entities where prosecutors have traditionally occupied a prominent position in the functioning of justice (namely the countries of Eastern Europe). A significant part of the budget (around 15 %) is allocated to premises. The part of the budget allocated in Europe to ICT in courts and e-justice (3 %) has not increased in volume since 2006, which can be explained by a decrease in the cost of materials and the writing off of the cost of infrastructures: ICT remains a priority field in which member states must be encouraged to invest in the coming years. The part of the budget allocated to judicial training (0,8%) still appears too weak, although the specific efforts made by the member states which have invested more recently in this field can be highlighted.

For a majority of European states, the **court fees** constitute significant financial resources, allowing some to cover a major part of the court operating costs, or even, for some of them, to generate a net profit which comes mainly from the resources attached to the handling of the business and land registries. Such a system, if accompanied by an effective legal aid system for enabling access to court to litigants who would not have proper means, is part of the current trend of public management aimed

at partly balancing the costs of public services between the users and the tax payers. However, in this regard, it is important to distinguish, on the one hand, fees to obtain information, make changes in land or commercial registries or other records, and, on the other hand, the costs of judicial proceedings themselves. Regarding this last aspect, it is important - to ensure the effectiveness of the right to access to justice – that the fees do not become an obstacle for citizens to initiate a judicial proceeding.

In general, the judicial systems of the member states of Central and Eastern Europe operate with a ratio of **judges** per inhabitant higher than in the states of Western Europe. A majority of European states or entities tend to have a stable number of judicial staff in the period 2004 - 2008, although structural or organisational reforms tend to reduce the proportion of permanent professional judges in some member states of the Council of Europe (Sweden, Switzerland, UK-Scotland), some of them having occasional judges. On the contrary, some member states in transition continue their reforms by increasing human resources devoted to the judicial function (Azerbaijan, Bosnia and Herzegovina, Armenia, Russian Federation, "the former Yugoslav Republic of Macedonia"). The influence of recent membership or application to the European Union may be an explanation for this trend of increasing numbers of judges (Bulgaria, Slovenia, Latvia, Turkey, Slovakia, Lithuania).

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

At a European level, the number of **public prosecutors** has not evolved significantly between 2004 and 2008. The highest number of public prosecutors per capita can be found in Central and Eastern European states. The tasks of public prosecutors differ a lot from one member state to another. The differences are particularly important in fields beyond the criminal law. In most of the member states the workload of the prosecutors is balanced: globally, prosecutors are able to cope with the volume of cases to be addressed.

Several Eastern European countries have increased considerably **judges' and prosecutors' salaries** since 2004, not only to make these professions more attractive but also to ensure (regarding judges) their impartiality and independence, prevent corruption and guarantee sufficient respect from society. However, differences can be noted between the levels of remuneration in both functions, most of the time in favour of judges.

Generally speaking, data on **non judge-staff in courts** are stable between 2004 and 2008. In most of the European states or entities, a majority of non-judge staff working in courts is entrusted with the direct assistance to judges. Major disparities between the states can be highlighted regarding the non-judge staff in courts. In 14 member states, non judge staff similar to *Rechtspfleger* is entrusted with quasi-judicial powers, which might influence the organisation of the judiciary.

17.3 Quality of the public service of justice delivered to the users

An increasing attention is paid in Europe to the needs and expectations of the **court users**. In a large majority of states or entities, courts produce annual reports and have monitoring systems to measure and manage case flows and the timeframes of proceedings. It has been noticed that **techniques and methods inspired by new public management and by case management** are increasingly implemented and imply the definition of quantified objectives and the evaluation of performances and, sometimes, of the way means are allocated to jurisdictions according to results. Performance and quality indicators are increasingly used. A very limited number of European states or entities carry out complete quality systems. Such models measure the satisfaction of the users, but also take into account other elements such as the management of courts, (personnel, financial and material) resources, access to law and justice, processes used in the courts, etc. This trend should further develop in the coming years.

The introduction and use of specific tools is being developed in Europe, although quite recent and still limited, to evaluate **court users' level of satisfaction or public confidence** in courts. The model survey and the methodological guide provided by the CEPEJ should facilitate future implementation of the surveys conducted among court users to improve the quality of the public service of justice.

In order to protect court users against **dysfunctions of the courts**, judicial systems may have implemented **compensation procedures**. In half of the member states, there is a compensation mechanism for excessively long proceedings, as well as for non-execution of court decisions (20 states or entities). Almost all the states or entities have provision for compensating individuals in cases of wrongful arrest or wrongful conviction.

For the time being, violations of Article 6 of the European Convention on Human Rights on **excessive duration of judicial proceedings** remain the first reason for the European Court of Human Rights to condemn European states. Member states continue their efforts towards a more detailed knowledge of the activity of their courts in monitoring compliance with fundamental principles as enshrined in the Convention and managing workflow and length of proceedings. A larger number of member states are able to collect the necessary data to analyse timeframes of judicial procedures. The CEPEJ encourages member states to continue on this path, following in particular the recommendations in the CEPEJ's "GOJUST Guidelines". A better understanding of the activity of the courts is indeed necessary to improve the performance of courts.

However, the quantity and the quality of the information available from the courts as regards case flow management and timeframes of judicial proceedings must be further improved. Today, it remains very difficult to compare the performance of the justice system from one state to another. In setting up its permanent European observatory of judicial timeframes, the CEPEJ's SATURN Centre should bring in the near future a better understanding of the problems related to lengths of proceedings.

From the information available at this stage of the evaluation process, the CEPEJ is able to draw first conclusions of the analysis of the two main indicators that have been set up: the **clearance rate** and the **disposition time**. The analysis of the data currently available can emphasize that first instance courts in Europe are generally better able to cope with the flows of criminal cases than civil cases. Subject to a more thorough analysis, the citizens seem to go to court more easily in the Central and Eastern European states, in South-Eastern European states and in Southern European states than in Northern European states and in the states of the Caucasus. The court activity varies between the states whether they have or not to address non-contentious civil cases (this is normally associated with the holding or not by the courts of land and commercial registers). The volume of such cases might also vary. Yet, in general, non-contentious matters which can increase the workload of courts, are rarely the cause of lack of effectiveness of jurisdictions.

The situations in the **management of cases** differ significantly between member states or entities. Having to handle a high volume of cases is not in itself an obstacle to the smooth functioning of the courts, some states or entities manage to handle relatively quickly significant volumes of cases. Some states or entities are able to absorb the flow of incoming cases and / or reduce the backlog, while others see backlogs of pending cases increasing. Between these two categories, it is worth underlining those states where the efficiency in addressing cases tends to decrease, although, at this stage, they are still able to cope with the flows of incoming cases. They should follow closely the evolution of the indicators that are currently flashing orange (points of vigilance). A special mention should be made for the improvement of the performance of the courts of several states in transition (including Georgia, Russian Federation) which current reforms and investment in the judiciary seem to lead to encouraging results.

For a limited number of states the **non-execution of judicial decisions** remains a significant problem, given the relatively high number of violations referring specifically to this issue. A solution may lie in the improvement of the execution mechanisms and the development of the role of the enforcement agents. In half of the member states, the enforcement agents are public officials, whereas in the other half of the states they are either private agents or have a mixed status. The 2008 data show that there is a large variety in the number and status of enforcement agents, often linked to the existence (or non existence) of a specific initial training (which now exists in two third of the European states) and/or a procedure for a final selection.

Many European states are undertaking **court reforms**. Courts are restructured, court locations have been changed and other working methods have been introduced, including for ensuring a better follow up of the court activity. It should result in an improvement of the efficiency and quality of judicial proceedings and a reduction of a number of cases received by the European Court of Human Rights.

17.4 Protection of the independence of the judiciary and the statute of judges and prosecutors

Recommendations from the Council of Europe insert as fundamental principles the protection and strengthening of the judges' independence (in particular Recommendation R(94)12 on the independence, efficiency and role of judges¹) and try to guarantee the statutory protection of prosecutors (Recommendation R(2000)19 on the role of public prosecution in the criminal justice system). These elements are mainly defined by recruitment mechanisms, training, promotion and financial remuneration.

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

The budget allocated to **training**, which is indispensable for improving the functioning of justice, is increasing significantly in several central and eastern European states. In most of the states or entities, an initial training for judges or prosecutors is mandatory and its duration can vary from several months to several years. General in-service training is often provided. To a lesser extent, a trend can be noted towards increasing training in the area of administration and management of courts and the field of computerization.

The **salaries** of judges and prosecutors must be in accordance with their status and their responsibilities. The European trend is to increase judges' and prosecutors' salaries at a significant level compared to the gross salary in the country, though large discrepancies can be noted between the states. It is possible that the financial and economic crisis has an impact on the salaries in several states or entities.

The aim of this Report is to present a detailed review of the public service of justice and to initiate an evaluation of its operation within the member states of the Council of Europe. Its final objective is to improve its performance to serve the interests of all citizens. For this purpose, the CEPEJ has been designing tools for analyzing and improving the court activities according to two priorities: efficiency and quality. This evaluation must fully take into account the specificity of this public service: the essential principle of the independence of the judiciary and the impartiality of judges, which are pillars to any state governed by the Rule of Law. It is only within this framework that policy-makers and judicial practitioners have the duty to work towards forever more efficiency and quality of their judicial systems, for the interests of 800 million Europeans.

¹ Which is being revised.

Appendices Additional tables

Table 1 (Chapter 2) Total annual budget of the justice system and budget allocated to the courts and public prosecution in 2008, in € (Q12, Q6, Q16)

Country	Total annual approved budget allocated to the whole justice system	Total annual approved budget allocated to all courts and public prosecution	Part (in %) of the courts and public prosecution budget in the whole justice system budget	Total annual approved budget allocated to the whole justice system per inhabitant	Total annual approved budget allocated to all courts and public prosecution per inhabitant
Albania	70 449 797	18 792 466	26.7	22.2	5.9
Andorra	NA	7 070 954	NA	NA	83.7
Armenia	14 622 030	16 233 932	NA	4.6	5.1
Austria	1 172 000 000	649 530 000	55.4	140.6	77.9
Azerbaijan	60 305 580	60 305 580		7.0	7.0
Belgium	1 610 500 000	789 953 000	49.1	151.0	74.1
Bosnia and Herzegovina	163 401 586	96 763 095	59.2	42.5	25.2
Bulgaria	217 141 452	188 370 545	86.8	28.4	24.7
Croatia	355 556 031	NA	NA	80.2	NA
Cyprus	47 965 235	NA	NA	60.2	NA
Czech Republic	514 118 167	364 173 444	70.8	49.3	34.9
Denmark	1 521 000	262 761 776	NA	NA	48.0
Estonia	118 251 762	45 274 664	38.3	88.2	33.8
Finland	748 428 000	295 183 310	39.4	141.2	55.7
France	6 497 010 000	3 377 700 000	52.0	101.6	52.8
Georgia	24 940 020	23 747 262	95.2	5.7	5.4
Greece	356 915 000	357 487 000	NA	31.8	31.9
Hungary	1 787 400 000	406 174 860	22.7	177.9	40.4
Iceland	19 008 821	7 545 881	39.7	59.5	23.6
Ireland	2 604 000 000	215 855 000	8.3	588.9	48.8
Italy	7 278 169 362	4 166 691 129	57.2	122.1	69.9
Latvia	170 263 394	71 166 916	41.8	75.0	31.3
Lithuania	105 584 000	103 584 283	98.1	31.4	30.8
Luxembourg	64 300 000	61 700 000	96.0	130.7	125.4
Malta	9 073 000	11 642 000	NA	21.9	28.1
Moldova	35 686 050	12 777 800	35.8	10.0	3.6
Monaco	8 547 100	6 117 000	71.6	274.8	196.7
Montenegro	37 358 769	24 624 223	65.9	60.2	39.7
Netherlands	5 825 626 000	1 460 111 000	25.1	355.1	89.0
Norway	2 160 796 000	174 527 043	8.1	456.1	36.8
Poland	2 428 891 000	1 537 691 000	63.3	63.7	40.3
Portugal	1 388 550 485	NA	NA	130.8	NA
Romania	769 595 000	541 321 522	70.3	35.7	25.1
Russian Federation*	2 406 286 197	3 252 304 836	NA	16.9	22.9
Serbia	332 713 073	NA	NA	45.3	NA
Slovakia	293 698 463	203 700 546	69.4	54.4	37.7
Slovenia	246 000 000	177 272 549	72.1	121.4	87.5
Spain	4 040 218 130	3 686 381 622	91.2	89.2	81.4
Sweden	3 033 863 752	528 126 744	17.4	330.4	57.5
Switzerland	1 384 887 814	1 020 894 702	73.7	179.8	132.6
FYROMacedonia	47 024 005	30 186 628	64.2	23.0	14.8
Turkey	1 288 654 751	736 932 152	57.2	18.0	10.3
Ukraine	NA	248 517 182	NA	NA	5.4
UK-England and Wales	4 032 116 766	2 208 517 016	54.8	74.1	40.6
UK-Northern Ireland	161 600 000	NA	NA	91.9	NA
UK-Scotland	1 785 097 305	281 240 889	15.8	345.4	54.4
Average			54.3	114.8	47.3
Median			57.2	74.1	37.7
Minimum			8.1	4.6	3.6
Maximum			98.1	588.9	196.7

*Russian Federation: the budget of the whole justice system in this table corresponds to the budget of the courts, therefore this figure is not used when calculating the part of the "courts and prosecution" budget.

Table 2 (Chapter 3: Access to justice)

Country	Criminal cases			Other than criminal cases		
	Representation in court	Legal advice	Other	Representation in court	Legal advice	Other
Albania	Yes	Yes	Yes	Yes	Yes	Yes
Andorra	Yes	Yes	No	Yes	Yes	No
Armenia	Yes	Yes	No	Yes	No	No
Austria	Yes	Yes	Yes	Yes	Yes	Yes
Azerbaijan	Yes	Yes	No	No	No	No
Belgium	Yes	Yes	Yes	Yes	Yes	Yes
Bosnia & Herzegovina	Yes	Yes	No	Yes	Yes	No
Bulgaria	Yes	Yes	Yes	Yes	Yes	Yes
Croatia	Yes	Yes	No	Yes	Yes	No
Cyprus	Yes	Yes	Yes	Yes	Yes	Yes
Czech Republic	Yes	Yes	No	Yes	Yes	No
Denmark	Yes	Yes	No	Yes	Yes	No
Estonia	Yes	Yes	Yes	Yes	Yes	Yes
Finland	Yes	Yes	No	Yes	Yes	No
France	Yes	Yes	Yes	Yes	Yes	Yes
Georgia	Yes	Yes	Yes	Yes	Yes	Yes
Greece	Yes	Yes	Yes	Yes	No	No
Hungary	Yes	Yes	Yes	Yes	Yes	Yes
Ireland	Yes	Yes	No	Yes	Yes	No
Italy	Yes	Yes	Yes	Yes	Yes	No
Latvia	Yes	Yes	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	No	Yes	Yes	Yes
Luxembourg	Yes	Yes	No	Yes	Yes	No
Malta	Yes	No	No	Yes	No	No
Moldova	Yes	Yes	Yes	Yes	No	No
Monaco	Yes	No	No	Yes	No	Yes
Montenegro	Yes	Yes	Yes	Yes	Yes	Yes
Netherlands	Yes	Yes	No	Yes	Yes	Yes
Norway	Yes	Yes	No	Yes	Yes	No
Poland	Yes	No	Yes	Yes	No	Yes
Portugal	Yes	Yes	Yes	Yes	Yes	Yes
Romania	Yes	Yes	Yes	Yes	Yes	Yes
Russian Federation	Yes	Yes	Yes	Yes	Yes	Yes
San Marino	Yes	No	No	Yes	No	No
Serbia	Yes	No	No	Yes	No	No
Slovakia	Yes	Yes	No	Yes	Yes	Yes
Slovenia	Yes	Yes	Yes	Yes	Yes	Yes
Spain	Yes	Yes	Yes	Yes	Yes	Yes
Sweden	Yes	No	Yes	Yes	Yes	Yes
Switzerland	Yes	No	Yes	Yes	No	Yes
FYROMacedonia	Yes	Yes	No	Yes	Yes	No
Turkey	Yes	Yes	No	Yes	Yes	Yes
Ukraine	Yes	Yes	Yes	No	No	No
UK-England & Wales	Yes	Yes	No	Yes	Yes	No
UK-Northern Ireland	Yes	Yes	No	Yes	Yes	No
UK-Scotland	Yes	Yes	No	Yes	Yes	No

Table 3 (Chapter 4) Official Internet sites/portals which the general public may have free access to Q31

Country	Legal texts (Codes, laws, regulations etc.)	Case-law of the higher court/s	Other documents (e.g. forms)
Albania	www.qpz.gov.al	www.gjykataelarte.gov.al www.gjk.gov.al	www.justice.gov.al www.kld.gov.al
Andorra	www.bopa.ad	www.justicia.ad	No
Armenia	www.arlis.am www.parliament.am www.gov.am	Yes: no special information on the sites concerned	www.court.am
Austria	www.ris.bka.gv.at	www.ris.bka.gv.at	www.justiz.gv.at
Azerbaijan	www.justice.gov.az www.e-qanun.gov.az	www.supremecourt.gov.az	No
Belgium	www.just.fgov.be www.juridat.be www.droitsdesvictimes.just.fgov.be	www.just.fgov.be www.juridat.be	www.just.fgov.be www.juridat.be www.droitsdesvictimes.just.fgov.be
Bosnia and Herzegovina	www.mpr.gov.ba/hr/str.asp?id=265 www.hjpc.ba/ www.fbihvlada.gov.ba/index.html www.vladars.net/lt/zakoni www.narodnaskupstinars.net/lat/zakoni/arhiva.php www.bdcentral.net/Members/skupstina/Zakoni/zakoni.html	www.ustavnisud.ba www.vsfbih.ba/index.php www.vrhovnisudrs.com/	No
Bulgaria	www.vss.justice.bg	www.vks.bg www.sac.government.bg	www.vss.justice.bg
Croatia	www.nn.hr (Official site of the Official Gazette of the Republic of Croatia, containing legislation currently in force) www.pravosudje.hr (official site of the Ministry of Justice)	www.vsrh.hr (official site of the Supreme Court of the Republic of Croatia) www.usud.hr (official site of the Constitutional Court of the Republic of Croatia) www.vtsrh.hr (official site of the High Commercial Court)	www.odvj-komora.hr (the Croatian Bar Association) http://sudreg.pravosudje.hr (on-line Company Register of the Republic of Croatia at the Commercial Courts) www.uhs.hr (official site of the Croatian Association of Judges) www.hjk.hr (official site of the Notary Public Chamber) www.hgk.hr (official site of the Croatian Chamber of Economy) www.pravo.hr (official site of the Faculty of Law) As of September 2009., on the official web site of the Ministry of Justice www.pravosudje.hr there is a link named "Victims of criminal offences – whom to contact for advices and assistance?". (list of courts where have been established the Offices for support to witnesses and victims as well as documents related to the implementation of the project "Assistance in the development of the system for support to witnesses and victims in the RC" which implemented the United Nations Development Program (UNDP) in the Republic of Croatia and the Ministry of Justice of the Republic of Croatia).
Cyprus	www.cygazette.com	www.supremecourt.gov.cy www.cylaw.com	No
Czech Republic	www.mvcr.cz	www.nsoud.cz	www.justice.cz
Denmark	www.retsinformation.dk	www.hoejesteret.dk www.vestrelandsret.dk www.oestrelandsret.dk	www.domstol.dk
Estonia	www.riigiteataja.ee/ert/ert.isp Translations: www.legaltext.ee	www.nc.ee/?id=11 Translations: www.nc.ee/?id=823	Case law: http://kola.just.ee/ and www.kohus.ee/kohtulahendid/index.aspx Practical information: www.just.ee/10171 Forms (in Estonian): www.kohus.ee/10294
Finland	www.finlex.fi www.edilex.fi	www.finlex.fi www.edilex.fi	www.oikeus.fi www.om.fi
France	www.courdecassation.fr www.conseil-etat.fr www.conseil-constitutionnel.fr www.legifrance.gouv.fr	www.courdecassation.fr www.conseil-etat.fr www.conseil-constitutionnel.fr www.legifrance.gouv.fr	www.service-public.fr www.justice.gouv.fr : accès à des formulaires (demande d'aide juridictionnelle, attestation de témoins) et à

Country	Legal texts (Codes, laws, regulations etc.)	Case-law of the higher court/s	Other documents (e.g. forms)
	www.journal-officiel.gouv.fr www.textes.justice.gouv.fr www.assemblee-nationale.fr www.senat.fr		des téléservices (demande en ligne d'un extrait du casier judiciaire, signalement d'un contenu en ligne à caractère pédophile, calcul de revalorisation des pensions alimentaires)
Georgia	www.laws.codexserver.com www.parliament.ge www.justice.gov.ge www.cra.gov.ge www.mof.gov.ge www.napr.gov.ge	www.supremecourt.ge www.constcourt.gov.ge	www.hcoj.gov.ge
Greece	Yes: no special information on the sites concerned	No	Yes: no special information on the sites concerned
Hungary	www.magyarorszag.hu www.irm.hu	www.birosag.hu www.lb.hu	www.irm.hu
Iceland	www.althingi.is www.stjornarrad.is	www.haestirettur.is	www.domstolar.is http://logbirtingablad.is
Ireland	www.Irishstatutebook.ie	www.courts.ie	www.courts.ie
Italy	www.normeinrete.it www.giustizia.it	www.giustizia-amministrativa.it www.cortecostituzionale.it www.cortedicassazione.it	http://webstat.giustizia.it/default.aspx (internal web site on statistics)
Latvia	www.likumi.lv www.mk.gov.lv www.saima.lv www.vestnesis.lv www.ttc.lv http://pro.nais.lv	www.tiesas.lv www.at.gov.lv www.satv.tiesa.gov.lv	www.legal.lv www.juridica.lv www.ta.gov.lv www.tm.gov.lv
Lithuania	www.lrs.lt	www.lrkt.lt www.lat.lt www.lvat.lt	www.teismai.lt www.tm.lt www.prokuraturos.lt
Luxembourg	www.legilux.lu	www.jurad.etat.lu	www.guichet.lu www.justice.public.lu
Malta	www.justice.gov.mt	www.justice.gov.mt	www.justice.gov.mt
Moldova	www.justice.md	www.csj.md	www.justice.gov.md www.csj.md
Monaco	www.legimonaco.mc	www.legimonaco.mc www.gouv.mc	www.gouv.mc
Montenegro	Parliament of Montenegro www.skupstina.me Government of Montenegro www.gov.me Ministry of Justice www.pravda.gov.me Official Gazette www.slrcg.co.me The Constitutional Court of Montenegro www.ustavnisudcg.co.me Courts of Montenegro www.sudovi.co.me The Administrative Court of Montenegro www.upravnisudcg.org The Supreme State Prosecution Office www.tuzilastvocg.co.me Bar Association of Montenegro www.advokatska.komora.me Centre for education of Agents of the Administration of Justice www.coscg.org	The Supreme Court of Montenegro www.vrhsudcg.gov.me The Higher Court in Podgorica www.visisudpg.gov.me The Higher Court in Bijelo Polje www.visisudbp.gov.me The Court of Appeal of Montenegro www.apelacionisudcg.gov.me The Administrative Court of Montenegro www.upravnisudcg.org	The Secretariat of The Judicial Council www.sudskisavjet.gov.me Ombudsman of Montenegro www.ombudsman.co.me Bar Association of Montenegro www.advokatska.komora.me Centre for Mediation www.posredovanje.me Centre for education of Agents of the Administration of Justice www.coscg.org Central Registry of The Commercial Court www.crps.co.me
Netherlands	http://wetten.overheid.nl/zoeken	www.rechtspraak.nl	www.rvr.org
Norway	www.lovdata.no		www.domstol.no www.regjeringen.no
Poland	www.sejm.gov.pl	www.sn.pl	www.ms.gov.pl
Portugal	www.dre.pt www.pgdlisboa.pt	www.dgsi.pt	www.citius.mj.pt

Country	Legal texts (Codes, laws, regulations etc.)	Case-law of the higher court/s	Other documents (e.g. forms)
	www.dgpi.mj.pt www.citius.mj.pt		
Romania	www.legislatie.just.ro www.csm1909.ro	www.sci.ro www.portal.just.ro/Jurisprudenta.aspx	www.csm1909.ro
Russian Federation	www.rg.ru (website of the "Rossiyskaya Gazeta" newspaper - the official source for the publication of legal texts in the Russian Federation) www.scli.ru (website of "Scientific Centre for Legal Information" - an institution of the Ministry of Justice of the Russian Federation that, among other things, maintains an online legal database) www.kremlin.ru (website of the President of the Russian Federation features, among other things, an online legal database) www.consultant.ru ("Consultant Plus" online legal database) www.garant.ru ("Garant" online legal database)	www.consultant.ru www.garant.ru www.ksrf.ru (the Constitutional Court of the Russian Federation) www.supcourt.ru (the Supreme Court of the Russian Federation) www.arbitr.ru (the Supreme Commercial Court of the Russian Federation)	www.consultant.ru www.garant.ru
San Marino	Yes: no special information on the sites concerned	No	No
Serbia	No	http://www.vrh.sud.rs/code/navigate.php?ld=563	No
Slovakia	http://jaspi.justice.gov.sk www.zbierka.sk	http://jaspi.justice.gov.sk www.supcourt.gov.sk	www.justice.gov.sk
Slovenia	http://zakonodaja.gov.si (Register of legal texts) http://dz-rs.si (General Assembly) http://mp.gov.si (Ministry of Justice) http://dt-rs.si (Supreme State Prosecutor's Office)	http://www.sodisce.si/znanje/sodna_praksa/iskalnik_po_bazah/	http://www.sodisce.si (Slovenian Courts)
Spain	www.boe.es www.justicia.es www.cgaes.es www.fiscal.es	www.poderjudicial.es www.tribunalconstitucional.es	www.justicia.es www.fiscal.es
Sweden	www.lagrummet.se	www.rattsinfosok.dom.se www.hogstadamstolen.se	www.domstol.se
Switzerland	http://www.admin.ch/ch/f/rs/ (droit federal) http://federalism.ch/ (droit cantonal)	www.bger.ch (rubrique jurisprudence)	www.bger.ch (rubrique recours électronique qui contient notamment un formulaire procédural)
FYROMacedonia	www.pravda.gov.mk www.sobranie.mk www.vlada.mk www.pravo.org.mk www.mlrc.org.mk www.slvesnik.com.mk www.pf.ukim.edu.mk www.stat.gov.mk	web sites of all courts in the Republic of Macedonia	www.oskavadarci.mk
Turkey	http://digerlb.uyap.gov.tr/Veribankasi/enitasarim/ http://www.adalet.gov.tr.UYAP Mevzuat Programi	http://digerlb.uyap.gov.tr/Veribankasi/enitasarim/ http://www.adalet.gov.tr.UYAP Mevzuat Programi	http://www.adalet.gov.tr/
Ukraine	www.court.gov.ua	www.scourt.gov.ua	www.court.gov.ua
UK-England and Wales	www.hmcourts-service.gov.uk www.justice.gov.uk www.tribunals.gov.uk Tribunals information can be found on the specific websites of each Tribunal, where it is legally possible to share the information. The main website would be the first port of call to find which Tribunal is specific to the enquiry.	www.supremecourt.gov.uk www.judiciary.gov.uk www.tribunals.gov.uk For Tribunals information can be found on the specific websites of each Tribunal, where it is legal possible to share the information. The main website would be the first port of call to find which Tribunal is specific to the enquiry.	www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do www.tribunals.gov.uk For Tribunals information can be found on the specific websites of each Tribunal, where it is legal possible to share the information. The main website would be the first port of call to find which Tribunal is specific to the enquiry.

Country	Legal texts (Codes, laws, regulations etc.)	Case-law of the higher court/s	Other documents (e.g. forms)
UK-Northern Ireland	Yes: no special information on the sites concerned	Yes: no special information on the sites concerned	Yes: no special information on the sites concerned
UK-Scotland	http://www.scotcourts.gov.uk/library/rules/index.asp This only provides information on a selection of most used Rules of Court. It does not provide complete coverage of all Rules of Court	http://www.scotcourts.gov.uk/opinionsApp/index.asp?txt=False	http://www.scotcourts.gov.uk/library/rules/index.asp This only provides information on a selection of most used Court Forms. It does not provide complete coverage of all Court forms

Table 4 (Chapter 4) Categories of users and/or legal professionals concerned by the surveys of trust and/or satisfaction [only countries which conduct surveys] Q41

Country	Judges	Court staff	Public prosecutors	Lawyers	Citizens (visitors of the court)	Other clients of the courts
Austria	Yes	Yes	Yes	Yes	Yes	Yes
Azerbaijan	Yes	Yes	Yes	Yes	Yes	Yes
Belgium					Yes	
Denmark			Yes	Yes	Yes	Yes
Estonia		Yes				
Finland					Yes	Yes
France	Yes		Yes		Yes	Yes
Georgia			Yes	Yes	Yes	
Hungary	Yes	Yes	Yes	Yes	Yes	
Ireland		Yes			Yes	
Latvia					Yes	Yes
Lithuania	Yes		Yes			
Moldova	Yes		Yes	Yes		
Netherlands	Yes	Yes	Yes	Yes	Yes	Yes
Norway	Yes	Yes			Yes	Yes
Portugal	Yes	Yes	Yes	Yes		
Romania	Yes	Yes	Yes	Yes	Yes	
Russian Federation	Yes	Yes	Yes	Yes	Yes	Yes
Serbia	Yes		Yes		Yes	
Slovenia					Yes	
Spain	Yes			Yes	Yes	Yes
Sweden	Yes	Yes	Yes	Yes	Yes	Yes
Switzerland	Yes	Yes	Yes	Yes	Yes	Yes
FYROMacedonia	Yes	Yes			Yes	Yes
Turkey	Yes	Yes	Yes	Yes	Yes	Yes
UK-England and Wales			Yes	Yes	Yes	Yes
UK-Northern Ireland		Yes	Yes	Yes	Yes	Yes
UK-Scotland	Yes			Yes	Yes	Yes

Table 5 (Chapter 7) Judges

Country	Number of professional judges (FTE) per 100,000 inhabitants in 2004	Number of professional judges (FTE) per 100,000 inhabitants in 2006	Number of professional judges (FTE) per 100,000 inhabitants in 2008	Average Annual Variation (2004-2008), in %	Variation between 2006 and 2008, in %
Albania	12.5		11.8		
Andorra	28.6	27.1	27.2	-2.5 %	0.5 %
Armenia	5.6	5.6	6.8	9.9 %	21.5 %
Austria	20.7	20.2	19.9	-1.9 %	-1.6 %
Azerbaijan	4.0	5.8	5.7	18.9 %	-1.1 %
Belgium	23.9	14.9	15.2	-20.2 %	2.3 %
Bosnia and Herzegovina	18.0	22.0	22.3	11.3 %	1.3 %
Bulgaria		23.7	28.3		19.6 %
Croatia	42.9	43.3	42.5	-0.5 %	-1.9 %
Cyprus		12.6	12.5		-0.3 %
Czech Republic	28.2	29.1	29.2	1.8 %	0.2 %
Denmark	6.8	6.6	6.9	0.9 %	4.9 %
Estonia	18.1	17.8	17.7	-1.1 %	-0.3 %
Finland	16.7	17.1	17.4	2.0 %	1.4 %
France	10.1	9.0	9.1	-5.1 %	1.7 %
Georgia	9.0	6.2	6.4	-15.2 %	4.0 %
Germany	24.7	24.5			
Greece	27.6	28.4	33.3	10.0 %	17.3 %
Hungary	27.3	28.2	28.9	2.9 %	2.5 %
Iceland	16.0	15.7	14.7	-4.1 %	-6.1 %
Ireland	3.2	3.1	3.3	0.9 %	5.3 %
Italy	10.4	11.0	10.2	-0.9 %	-6.7 %
Latvia	16.4	22.2	20.8	12.6 %	-6.3 %
Lichtenstein	49.1				
Lithuania	20.2	21.5	22.5	5.4 %	4.4 %
Luxembourg	35.6	36.8	37.4	2.5 %	1.6 %
Malta	8.7	8.3	8.7	0.1 %	4.4 %
Moldova	12.3	12.0	12.9	2.5 %	7.2 %
Monaco	60.0	54.5	64.3	3.6 %	17.9 %
Montenegro	39.0	37.2	39.7	0.9 %	6.5 %
Netherlands	12.3	12.7	13.1	3.3 %	3.5 %
Norway	10.9	10.9	11.3	2.1 %	3.6 %
Poland	25.6	25.8	25.9	0.7 %	0.3 %
Portugal	16.7	17.4	18.0	3.8 %	3.1 %
Romania	20.5	20.7	19.2	-3.0 %	-7.2 %
Russian Federation	20.7	21.5	24.2	8.2 %	12.6 %
San Marino	53.9		60.8		
Serbia	32.2	33.8	34.1	2.8 %	0.8 %
Slovakia	22.4	24.8	25.7	7.2 %	3.6 %
Slovenia	39.0	50.0	53.5	17.0 %	6.9 %
Spain	9.8	10.1	10.7	4.5 %	5.3 %
Sweden	17.9	13.9	11.3	-20.5 %	-18.8 %
Switzerland		16.5	14.1		-14.2 %
FYROMacedonia		30.6	32.2		5.3 %
Turkey	7.5	9.0	10.0	16.0 %	11.7 %
Ukraine	14.8	14.8	15.5	2.5 %	5.2 %
UK-England and Wales	6.9	7.0	3.5	-29.0 %	-50.3 %
UK-Northern Ireland	3.6	21.3	7.0	38.9 %	-67.2 %
UK-Scotland	4.5	4.4	3.5	-11.5 %	-21.1 %
Average	20.3	19.8	20.9	2.3 %	-0.8 %
Median	17.9	17.6	17.6	2.3 %	2.0 %
Minimum	3.2	3.1	3.3	-29.0 %	-67.2 %
Maximum	60.0	54.5	64.3	38.9 %	21.5 %

Table 6 (Chapter 9 - Fair trial) Number of civil (and commercial) litigious cases at 1st instance courts in 2008 (Q90)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	4 807	19 980	18 418	6 369
Andorra	1 649	3 255	3 129	1 175
Armenia	5 612	31 373	26 991	9 994
Austria	39 975	110 497	111 245	39 227
Azerbaijan	7 683	70 593	70 119	8 157
Belgium	NA	661 149	NA	NA
Bosnia and Herzegovina	281 333	147 807	136 664	292 476
Croatia	202 853	140 283	145 069	198 067
Czech Republic	162 575	360 945	368 048	155 472
Denmark	31 285	59 670	58 366	32 873
Estonia	12 318	19 778	19 630	12 466
Finland	5 625	9 703	9 399	5 929
France	1 188 517	1 744 350	1 645 161	1 287 706
Georgia	7 575	9 105	12 513	4 162
Hungary	90 127	189 644	191 002	88 769
Italy	3 849 578	2 842 668	2 693 564	3 932 259
Latvia	17 319	50 318	36 914	30 718
Lithuania	21 365	185 878	180 071	27 172
Luxembourg	NA	3 144	9 094	NA
Malta	9 536	3 950	3 901	9 500
Moldova	9 229	61 427	58 007	12 649
Monaco	1 218	723	689	1 252
Montenegro	13 345	14 680	16 273	11 752
Netherlands	NA	NA	200 000	NA
Norway	7 635	16 104	16 928	6 861
Poland	299 199	746 926	719 296	326 809
Portugal	364 641	314 729	311 797	367 573
Romania	245 995	706 381	664 608	287 768
Russian Federation	489 000	10 164 000	10 263 000	391 000
San Marino	1 644	837	880	1 601
Serbia	148 295	191 862	222 818	1 398 556
Slovakia	145 118	128 924	140 626	133 416
Slovenia	45 179	31 221	33 788	42 612
Spain	813 109	1 620 717	1 324 577	1 074 748
Sweden	26 902	51 348	50 845	27 433
Switzerland	41 518	87 232	88 114	40 636
FYROMacedonia	41 599	47 357	55 113	33 843
Turkey	NA	1 117 212	1 069 043	NA
UK-England and Wales	NA	298 769	NA	NA

Table 7 (Chapter 9 - Fair trial) Number of civil (and commercial) non-litigious cases at 1st instance courts in 2008 (Q90)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	1 400	29 259	27 943	2 716
Andorra	127	627	628	126
Austria	149 964	827 066	822 941	154 089
Bosnia and Herzegovina	50 838	54 039	56 478	48 399
Croatia	24 765	230 297	230 245	24 817
Czech Republic	30 101	107 130	105 011	32 220
Denmark	3 584	5 049	5 174	3 458
Estonia	39 648	73 615	50 522	62 741
Finland	45 927	268 554	255 592	58 889
France	9 102	101 837	105 099	5 840
Georgia	1 536	7 909	9 056	394
Hungary	57 225	565 136	549 952	72 409
Italy	432 905	1 271 191	1 229 822	146 870
Latvia	1 436	104 363	85 902	681
Monaco	NA	346	356	NA
Montenegro	4 730	11 883	12 503	4 110
Netherlands	NA	NA	947 570	NA
Norway	4 813	12 019	10 140	6 706
Poland	177 506	1 961 280	1 923 632	215 320
Romania	18 519	547 401	538 830	21 490
Russian Federation	26 000	458 000	458 000	26 000
San Marino	78	139	142	75
Serbia	11 904	184 649	193 355	10 417
Slovakia	71 674	124 705	124 214	72 165
Slovenia	17 837	32 004	31 697	18 143
Spain	93 502	219 654	223 310	84 365
Sweden	8 843	21 098	20 940	8 777
Switzerland	1 299	5 456	5 447	1 308
FYROMacedonia	3 491	12 329	12 809	3 011
Turkey	NA	503 581	499 127	NA
UK-England and Wales	NA	2 127 561	NA	NA

Table 8 (Chapter 9 - Fair trial) (Number of land registry cases at 1st instance courts in 2008 (Q90))

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Austria	14 838	690 225	689 516	15 547
Bosnia and Herzegovina	68 088	312 168	318 459	61 797
Croatia	122 501	542 534	559 912	105 123
Denmark	NA	2 554 595	2 569 037	NA
Estonia	5 292	115 560	117 082	3 770
Finland	14 780	327 020	329 182	12 618
Greece	NA	NA	1 093 500	NA
Hungary	315	887	899	303
Malta	881	117	163	835
Montenegro	NA	NA	141	NA
Poland	577 897	3 562 039	3 575 219	564 717
Romania	19 556	32 561	33 603	18 514
Serbia	39 512	(11 411)	175 202	51 225
Slovenia	65 688	256 928	262 154	60 462
FYROMacedonia	14	7 956	7 970	0
Turkey	81 333	58 843	58 152	82 024

Table 9 (Chapter 9 - Fair trial) Number of business registry cases at 1st instance courts in 2008 (Q90)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Austria	0	241 658	241 658	0
Bosnia and Herzegovina	2 847	26 041	26 201	2 687
Czech Republic	5 079	152 396	152 786	4 689
Denmark	3 672	11 513	8 937	5 076
Estonia	15 823	67 020	68 719	14 124
Hungary	6 720	410 347	405 497	11 570
Monaco	20	21	25	16
Montenegro	107	23 842	23 912	37
Poland	24 653	539 518	542 901	21 270
Romania	6 094	459 965	453 594	6 865
Serbia	9	23	28	4
Slovakia	9 923	83 832	84 629	9 126
Slovenia	1 976	35 852	37 357	471
Switzerland	2 169	18 274	17 496	2 947

Table 10 (Chapter 9 - Fair trial) Number of administrative law cases at 1st instance courts in 2008 (Q90)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	1 136	4 327	3 565	1 898
Andorra	163	388	305	246
Armenia	NA	9 569	6 185	3 384
Bosnia and Herzegovina	115	8414	8275	199
Bulgaria	6 044	23 349	21 964	7 429
Croatia	38 420	13 298	14 847	36 871
Cyprus	3 479	1 965	1 532	3 912
Czech Republic	8 732	11 849	11 301	9 280
Estonia	933	2 736	2 757	912
Finland	23 239	28 369	32 931	18 677
France	206 993	176 313	183 811	199 495
Georgia	2 873	8 059	8 925	2 007
Greece			4 500*	
Hungary	6 157	14 971	14 741	6 387
Latvia	4 355	4 196	3 050	4 783
Lithuania	3 463	4 703	6 574	1 592
Luxembourg	NA	954	829	NA
Moldova	1 398	5 421	5 404	1 415
Montenegro	1 519	2 088	1 987	1 620
Netherlands	55 400	116 290	116 350	NA
Poland	19 360	58 129	59 380	18 109
Romania	61 226	208 327	200 124	69 429
Russian Federation	NA	5 415 000	5 415 000	NA
San Marino	45	32	41	36
Serbia	17 908	10 938	5 207	15 246
Slovakia	8 684	10 883	10 485	9 082
Slovenia	4 917	4 299	4 931	4 285
Spain	142 632	179 794	160 400	164 594
Sweden	42 282	96 759	107 939	31 200
Switzerland	4 562	15 361	15 339	4 584
FYROMacedonia	5 775	5 204	3 555	7 424
Turkey	151 513	330 738	337 528	144 723
Ukraine	242 672	568 996	406 955	NA

Table 11 (Chapter 9 - Fair trial) Number of enforcement cases at 1st instance courts in 2008 (Q90)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	152	827	788	191
Andorra	1 568	1 465	1 180	1 853
Austria	288 528	1 117 035	1 133 016	272 547
Bosnia and Herzegovina	1 198 970	501 056	204 582	1 495 444
Croatia	114 060	177 083	185 494	105 649
Czech Republic	16 184	313 464	314 749	14 899
Denmark	66 449	349 894	324 256	92 051
Estonia	147	483	368	262
Finland	314	1 038	1 014	338
France	45 014	206 246	202 110	49 150
Hungary	826	3 177	3 110	893
Italy	542 358	477 159	507 931	511 586
Montenegro	15 182	23 805	22 555	16 432
Norway	7 459	17 642	16 603	8 499
Poland	87 940	623 440	620 158	91 221
Portugal	987 229	257 928	232 718	1 012 439
Romania	8 689	29 690	27 730	10 649
Russian Federation	NA	NA	22 000	NA
San Marino	125	93	72	146
Serbia	348 089	519 225	512 092	407 884
Slovakia	20 137	4 450*	12 984	7 598
Slovenia	304 265	182 529	204 279	281 716
Spain	1 090 255	587 708	397 317	1 280 327
Switzerland	3 268	22 423	22 141	3 550
FYROMacedonia	384 763	159 700*	149 562	236 798
Turkey	54 749	206 256	196 992	64 013
UK-England and Wales	NA	NA	752 699	NA

*numbers corrected: for Slovakia, the number provided is 445 and for the former Yugoslav Republic of Macedonia, the number provided is 1,597. Adjustments have been made on the basis of the assumption that several figures have been wrongly recorded in the electronic version of the questionnaire.

Table 12 (Chapter 9 - Fair trial) Number of criminal cases (severe criminal cases) at 1st instance courts in 2008 (Q90)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	62	83	76	69
Andorra	252	257	301	208
Armenia	0	1 321	1 055	266
Austria	6 277	24 782	24 630	6 429
Azerbaijan		1 752		
Belgium	11 776	44 015	46 072	9 719
Bosnia and Herzegovina	24 816	83 962	82 475	26 303
Croatia	38 012	41 012	43 438	35 586
Denmark	4 670	14 525	13 231	5 964
Estonia	767	19 984	19 768	983
France		610 674	618 122	
Georgia	978	1 986	2 300	664
Greece			6 979	
Hungary	54 254	137 541	136 333	55 462
Italy	1 115 714	1 280 282	1 204 982	1 205 576
Latvia	3 711	12 394	11 278	4 827
Luxembourg			4 251	
Malta	65	25	23	67
Monaco	4	40	43	1
Montenegro	8 348	8 501	10 752	6 097
Netherlands	38 980	220 634	219 393	
Poland	169 259	496 855	499 014	167 100
Portugal	124 171	116 178	130 962	109 387
Russian Federation	48 000	347 000	360 000	35 000
San Marino	645	524	651	469
Serbia	4 592	6 049	6 360	5 024
Slovenia	23 022	19 386	20 505	21 903
Spain	224 997	345 707	310 280	259 358

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Switzerland	8 116	17 966	16 819	9 263
FYROMacedonia	13 046	14 885	17 213	10 718
Turkey	681 817	796 920	758 610	720 127
UK-England and Wales	39 484	131 696	129 072	41 582
UK-Scotland		6 130	46 785	

Table 13 (Chapter 9 - Fair trial) Number of misdemeanour cases at 1st instance courts in 2008 (Q90)

country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	2 004	7 282	7 273	2 013
Andorra	710	4 333	4 480	563
Armenia	170	1 673	1 520	323
Austria	19 854	35 030	40 908	13 976
Azerbaijan		13 158		
Belgium			271 945	
Bosnia and Herzegovina	250 648	158 095	239 423	169 320
Croatia	259 993	324 299	357 246	227 046
Denmark	26 481	92 195	89 553	29 122
Estonia	2 345	13 566	12 312	3 599
France		513 400	461 053	
Georgia	5 737	13 198	15 678	3 257
Greece			413 080	
Hungary	17 807	124 572	125 498	16 881
Italy	115 947	224 239	222 865	102 759
Latvia	652	25 689	25 501	840
Luxembourg			9 146	
Malta	13 149	15 348	15 740	12 371
Monaco		851	891	
Montenegro	20 218	17 524	22 769	14 973
Netherlands	44 100	279 213	282 517	NA
Poland	71 231	465 014	459 393	76 852
Portugal	66 297	28 674	80 930	14 041
Russian Federation	108 000	776 000	805 000	78 000
San Marino			49	
Serbia	49 309	54 398	59 988	51 369
Slovenia	81 934	78 499	96 711	63 722
Spain	208 162	920 577	917 554	223 767
Switzerland	2 998	61 200	61 520	2 678
FYROMacedonia	172 234	126 154	208 878	89 510
Turkey	662 001	919 901	1 090 296	491 606
UK-England and Wales			2 031 100	
UK-Scotland		106 674	86 291	

Table 14 (Chapter 9 - Fair trial) Number of litigious divorce cases at 1st instance courts in 2008 (Q94)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	855	5 254	5 089	1 020
Andorra	46	78	85	40
Armenia	163	1 786	1 656	293
Austria	3 324	7 325	7 374	3 275
Azerbaijan	1 693	10 243	7 152	1 964
Belgium		45 503	48 116	
Bosnia and Herzegovina	2 591	4 234	3 904	2 921
Bulgaria	4 469	5 308	6 161	3 616
Czech Republic	4 816	35 827	31 300	4 527
Denmark	1 915	5 427	4 836	2 530
Estonia	111	906	624	393
Finland	11 955	18 286	18 226	12 015
France		102 984	96 974	
Hungary	14 036	35 595	35 204	14 427
Italy	35 076	21 068	19 392	36 974
Latvia	2 759	7 489	7 195	3 053
Lithuania	2 458	9 162	11 599	2 397
Luxembourg			1 168	
Moldova	1 293	13 425	13 157	1 561
Monaco	43	88	83	48
Montenegro	530	1 212	1 260	482
Netherlands			6 600	
Poland	48 030	105 024	105 165	47 890
Portugal	9 981	9 291	9 779	9 493
Romania	23 213	64 097	62 919	24 391
Russian Federation	50 000	562 000	565 000	47 000
San Marino	345	134	224	255
Slovakia	8 950	15 412	16 122	8 240
Slovenia	1 020	1 915	1 889	1 046
Spain	34 451	47 980	46 293	34 589
Sweden	4 417	7 186	6 985	4 618
Switzerland	6 373	7 217	7 212	6 378
FYROMacedonia	746	2 846	2 828	764
Turkey		175 173	166 389	
UK-England and Wales		128 860	122 673	
UK-Scotland		5 427		

Table 15 (Chapter 9 - Fair trial) Number of employment dismissal cases at 1st instance courts in 2008 (Q94)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	331	1 339	1 176	494
Andorra	106	111	122	95
Armenia	63	668	596	135
Azerbaijan	27	400	247	29
Bosnia and Herzegovina	7 365	5 804	5 700	7 469
Bulgaria	903	979	1 072	808
Cyprus	1 086	435	589	932
Czech Republic			154	
Estonia	464	575	550	489
Finland	435	622	586	471
France		130 378	125 940	
Georgia	608	1 457	1 818	247
Hungary	3 329	4 284	4 850	2 763
Latvia	48	130	122	51
Moldova	60	426	373	113
Monaco	135	115	73	177
Montenegro	135	275	222	188
Netherlands			4 350	
Poland	6 331	16 972	16 562	6 741
Portugal	3 622	4 145	2 798	4 969
Romania	851	2 115	2 027	939
Russian Federation	4 000	26 000	26 000	3 000
San Marino	5	7	8	4
Serbia	35 125	46 535	54 667	32 174
Slovakia			1 650	
Slovenia	629	885	973	541
Spain	14 373	102 925	82 854	29 450
Switzerland	1 252	2 280	2 284	1 248
FYROMacedonia	4 868	6 187	6 819	4 236

Table 16 (Chapter 9 - Fair trial) Number of robbery cases at 1st instance courts in 2008 (Q94)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	297	1 254	1 292	259
Armenia	18	523	474	67
Azerbaijan	15	198	93	25
Bosnia and Herzegovina	180	212	193	199
Bulgaria	875	971	1 144	702
Estonia	34	110	102	42
Finland	173	456	446	183
France			4 805	
Georgia	509	766	944	331
Latvia	238	386	358	267
Lithuania	400	1 153	1 195	358
Luxembourg			127	
Moldova	32	145	136	41
Monaco		4	0	
Montenegro	51	51	49	53
Netherlands		4 685	3 178	
Norway		224		
Portugal			2 559	
Romania	670	1 642	1 502	810
Russian Federation	52 000	426 000	441 000	38 000
Slovakia			574	
Slovenia			135	
Spain		87 324		
Switzerland	16	35	42	9
FYROMacedonia	2 681	3 482	3 385	2 778
Turkey		168 636	181 219	
Ukraine				36 000
UK-England and Wales		13 096		
UK-Scotland			539	

Table 17 (Chapter 9 - Fair trial) Number of intentional homicide cases at 1st instance courts in 2008 (Q94)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Albania	65	84	89	60
Armenia	15	80	61	34
Azerbaijan	53	245	226	48
Bosnia and Herzegovina	161	147	158	150
Bulgaria	94	139	169	64
Estonia	55	87	84	58
Finland	28	97	98	27
France			535	
Latvia	53	94	97	50
Lithuania	102	265	274	93
Luxembourg			6	
Moldova	50	201	186	65
Monaco		0	1	
Montenegro	43	22	30	35
Netherlands		2 530	1 245	
Norway		18		
Portugal			154	
Romania	559	996	946	609
Russian Federation	5 000	21 000	22 000	4 000
San Marino	0	0	0	0
Slovakia			50	
Slovenia			30	
Spain		109		
Switzerland	17	18	20	15
FYROMacedonia	57	64	68	53
Turkey		8 334	8 504	
UK-England and Wales		705	439	
UK-Scotland			129	

Table 18 (Chapter 9 - Fair trial) 2nd instance (appeal): total number of litigious and non-litigious civil, commercial and administrative law cases (Q92)

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Albania		3 356			4 997			4 148			4 205	
Andorra		252		372	491	32.0%	267	544	103.7%		199	
Armenia	653	857	31.2%	5 474	2 913	-46.8%	3 549	3 140	-11.5%	1 678	630	-62.5%
Austria	6 253	6 317	1.0%	35 391	34 251	-3.2%	35 410	33 777	-4.6%	6 234	6 791	8.9%
Azerbaijan	1 008			9 211			8 918			1 301		
Bosnia and Herzegovina	29 567	25 756	-12.9%	30 988	40 723	31.4%	33 578	37 246	10.9%	26 977	29 233	8.4%
Bulgaria		12 379			23 397			24 922			10 854	
Croatia	56 661	56 869	0.4%	83 177	81 089	-2.5%	70 083	78 372	11.8%	56 569	59 595	5.3%
Cyprus		447			222			145			524	
Czech Republic	16 191	17 768	9.7%	70 963	72 788	2.6%	69 977	73 488	5.0%	17 177	17 086	-0.5%
Denmark	4 503	1 768	-60.7%	6 973	5 998	-14.0%	7 186	5 679	-21.0%	4 230	2 159	-49.0%
Estonia	977	1 074	9.9%	3 171	3 869	22.0%	3 075	3 559	15.7%	930	1 384	48.8%
Finland	2 697	1 889	-30.0%	3 666	3 918	6.9%	3 976	3 890	-2.2%	2 387	1 917	-19.7%
France	266 737	246 641	-7.5%	228 976	246 118	7.5%	249 504	244 647	-1.9%	246 209	248 112	0.8%
Georgia	2 523	3 761	49.1%	6 719	6 456	-3.9%	5 306	8 540	60.9%	3 626	1 677	-53.8%
Greece*		36 096			34 900			29 800			41 196	
Hungary	9 789	10 194	4.1%	39 989	46 620	16.6%	39 375	45 332	15.1%	10 403	11 482	10.4%
Italy	348 476	428 426	22.9%	155 567	159 187	2.3%	112 519	138 707	23.3%	391 524	448 906	14.7%
Latvia	3 896	4 590	17.8%	6 483	6 861	5.8%	6 506	6 435	-1.1%	3 868	5 016	29.7%
Lithuania	2 952	4 331	46.7%	12 661	16 752	32.3%	7 128	13 374	87.6%	3 456	7 709	123.1%
Luxembourg				1 206	1 328	10.1%	1 154	1 438	24.6%			
Malta	1 162	1 061	-8.7%	706	578	-18.1%		697		1 149	965	-16.0%
Moldova	8 659	1 770	-79.6%	7 675	9 686	26.2%	15 350	9 941	-35.2%	984	1 515	54.0%
Monaco	173			119	142	19.3%	90	116	28.9%	202		
Montenegro		6 284			6 354			7 384			5 254	
Netherlands		32 140		32 930	26 494	-19.5%	32 820	25 419	-22.6%			
Norway	1 572	1 213	-22.8%	3 160	3 222	2.0%	3 323	3 288	-1.1%	1 415	1 161	-18.0%
Poland	58 308	28 757	-50.7%	234 399	158 843	-32.2%	249 007	161 052	-35.3%	42 161	23 449	-44.4%
Portugal	8 014	6 068	-24.3%	18 756	17 751	-5.4%	18 766	17 869	-4.8%	8 004	5 950	-25.7%
Romania	21 327	13 859	-35.0%	35 799	32 390	-9.5%	41 804	32 006	-23.4%	15 322	14 243	-7.0%
Russian Federation	24 910	32 000	28.5%	651 404	872 000	33.9%	614 015	845 000	37.6%	26 986	45 000	66.8%
San Marino		347			91			201			237	
Serbia		31 868			81 353			84 742			39 711	
Slovakia	9 404	10 494	11.6%	28 412	31 534	11.0%	26 576	32 451	22.1%	11 240	9 521	-15.3%
Slovenia	12 416	7 629	-38.6%	27 151	21 502	-20.8%	28 227	23 322	-17.4%	11 340	5 809	-48.8%

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Spain	124 705	117 045	-6.1%	194 721	193 520	-0.6%	197 746	191 064	-3.4%	129 573	119 391	-7.9%
Sweden	17 309	6 991	-59.6%	37 870	23 632	-37.6%		24 128		16 224	6 484	-60.0%
Switzerland	14 487	26 426	82.4%	32 778	43 665	33.2%	30 701	44 352	44.5%	14 449	25 729	78.1%
FYROMacedonia	2 870	3 313	15.4%	22 444	23 332	4.0%	22 590	21 252	-5.9%	2 724	5 393	98.0%
Ukraine		180 771			248 848			95 023				
UK-England and Wales					3 294			3 094				
UK-Scotland					215			130				
Average			-3.9%			2.7%			10.4%			4.4%
Median			0.4%			2.6%			-1.1%			-0.5%
Minimum			-79.6%			-46.8%			-35.3%			-62.5%
Maximum			82.4%			33.9%			103.7%			123.1%

*Greece: figures should be considered cautiously as these are provisional data.

Table 19 (Chapter 9 - Fair trial) 2nd instance (appeal): number of litigious civil (and commercial) law cases (Q92)

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Albania		2 883			3 383			2 988			3 278	
Armenia		857			2 913			3 140			630	
Azerbaijan		1 555			9 210			7 018			1 432	
Belgium				32 822	29 758	-9.3%						
Bosnia and Herzegovina	20 353	19 666	-3.4%	21 271	32 309	51.9%	22 703	28 971	27.6%	18 921	23 004	21.6%
Croatia	55 232	56 869	3.0%	80 430	81 098	0.8%	67 410	78 372	16.3%	55 381	59 595	7.6%
Cyprus	629			433			342			719		
Denmark		1 768			5 998			5 679			2 159	
Estonia		573			1 803			1 588			788	
Finland	2 441	1 638	-32.9%	2 749	2 790	1.5%	3 047	2 802	-8.0%	2 143	1 626	-24.1%
France	234 777	218 650	-6.9%	207 893	218 316	5.0%	223 614	217 412	-2.8%	219 056	219 554	0.2%
Georgia	1 129	1 384	22.6%	3 122	3 124	0.1%	2 809	3 760	33.9%	1 350	748	-44.6%
Hungary	6 995	7 290	4.2%	23 690	28 390	19.8%	23 246	27 952	20.2%	7 493	7 728	3.1%
Italy	345 801	424 818	22.9%	149 341	151 699	1.6%	107 027	132 036	23.4%	388 115	444 481	14.5%
Latvia	2 721	2 946	8.3%	4 815	4 556	-5.4%	4 955	4 133	-16.6%	2 576	3 369	30.8%
Lithuania	1 186	1 278	7.8%	7 071	8 548	20.9%	3 087	7 559	144.9%	1 572	2 267	44.2%
Luxembourg					1 019			1 091			1 231	
Malta		1 023			542			670			918	
Moldova*	323	1 553		292	6 616		584	6 916		31	1 253	
Monaco	173	200	15.6%	119	142	19.3%	90	116	28.9%	202	226	11.9%

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Montenegro	4 540			5 980			4 835			5 695		
Netherlands				22 770			23 360			16 580		
Poland	51 008	14 187	-72.2%	206 401	98 609	-52.2%	219 659	98 981	-54.9%	37 698	10 707	-71.6%
Romania	15 857	13 438	-15.3%	24 093	31 612	31.2%	28 421	31 153	9.6%	11 529	13 897	20.5%
Russian Federation	16 223	18 000	11.0%	443 041	275 000	-37.9%	416 731	249 000	-40.2%	16 414	17 000	3.6%
San Marino		332			66			161			237	
Serbia	15 768			78 329			70 010			24 087		
Slovakia	8 217			23 865			22 127			9 955		
Slovenia	9 626	5 712	-40.7%	19 677	12 036	-38.8%	20 759	14 017	-32.5%	8 544	3 731	-56.3%
Spain	76 534	80 291	4.9%	150 888	143 715	-4.8%	148 958	148 729	-0.2%	78 947	74 805	-5.2%
Sweden	1 465	1 469	0.3%	2 605	2 752	5.6%		2 811		1 471	1 408	-4.3%
Switzerland		4 233			10 894			11 184			3 943	
FYROMacedonia	2 870	2 849	-0.7%	22 295	18 610	-16.5%	22 448	17 052	-24.0%	2 717	4 407	62.2%
UK-England and Wales					3 294			3 094				
UK-Scotland					215			130				
Average			-4.2%			-0.4%						0.8%
Median			3.0%			1.2%						3.6%
Minimum			-72.2%			-52.2%						-71.6%
Maximum			22.9%			51.9%						62.2%

*Moldova: it is likely the collecting rule changed between 2006 and 2008. The change percentages are not presented in this table and have not been used in the calculation of the European central tendency indicators.

Table 20 (Chapter 9 - Fair trial) 2nd instance (appeal): number of non-litigious civil (and commercial) law cases (Q92)

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Albania		32			322			303			51	
Bosnia and Herzegovina	1 243			2 717			3 303			657		
Croatia*	1 429	1082	-24.3%	2 747	2 970	8.1%	2 673	3 230	20.8%	1 188	825	-30.6%
Estonia		65			347			341			71	
Finland	151	144	-4.6%	612	747	22.1%	619	713	15.2%	144	178	23.6%
Hungary	2 428	2161	-11.0%	15 413	14 938	-3.1%	15 202	14 138	-7.0%	2 639	2 961	12.2%
Italy	2 675	3608	34.9%	6 226	7 488	20.3%	5 492	6 671	21.5%	3 409	4 425	29.8%
Latvia**	46	166	260.9%	185	530	186.5%	205	599	192.2%	26	97	273.1%
Moldova	6 238			5 347			10 694			891		
Poland	7 300	1331	-81.8%	27 998	17 011	-39.2%	29 348	16 844	-42.6%	4 463	1 507	-66.2%
Romania		62		-	57			69			50	
Russian Federation		0			267			267 000				
San Marino		0			0			0			0	
Slovakia	1 144			4 483			4 374			1 253		
Switzerland		92			646			659			79	
Average			29.0%			32.4%			33.3%			40.3%
Median			-7.8%			14.2%			18.0%			17.9%
Minimum			-81.8%			-39.2%			-42.6%			-66.2%
Maximum			260.9%			186.5%			192.2%			273.1%

*Croatia: are included only non-litigious cases considered by High Commercial Court.

**Latvia: it is likely the collecting rule changed between 2006 and 2008. Nevertheless, the figures on the change between 2006 and 2008 are presented in the table. Moreover, the information is included in the calculation of the central tendency indicators because of the relative comparability with other countries.

Table 21 (Chapter 9 - Fair trial) 2nd instance (appeal): number of enforcement cases (Q92)

Country	Pending cases on 1 st January 2008		Incoming cases	Resolved cases		Pending cases on 31 st December 2008
	2006	2008		2006	2008	
Albania		89	285		222	152
Estonia		23	91		86	28
Finland		67	248		239	76
Hungary		109	481		453	137
Romania		126	213		229	110
Russian Federation		0	7 000		7 000	0
San Marino		0	0		0	0
Slovenia		1 385	7 070		6 710	1 745
Spain		9 309	7 291		7 409	9 727
Switzerland		107	796		816	87

Table 22 (Chapter 9 - Fair trial) 2nd instance (appeal): number of business register cases (Q92)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Estonia	16	166	161	21
Hungary	176	876	803	249
Poland	26	337	333	30
Switzerland	0	6	6	0
UK-England and Wales		17 401	19 670	

Table 23 (Chapter 9 - Fair trial) 2nd instance (appeal): number of land registry cases (Q92)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Estonia	47	256	246	57
Hungary	0	0	0	0
Latvia	56	224	260	20
Romania	253	322	345	230
Switzerland	2	6	7	1
UK-England and Wales		3	4	

Table 24. (Chapter 9 - Fair trial) 2nd instance (appeal): number of administrative law cases (Q92)

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Albania		441		1 292			857			876		
Andorra		62		157			160			59		
Bosnia and Herzegovina	7 971	6 090	-23.6%	8 414		20.2%	7 572		9.3%	7 399		-15.8%
Cyprus	464	425	-8.4%	197		29.6%	94		41.5%	471		3.8%
Estonia	436	342	-21.6%	1 161		21.1%	1 076		2.4%	308		30.2%
France	31 960	28 258	-11.6%	27 802		31.9%	25 890		5.2%	27 153		6.2%
Georgia	1 394	2 293	64.5%	2 612		-27.4%	2 497		73.6%	2 276		-75.0%
Greece*							50					
Hungary	366	458	25.1%	1 935		118.4%	927		114.2%	325		25.2%
Latvia	1 115	1 422	27.5%	1 551		20.9%	1 158		24.6%	1 240		23.4%
Lithuania	1 766	1 831	3.7%	2 824		-49.5%	4 401		-31.0%	1 884		-14.0%
Luxembourg	109			309		-15.8%	311		11.6%			
Moldova	2 098	217	-89.7%	3 070		50.8%	4 072		-25.7%	62		322.6%
Netherlands		15 360		11 890		17.0%	9 460		11.1%			
Poland	6 848			16 157			14 675			8 330		
Russian Federation	8 687	14 000	61.2%	330 000		58.4%	197 264		66.8%	10 572		41.9%
San Marino		15		25			40			0		
Slovakia	43	35	-18.6%	37		-42.2%	75		-25.3%	32		-50.0%
Slovenia	2 722	525	-80.7%	610		-66.7%	1 807		-55.2%	2 745		-88.2%
Spain	20 032	27 445	37.0%	42 514		57.1%	23 777		46.9%	22 416		55.5%
Sweden	14 277	12 711	-11.0%	26 158		8.6%	26 791			13 184		-8.5%
Switzerland		21 021		27 400			27 776			20 645		
Turkey	13 180			69 578			67 294			15 464		
Ukraine	1 999	43 995		32 672			24 839		11.8%	3 266		
UK-England and Wales				12 316			9 208					
Average			-3.3%			14.5%			17.6%			18.4%
Median			-9.7%			20.5%			11.3%			5.0%
Minimum			-89.7%			-66.7%			-55.2%			-88.2%
Maximum			64.5%			118.4%			114.2%			322.6%

*Greece: figures should be considered cautiously as these are provisional data.

Table 25 (Chapter 9 - Fair trial) 2nd instance (appeal): Number of other civil law cases (Q92)

Country	Pending cases on 1 st January 2008		Incoming cases		Resolved cases		Pending cases on 31 st December 2008	
	2006	2008	2006	2008	2006	2008	2006	2008
Estonia	8	45	35	18				
Finland	40	133	136	37				
Georgia	84	720	445	359				
Lithuania	1222	5 380	2 780	3 822				
Malta	38	36	27	47				
Poland	13 213	42 886	44 894	11 205				
Romania	359	721	784	296				
San Marino	0	0	0	0				
Slovakia	20	132	123	29				
Slovenia	7	1 786	1 785	8				
Sweden	245	597	553	289				
Switzerland	779	2 629	2 629	741				
FYROMacedonia	464	4 722	4 200	986				
UK-England and Wales		58	43					

Table 26 (Chapter 9 - Fair trial) 2nd instance (appeal): total number of criminal [severe and misdemeanour] cases (Q92)

Country	Pending cases on 1 st January 2008		Incoming cases		Change 2006-2008		Resolved cases		Change 2006-2008		Pending cases on 31 st December 2008		Change 2006-2008	
	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008
Albania		1 148		2 809				2 057				1 900		
Andorra		11		75				56				30		
Armenia	57	17	653	1 573	-70.2%	140.9%	663	1 316	98.5%	47	274	483.0%		
Austria	1 123	1 022	9 399	11 628	-9.0%	23.7%	9 509	11 173	17.5%	1 013	1 477	45.8%		
Azerbaijan	152	205	2 242	2 241	34.9%	0.0%	2 199	2 158	-1.9%	195	175	-10.3%		
Belgium*		11 183		16 716				16 134				11 765		
Bosnia and Herzegovina	3 306	3 325	44 533	13 774	0.6%	-69.1%	43 178	14 844	-65.6%	4 661	2 255	-51.6%		
Bulgaria		1 894		7 922				8 038				1 778		
Croatia	101 762	104 446	77 353	62 002	2.6%	-19.8%	31 917	80 895	153.5%	89 053	81 889	-8.0%		
Cyprus	196		288				258				226			
Czech Republic	1 613	1 398	13 545	15 263	-13.3%	12.7%	13 584	13 392	-1.4%	1 574	1 444	-8.3%		
Denmark	1 487	894	3 046	6 860	-39.9%	125.2%	6 788			1 384	999	-27.8%		
Estonia	127	82	1 947	2 311	-35.4%	18.7%	1 862	2 251	20.9%	134	142	6.0%		
Finland	4 755	3 723	8 188	11 539	-21.7%	40.9%	8 437	11 688	38.5%	4 505	3 574	-20.7%		
Georgia	557	351	3 932	3 309	-37.0%	-15.8%	3 581	3 342	-6.7%	750	318	-57.6%		
Hungary	6 044	6 263	34 443	34 915	3.6%	1.4%	33 993	35 080	3.2%	6 494	6 098	-6.1%		

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Italy	138 984	156 815	12.8%	85 340	88 751	4.0%	71 144	76 622	7.7%	153 180	168 944	10.3%
Latvia	961	969	0.8%	2 498	2 595	3.9%	2 684	2 445	-8.9%	775	1 119	44.4%
Lithuania	605	760	25.6%	5 699	6 845	20.1%	3 332	6 731	102.0%	715	874	22.2%
Luxembourg							647	577	-10.8%			
Malta	9 222	291	-96.8%	14 263	418	-97.1%	14 104	454	-96.8%	9 606	273	-97.2%
Moldova	305	270	-11.5%	2 553	2 117	-17.1%	2 586	2 144	-17.1%	272	243	-10.7%
Montenegro		1 497			4 658			4 402			1 753	
Netherlands		16 880			37 910			36 367				
Norway	580	618	6.6%	1 389	6 826	391.4%	1 448	6 682	361.5%	519	761	46.6%
Poland	32 665	19 800	-39.4%	361 845	119 263	-67.0%	361 025	120 491	-66.6%	32 892	18 572	-43.5%
Portugal	6 010	3 294	-45.2%	10 986	13 297	21.0%	10 992	12 957	17.9%	6 004	3 634	-39.5%
Romania	4 275	4 227	-1.1%	26 340	16 024	-39.2%	26 216	15 888	-39.4%	4 399	4 363	-0.8%
Russian Federation	11 000	14 000	27.3%	333 372	355 000	6.5%	304 942	329 000	7.9%	12 052	13 000	7.9%
San Marino		15			26			29			12	
Slovakia	1 427	870	-39.0%	4 744	3 697	-22.1%	4 938	3 689	-25.3%	1 248	878	-29.6%
Slovenia	2 134	1 685	-21.0%	10 888	10 951	0.6%	10 930	10 261	-6.1%	2 092	2 375	13.5%
Spain		25 387			144 530			142 348			27 289	
Sweden	3 684	3 599	-2.3%	8 767	9 030	3.0%		9 276		3 603	3 341	-7.3%
Switzerland	3 655	3 527	-3.5%	13 964	10 563	-24.4%	12 448	10 691	-14.1%	3 783	3 399	-10.2%
FYROMacedonia	337	386	14.5%	15 427	12 122	-21.4%	15 567	11 725	-24.7%	197	783	297.5%
Ukraine		46 082			46 427			46 463				
UK-England and Wales					21 259			19 782				
UK-Scotland					2 347			2 254				
Average			-13.7%			16.2%			17.7%			21.1%
Median			-6.2%			2.2%			-1.9%			-7.7%
Minimum			-96.8%			-97.1%			-96.8%			-97.2%
Maximum			34.9%			391.4%			361.5%			483.0%

Values included in this table should be considered cautiously. It seems that the counting rule changed in several countries (cases included/excluded).

*Belgium: the number of pending cases on 31st December 2008 is a calculated figure (not from official available statistics). The calculated figure is provided by national correspondent and not calculated by the CEPEJ.

Table 27 (Chapter 9 - Fair trial) 2nd instance (appeal): Number of severe criminal offences cases (Q92)

Country	Pending cases on 1 st January 2008		Change 2006-2008		Incoming cases		Change 2006-2008		Resolved cases		Change 2006-2008		Pending cases on 31 st December 2008		Change 2006-2008	
	2006	2008	2006-2008	%	2006	2008	2006-2008	%	2006	2008	2006-2008	%	2006	2008	2006-2008	%
Albania		938			1 854	1 268			45	1 268			14	1 524		
Andorra	8	7	-12.5%		51	49	-3.9%		6 728	8 404	33.0%	24.9%	539	1 065	17.8%	35.7%
Austria	541	526	-2.8%		6 726	8 943	33.0%		6 728	8 404	9.4%					97.6%
Azerbaijan					640	700										
Belgium		8 705				7 466				7 507				8 664		
Bosnia and Herzegovina	3 306	1 215	-63.2%		44 533	8 154	-81.7%		43 178	8 133	-81.2%		4 661	1 236	-81.2%	-73.5%
Croatia	4 565	5 523	21.0%		13 197	9 394	-28.8%		12 214	9 459	-22.6%		4 617	1 794	-61.1%	
Denmark*	35	894			110	6 860				6 788			58	999		
Estonia	122	79	-35.2%		1 778	2 143	20.5%		1 708	2 087	22.2%		127	135	6.3%	
France		30 838			50 222	53 298	6.1%		37 517	52 718	40.5%			31 418		
Georgia		310				2 402				2 437				274		
Hungary	6 020	6 240	3.7%		33 926	34 361	1.3%		33 469	34 522	3.1%		6 477	6 079	-6.1%	
Latvia	773	534	-30.9%		1 907	2 115	10.9%		2 156	1 990	-7.7%		524	660	26.0%	
Malta	18	17	-5.6%		33	26	-21.2%		20	21	5.0%		37	22	-40.5%	
Monaco		1				2			17	2	-88.2%			1		
Montenegro		1 062				3 385			3 084				1 363			
Netherlands									24 740				13 510	NA		
Poland	11 928	19 022	59.5%		104 373	111 121	6.5%		103 139	112 413	9.0%		13 121	17 730	35.1%	
Portugal	6 010	3 294	-45.2%		10 986	13 297	21.0%		10 992	12 957	17.9%		6 004	3 634	-39.5%	
San Marino		15				26				29				12		
Slovenia	1 564	1 222	-21.9%		4 975	4 794	-3.6%		4 995	4 916	-1.6%		1 544	1 100	-28.8%	
Spain	19 848				126 614				124 930				20 674			
Switzerland		1 597				4 742				4 858				1 481		
FYROMacedonia	265	222	-16.2%		4 914	4 663	-5.1%		5 035	4 546	-9.7%		144	339	135.4%	
UK-England and Wales	51 523				109 524	7 240	-93.4%			5 774			52 542			
UK-Scotland						786				1 397						
Average			-12.5%				-8.6%								-7.6%	7.2%
Median			-14.4%				1.3%								0.8%	0.1%
Minimum			-63.2%				-93.4%								-88.2%	-73.5%
Maximum			59.5%				33.0%								40.5%	135.4%

*Denmark: it is likely the collecting rule changed between 2006 and 2008. The change percentages are not presented in this table and have not been used in the calculation of the European central tendency indicators.

Table 29 (Chapter 9 - Fair trial). Highest instance courts: total number of litigious and non-litigious civil, commercial and administrative law cases (Q93).

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Albania		2 722			2 788			1 184			4 326	
Armenia	25	0		1 805	1 069	-40.8%	1 785	1 068	-40.2%	45	1	-97.8%
Austria	871	852	-2.2%	2 914	2 857	-2.0%	2 947	2 882	-2.2%	838	827	-1.3%
Azerbaijan	428			3 272			3 366			334		
Belgium	1 642	1 166	-29.0%	2 957	877	-70.3%	2 953	924	-68.7%	1 646	1 119	-32.0%
Bosnia and Herzegovina	11 664	11 134	-4.5%	4 013	8 741	117.8%	6 258	10 307	64.7%	9 419	9 568	1.6%
Bulgaria	13 646	3 184	-76.7%	13 928	16 402	17.8%	14 464	15 095	4.4%	13 110	4 491	-65.7%
Croatia	1 030	997	-3.2%	2 408	2 672	11.0%	2 745	1 958	-28.7%	693	1 711	146.9%
Czech Republic	7 150	6 786	-5.1%	11 700	10 137	-13.4%	10 731	9 938	-7.4%	6 789	6 986	2.9%
Denmark	453			456			452			449		
Estonia	38	54	42.1%	266	283	6.4%	249	251	0.8%	54	86	59.3%
Finland	4 031	3 562	-11.6%	5 465	5 999	9.8%	5 991	5 399	-9.9%	3 490	4 162	19.3%
France	33 171	26 811	-19.2%	29 305	29 182	-0.4%	33 659	28 954	-14.0%	28 817	27 039	-6.2%
Georgia	1 010	659	-34.8%	1 959	2 830	44.5%	2 179	2 494	14.5%	788	995	26.3%
Hungary	1 277	1 658	29.8%	6 146	4 249	-30.9%	5 838	3 829	-34.4%	1 585	2 078	31.1%
Iceland	112	164	46.4%	425			326	353	8.3%	120	150	25.0%
Italy	95 081	102 588	7.9%	35 169	30 406	-13.5%	29 445	33 928	15.2%	100 805	99 066	-1.7%
Latvia	244	423	73.4%	1 690	1 898	12.3%	1 551	1 579	1.8%	383	742	93.7%
Lithuania*	7	211		665	496	-25.4%	665	611	-8.1%	7	96	
Luxembourg					118		62	123	98.4%		86	
Moldova	507	365	-28.0%	4 095	5 648	37.9%	4 115	5 470	32.9%	487	543	11.5%
Montenegro		77			855			930			2	
Netherlands					1 334			1 520				
Norway	48	45	-6.3%	91	72	-20.9%	91	88	-3.3%	49	29	-40.8%
Poland**	17 008	10 346	-39.2%	6 318	20 705	227.7%	6 554	20 323	210.1%	1 470	10 728	629.8%
Portugal	886	811	-8.5%	3 499	2 969	-15.1%	3 562	3 025	-15.1%	823	755	-8.3%
Romania	40 598	9 274	-77.2%	183 863	21 099	-88.5%	184 495	16 979	-90.8%	40 929	13 394	-67.3%
Russian Federation**		1 000			10 000			56 000			500	
San Marino		16			17			27			6	
Slovakia	3 990	2 626	-34.2%	8 386	7 466	-11.0%	8 850	7 148	-19.2%	3 526	2 944	-16.5%
Slovenia	1 365	4 520	231.1%	2 390	3 696	54.6%	1 811	3 698	104.2%	1 944	4 518	132.4%
Spain	40 995	41 979	2.4%	17 717	24 620	39.0%	25 179	30 357	20.6%	34 225	38 319	12.0%
Sweden	7 871	1 120	-85.8%	11 796	5 420	-54.1%	10 813	5 221	-51.7%	8 854	1 318	-85.1%
Switzerland	3 056	2 339	-23.5%	7 239	5 729	-20.9%	7 004	6 106	-12.8%	3 291	1 962	-40.4%
FYROMacedonia	5 043	1 563	-69.0%	4 657	1 726	-62.9%	4 823	2 110	-56.3%	4 877	1 179	-75.8%

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Turkey	150 955		-100.0%	412 519			390 141			171 161		
Ukraine	36 000			16 000	10 250	-35.9%	27 500			36 000		
UK-England and Wales					51		64					
UK-Scotland					3 904		3 385					
Average			-8.6%			2.7%						25.1%
Median			-10.0%			-11.0%						0.1%
Minimum			-85.8%			-88.5%						-97.8%
Maximum			231.1%			227.7%						629.8%

*Lithuania: values for pending cases are relatively low causing very important discrepancies in the time comparisons. This is the reason of non-calculation of the change between 2006 and 2008.

**Russian Federation: the values presented in the table are cases referred to the supervisory review instance court and examined. Numbers of cases examined by a judge of a supervisory review instance court in order to establish whether the matter is to be referred to the supervisory review instance court or not are as follow: (a) Pending cases on 1st January 2008 =9,000; (b) Incoming cases =258,000; (c) Resolved cases =153,000; (d) Pending cases on 31st December 2008 =6,000.

***Poland: it is likely the collecting rule changed between 2006 and 2008. Nevertheless, the figures on the change between 2006 and 2008 are presented in the table. Moreover, the information is included in the calculation of the central tendency indicators because of the relative comparability with other countries.

Table 30. (Chapter 9 - Fair trial) Highest instance courts: number of litigious civil (and commercial) law cases (Q93)

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Armenia			0									
Bosnia and Herzegovina	2 602	3 581	37.6%	2 918	4 304	47.5%	2 684	4 133	54.0%	2 836	3 752	32.3%
Croatia	1 027	980	-4.6%	2 382	2 625	10.2%	2 721	1 929	-29.1%	688	1 676	143.6%
Czech Republic	3 916	5 209	33.0%	7 507	6 510	-13.3%	6 002	6 066	1.1%	4 091	5 654	38.2%
Denmark		463			257			319			446	
Estonia	23	21	-8.7%	161	158	-1.9%	153	145	-5.2%	32	34	6.3%
Finland	441	369	-16.3%	1 010	985	-2.5%	1 124	987	-12.2%	324	367	13.3%
France	23 677	18 642	-21.3%	19 034	18 932	-0.5%	22 461	18 684	-16.8%	20 250	18 890	-6.7%
Georgia	525	288	-45.1%	872	1 107	26.9%	1 049	1 112	6.0%	348	283	-18.7%
Hungary	716	679	-5.2%	4 580	2 840	-38.0%	4 503	2 596	-42.3%	793	923	16.4%
Italy	95 081	102 588	7.9%	35 169	30 406	-13.5%	29 445	33 928	15.2%	100 805	99 066	-1.7%
Latvia	118	214	81.4%	994	916	-7.8%	908	717	-21.0%	204	413	102.5%
Lithuania		211			496			611			96	
Luxembourg					118			123			86	
Moldova	219	256	16.9%	1 881	3 293	75.1%	1 919	3 180	65.7%	181	369	103.9%
Monaco		44		64	22	-65.6%	23	21	-8.7%		45	

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Montenegro*	12	26	116.7%	11	645	-86.1%	13	669	-89.7%	10	2	-80.0%
Romania	33 958	7 600	-77.6%	112 141	15 602		118 275	12 146		27 824	11 056	-60.3%
Russian Federation		1 000			10 000			10 000			500	
San Marino		14			5			19			0	
Serbia	4 022	3 555	-11.6%	8 352	8 891	6.5%	9 019	8 775	-2.7%	3 355	3 671	9.4%
Slovenia	1 138	2 057	80.8%	1 537	1 929	25.5%	1 084	1 655	52.7%	1 591	2 331	46.5%
Spain	19 591	27 251	39.1%	9 637	16 643	72.7%	12 310	21 157	71.9%	16 918	24 889	47.1%
Sweden	223	200	-10.3%	558	588	5.4%	581	566	-2.6%	200	222	11.0%
Switzerland	258	426	65.1%	770	1 506	95.6%	757	1 530	102.1%	271	402	48.3%
FYROMacedonia	1 011	1 563	54.6%	1 635	1 641	0.4%	1 224	2 025	65.4%	1 442	1 179	-18.2%
Turkey	69 421	214 376	208.8%	325 641	480 568	47.6%	144 204	425 393	195.0%	141 005	269 551	91.2%
UK-England and Wales					51			64				
UK-Scotland					3 904			3 385				
Average			27.1%			9.2%			19.9%			26.2%
Median			12.4%			2.9%			-0.8%			14.8%
Minimum			-77.6%			-86.1%			-89.7%			-80.0%
Maximum			208.8%			95.6%			195.0%			143.6%

*Montenegro: values for incoming and resolved cases are relatively low causing very important discrepancies in the time comparisons. This is the reason of non-calculation of the change between 2006 and 2008.

Table 31 (Chapter 9 - Fair trial) Highest instance courts: number of non-litigious civil (and commercial) law cases (Q93)

Country	Pending cases on 1 st January 2008		Incoming cases		Resolved cases		Pending cases on 31 st December 2008	
	2008	2008	2008	2008	2008	2008	2008	2008
Finland		203	274	280		274	280	197
Montenegro		26	64	90		64	90	0
San Marino		0	0	0		0	0	0
UK-England and Wales			0	0		0	0	0

Table 32 Chapter 9 (Fair trial) Highest instance courts: number of enforcement cases (Q93)

Country	Pending cases on 1 st January 2008		Incoming cases		Resolved cases		Pending cases on 31 st December 2008	
	2008	2008	2008	2008	2008	2008	2008	2008
Estonia		2	20	14		20	14	8
Russian Federation		8 000	81 000	88 000		81 000	88 000	1 000
Spain		9	4	9		4	9	4

Table 33 (Chapter 9 - Fair trial) Highest instance courts: number of business register cases (Q93)

Country	Pending cases on 1 st January 2008		Incoming cases		Resolved cases		Pending cases on 31 st December 2008	
	2006	2008	2006	2008	2006	2008	2006	2008
Estonia		0		1		0		1
Hungary		1		22		14		9
UK-England and Wales						2		

Table 34 (Chapter 9 - Fair trial) Highest instance courts: number of administrative law cases (Q93)

Country	Pending cases on 1 st January 2008		Change 2006-2008		Incoming cases		Change 2006-2008		Resolved cases		Change 2006-2008		Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008	2006	2008	
Albania		376				580					209			746	
Armenia		0				223					223			0	
Bosnia and Herzegovina	9 032	7 553	-16.4%		853	4 437	420.2%		3 322	6 174	85.9%		6 563	5 816	-11.4%
Bulgaria	3 917				12 914				13 604				3 302		
Croatia		17				47				29				35	
Czech Republic	3 234	1 577	-51.2%		4 193	3 627	-13.5%		4 729	1 332	-71.8%		2 698		
Denmark						55									
Estonia	15	31	106.7%		105	103	-1.9%		96	92	-4.2%		22	42	90.9%
Finland	3 095	2 874	-7.1%		3 793	4 298	13.3%		4 006	3 734	-6.8%		2 866	3 438	20.0%
France	9 494	8 169	-14.0%		10 271	10 250	-0.2%		11 198	10 270	-8.3%		11 198	8 149	-27.2%
Georgia	485	371	-23.5%		1 087	1 723	58.5%		1 130	1 382	22.3%		442	712	61.1%
Hungary	561	978	74.3%		1 566	1 387	-11.4%		1 335	1 219	-8.7%		792	1 146	44.7%
Latvia	110	184	67.3%		613	830	35.4%		569	739	29.9%		154	275	78.6%
Moldova		109				2 355				2 290			174		
Montenegro	9	25	177.8%		116	146	25.9%		93	171	83.9%		32	0	
Netherlands	2 133				6 743				7 043				1 833		
Poland		8 470				14 642				14 085				9 027	
Romania	6 171	1 674	-72.9%		42 356	5 497	-87.0%		34 899	4 833	-86.2%		7 457	2 338	-68.6%
Russian Federation										45 000					
San Marino		2				12				8				6	
Serbia	11 516	16 412	42.5%		13 501	10 935	-19.0%		10 458	11 719	12.1%		14 559	15 241	4.7%
Slovakia	1 681	1 003	-40.3%		2 751	3 379	22.8%		2 916	3 038	4.2%		1 516	1 344	-11.3%
Slovenia*	32	1 866			172	1 012			186	1 434			18	1 444	
Spain	21 391	14 719	-31.2%		8 062	7 973	-1.1%		12 850	9 191	-28.5%		17 279	13 426	-22.3%
Sweden	6 795	6 618	-2.6%		8 071	8 684	7.6%		6 967	10 313	48.0%		7 899	4 941	-37.4%
Switzerland	2 774	1 913	-31.0%		6 239	4 218	-32.4%		6 024	4 572	-24.1%		2 989	1 559	-47.8%
FYROMacedonia	4 032	0			3 022	85	-97.2%		3 599	85	-97.6%		3 455	0	
Turkey	81 534	118 423	45.2%		86 878	130 255	49.9%		71 786	99 284	38.3%		94 454	149 394	58.2%

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Ukraine**	155			307	48 100		94	14 100		155		
UK-England and Wales							13					
UK-Scotland					2 058		2 214					
Average			14.0%			21.8%			-0.7%			9.4%
Median			-10.5%			-0.2%			-4.2%			-3.3%
Minimum			-72.9%			-97.2%			-97.6%			-68.6%
Maximum			177.8%			420.2%			85.9%			90.9%

*Slovenia: it is likely the collecting rule changed between 2006 and 2008. In order to ensure the comparability, the change percentages were not presented in this table.

**Ukraine: the figures for 2006 or for 2008 are probably wrong. These should be considered as such, and the change percentages have been excluded from the calculation of the European central tendency indicators.

Table 35 (Chapter 9 - Fair trial) Highest instance courts: number of other civil law cases (Q93)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Denmark		68		
Finland	116	442	398	160
Latvia	25	152	123	54
Poland	1 876	6 063	6 238	1 701
San Marino	0	0	0	0
Slovenia	597	755	609	743
Sweden	699	3 278	3 161	815
Switzerland	0	5	4	1
UK-England and Wales		0	0	

Table 36 (Chapter 9 - Fair trial) Highest instance courts: total number of criminal [severe and misdemeanour] cases (Q93)

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Albania					912		584			1 235		
Armenia		11		352	88	-75.0%	344	76	-77.9%	19	12	-36.8%
Austria		181	14.4%	719	942	31.0%	721	936	29.8%	179	213	19.0%
Azerbaijan		63	23.8%	754	972	28.9%	778	760	-2.3%	39	134	243.6%
Belgium		439	1.1%	1 697	1 939	14.3%	1 722	1 834	6.5%	414	549	32.6%
Bosnia and Herzegovina		239	100.0%	1 173	2 320	97.8%	1 205	2 399	99.1%	207	399	92.8%

Country	Pending cases on 1 st January 2008		Change 2006-2008	Incoming cases		Change 2006-2008	Resolved cases		Change 2006-2008	Pending cases on 31 st December 2008		Change 2006-2008
	2006	2008		2006	2008		2006	2008		2006	2008	
Bulgaria	1 636			3 274			3 888			1 022		
Croatia	251	291	15.9%	747	999	33.7%	740	1 082	46.2%	258	209	-19.0%
Czech Republic	204			2 351			2 350			199		
Denmark		40		128	59	-53.9%		47			65	
Estonia	23	21	-8.7%	134	96	-28.4%	132	91	-31.1%	25	26	4.0%
Finland	543	409	-24.7%	1 075	1 220	13.5%	1 245	1 210	-2.8%	373	419	12.3%
Georgia	405	1 092	169.6%	2 008	1 575	-21.6%	1 160	2 169	87.0%	1 253	488	-61.1%
Hungary	161	186	15.5%	1 420	1 131	-20.4%	1 397	1 122	-19.7%	184	195	6.0%
Iceland	36	45	25.0%	248			232	277	19.4%	53	44	-17.0%
Italy	32 862	33 177	1.0%	48 103	44 029	-8.5%	43 526	48 683	11.8%	37 439	28 340	-24.3%
Latvia	32	23	-28.1%	768	711	-7.4%	758	699	-7.8%	42	35	-16.7%
Lithuania	227	127	-44.1%	898	509	-43.3%	701	520	-25.8%	424	116	-72.6%
Luxembourg							50	64	28.0%			
Moldova	98	513	423.5%	2 073	2 842	37.1%	1 867	2 899	55.3%	304	456	50.0%
Monaco				22	35	59.1%	36	34	-5.6%			
Montenegro		0			925			925			0	
Netherlands					3 683			3 370				
Norway	21	21	0.0%	89	88	-1.1%	81	85	4.9%	30	25	-16.7%
Poland	967	756	-21.8%	2 552	2 827	10.8%	2 672	2 795	4.6%	887	788	-11.2%
Portugal	302	277	-8.3%	1 387	1 221	-12.0%	1 405	1 352	-3.8%	284	146	-48.6%
Romania*	5 218	137		62 584	42		61 804	57		5 998	129	
Russian Federation**		2 000			25 000			25 000			1 000	
Serbia		2 044			9 720			9 555			2 209	
Slovakia	278	321	15.5%	1 835	1 190	-35.1%	1 847	1 283	-30.5%	266	228	-14.3%
Slovenia	384	268	-30.2%	938	1 023	9.1%	1 026	1 080	5.3%	296	211	-28.7%
Spain	2 525	1 938	-23.2%	4 345	4 470	2.9%	4 762	3 703	-22.2%	2 108	2 705	28.3%
Sweden	255	221	-13.3%	1 524	1 554	2.0%	1 583	1 494	-5.6%	196	281	43.4%
Switzerland	165	314	90.3%	621	1 418	128.3%	622	1 409	126.5%	164	323	97.0%
FYROMacedonia	59	49	-16.9%	781	700	-10.4%	770	642	-16.6%	70	107	52.9%
Turkey	136 135	194 318	42.7%	149 974	245 604	63.8%	144 204	197 375	36.9%	141 005	242 547	72.0%
Ukraine	4 210			25 488	16 800	-34.1%	26 496	16 200	-38.9%	3 112		
UK-England and Wales					11			18				
UK-Scotland					951			804				
Average			30.0%			6.7%			9.7%			15.5%
Median			1.0%			2.0%			1.1%			4.0%
Minimum			-44.1%			-75.0%			-77.9%			-72.6%
Maximum			423.5%			128.3%			126.5%			243.6%

*Romania: it is likely the collecting rule changed between 2006 and 2008. In order to ensure the comparability, the change percentages were not presented in this table.

**Russian Federation: the values presented in the table are cases referred to the supervisory review instance court and examined. Numbers of cases examined by a judge of a supervisory review instance court in order to establish whether the matter is to be referred to the supervisory review instance court or not are as follow: (a) Pending cases on 1st January 2008 =16,000; (b) Incoming cases =335,000; (c) Resolved cases =245,000; (d) Pending cases on 31st December 2008 =11,000.

Table 37 (Chapter 9 - Fair trial) Highest instance courts: number of severe criminal offences cases (Q93)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Bosnia and Herzegovina	478	2 320	2 399	399
Croatia	291	999	1 082	209
Czech Republic	205	2 718	2 619	304
Denmark	40	59	47	65
Estonia	15	51	49	17
France	2 455	8 348	2 037	2 654
Georgia	377	553	719	211
Hungary	186	1 131	1 122	195
Italy	33 177	44 029	48 683	28 340
Latvia	21	491	493	19
Monaco	2			
Portugal	277	1 221	1 352	146
Slovenia	217	898	924	191
FYROMacedonia	49	700	642	107
UK-England and Wales		11	18	

Table 38 (Chapter 9 - Fair trial) Highest instance courts: number of misdemeanour and/or minor offences cases (Q93)

Country	Pending cases on 1 st January 2008	Incoming cases	Resolved cases	Pending cases on 31 st December 2008
Estonia	6	45	42	9
Georgia	715	1 022	1 450	287
Latvia	2	220	206	16
Slovenia	51	125	156	20
UK-England and Wales		0	0	

Table 39 (Chapter 9 - Fair trial). Litigious divorce cases (Q95)

Country	% of decisions subject to appeal	% pending cases more than 3 years	1 st instance (average length in days)	2 nd instance (average length in days)	Total procedure (average total length in days)
Albania	3.93	0	73	246	319
Austria		2.8	180		
Belgium				479	
Bosnia and Herzegovina	4.30	5.99	329	98	214
Bulgaria	5.13				
Denmark	15.00		153	90	240
Estonia	0.50	0	91	30	90
Finland	0.00	0	243		243
France	11.00		564	393	595
Georgia	2.80				
Hungary	2.90				
Italy			682		
Latvia	1.60	0.26	135	72	
Lithuania			69.3		
Moldova	1.40	0			
Monaco			270	240	510
Montenegro	2.67	3.12	103.86	120.46	224.32
Netherlands			331	217	
Poland	3.19	0.92	164.1	50.4	
Portugal				101	
Romania	5.60	2			
Slovakia					186
Slovenia	2.90	0.8	191	60	
Spain			261		
Sweden		0.05	234		
Switzerland	11.00	0.03			
FYROMacedonia	7.17	0.02	136	47	199
Turkey			152		
UK-England and Wales		2.4	225		

Table 40 (Chapter 9 - Fair trial). Employment dismissal cases (Q95)

Country	% of decisions subject to appeal	% pending cases more than 3 years	1 st instance (average length in days)	2 nd instance (average length in days)	Total procedure (average total length in days)
Albania	51.27	1	153	588	741
Austria			171		
Bosnia and Herzegovina	11.58	6.36	313	144	229
Bulgaria	58.10				
Czech Republic					1 009
Estonia	24.30	8.7	387	150	553
Finland	53.60	0	249	366	
France	61.00		476	433	568
Latvia	52.50	4	174	87	
Moldova	58.90	0			
Monaco			750		
Montenegro	0.51	4.09	306.06	316.13	622.19
Netherlands			21		
Poland	14.23	3.06	4.77	62.4	
Portugal				154	
Romania	52.70	0			
Slovakia	34.42				1 109
Slovenia	8.90	3.9	236	255	
Spain			84		
Switzerland	13.50	0.01			
FYROMacedonia	35.75	3.4	176	53	229

Table 41 (Chapter 9 - Fair trial). Robbery cases (Q95)

Country	% of decisions subject to appeal	% pending cases more than 3 years	1 st instance (average length in days)	2 nd instance (average length in days)	Total procedure (average total length in days)
Albania	33.82	0	73	365	438
Belgium				277	
Bosnia and Herzegovina	11.92	14.07			
Bulgaria	38.02				
Czech Republic			344	443	349
Estonia	14.50	0	113	141	254
Finland	52.90	3	129	264	
France			265	284	285
Georgia	39.00				
Latvia	53.80	3.4	204	105	
Lithuania			128.4		
Moldova		0			
Monaco	0.00				
Montenegro	27,35 & 88,46%	0,70% & 27,13%	131,46 & 708,5	123,20 & 311,5	254,66 & 1020
Netherlands			35	231	
Poland			333	324	
Portugal				78	
Romania	89.10	0			
Slovakia	23.34				308
Switzerland					516
FYROMacedonia	42.56	0.01	182	45	227
Turkey		0.16	433		

Table 42 (Chapter 9 - Fair trial). Intentional homicide (Q95)

Country	% of decisions subject to appeal	% pending cases more than 3 years	1 st instance (average length in days)	2 nd instance (average length in days)	Total procedure (average total length in days)
Albania	77.52	0	246	258	504
Belgium				364	
Bosnia and Herzegovina	12.66	22			
Bulgaria	69.23				
Czech Republic			227		227
Estonia	70.00	0	275	289	478
Finland	78.30	0	93	216	
Greece				250	
Latvia	91.60	1	156	150	
Lithuania			136.8		
Moldova		1			
Monaco	0.00				
Montenegro	0.90	18.75	999.04	269.6	1268.64
Netherlands			105	231	
Poland			141	45	
Portugal				92	
Romania	82.90	0			
San Marino	0.00	0			
Slovakia	74.00				429
Switzerland					1364
FYROMacedonia	68.31	1.9	184	49	233
Turkey		0.1	334		

Table 43 (with reference to 11.36): number of disciplinary proceedings initiated against prosecutors (Q128)

Country	TOTAL	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Andorra	(8)	8			
Armenia	(5)	5			
Azerbaijan	(6)		5	1	
Bulgaria	70	35	0	2	33
Croatia	79	79			
Czech Republic	(63)	63			0
Denmark	891				742
Estonia	17	9	0	0	
Finland	401				
Georgia	14	1	1		12
Greece	890				
Ireland	38	75%	25%	0	0
Italy	408				
Latvia	0	0	0	0	0
Lithuania	21	21	0	0	0
Luxembourg	4	4	0	0	0
Moldova	53	28	16	2	7
Monaco	0	0	0	0	0
Montenegro	18	18	0	0	0
Poland	(827)	827			
Russian Federation	5118	2559		23	2536
Slovenia	23	23	0	0	0
Sweden	(213)	95	118		NAP
Switzerland	80	69	9	0	2
FYROMacedonia	(159)	63	96		
Turkey	546				
UK-Scotland	853	104	478	2	269

Several figures under the "Total" heading are presented between brackets, since they do not necessarily include the totality of the distribution requested in the questionnaire (data was not available [NA]). These figures should be interpreted very cautiously.

Table 44 (with reference to 11.39): number of sanctions pronounced against prosecutors (Q129)

Country	TOTAL	Reprimand	Suspension	Removal	Fine	Other
Andorra	1	1				
Armenia	5	5				
Azerbaijan	6	5		1		
Bosnia & Herzegovina	7	1	0	0	6	0
Bulgaria	42	2	20	1	19	0
Croatia	53	5	6	18	24	
Czech Republic	63	14	1	2	32	14
Denmark	218	26	2		190	
Estonia	9	8	0	0	1	0
Finland	89	55			2	32
Greece	51		51			
Ireland	4				4	0
Italy	148					
Latvia	0	0	0	0	0	0
Lithuania	10	10	0	0	0	0
Luxembourg	4	0	2	1	1	0
Moldova	3	1		2		
Monaco	0	0	0	0	0	0
Montenegro	0	0	0	0	0	0
Netherlands	281	77	62	14		128
Poland	177	120	19	2	36	
Romania	567		567			
Russian Federation	5 118	2 559		473		2 086
Slovenia	10	2	0	NAP	8	0
Sweden		60-70	1	NAP	NAP	
Switzerland	47	17	3	0	11	16
FYROMacedonia	1			1		
UK-Scotland	56	37	2	1	16	NAP

Table 45 Role and attributions of public prosecutors in criminal procedures (Q98)

Country	To conduct or supervise police investigation	To conduct investigation	When necessary, to demand investigation measures from the judge	To charge	To present the case in the court	To propose a sentence to the judge	To appeal	To supervise enforcement procedure	To end the case by dropping it without a judicial decision	To end the case by imposing or negotiating a penalty or a measure without a judicial decision	Other significant powers
Albania	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
Andorra	Yes		Yes	Yes	Yes	Yes	Yes	Yes			
Armenia	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Austria	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Azerbaijan	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
Belgium	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Bosnia and Herzegovina	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Bulgaria	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Croatia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Cyprus				Yes	Yes	Yes	Yes				
Czech Republic	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
Denmark	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes		
Estonia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Finland		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
France	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Georgia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Greece	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Hungary	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Iceland	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Ireland				Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Italy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
Latvia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Luxembourg	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Malta			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Moldova	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Monaco	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Montenegro	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Netherlands	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Norway	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Poland	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Country	To conduct or supervise police investigation	To conduct investigation	When necessary, to demand investigation measures from the judge	To charge	To present the case in the court	To propose a sentence to the judge	To appeal	To supervise enforcement procedure	To end the case by dropping it without a judicial decision	To end the case by imposing or negotiating a penalty or a measure without a judicial decision	Other significant powers
Portugal	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Romania	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Russian Federation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
San Marino	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Serbia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Slovakia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Slovenia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Spain	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Sweden	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Switzerland	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
FYROMacedonia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Turkey	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Ukraine	Yes			Yes	Yes	Yes		Yes	Yes	Yes	
UK-England and Wales				Yes	Yes	Yes	Yes		Yes	Yes	
UK-Scotland	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
TOTAL number of countries	40 of 46 (87%)	29 of 46 (63%)	40 of 46 (87%)	45 of 46 (98%)	46 of 46 (100%)	39 of 46 (85%)	44 of 46 (96%)	26 of 46 (57%)	43 of 46 (93%)	22 of 46 (48%)	16 of 46 (35%)

Country features:

Bosnia and Herzegovina: A prosecutor may withdraw an indictment without the prior approval of the Court before its confirmation. After the confirmation and before the beginning of the main trial, the approval of the preliminary hearing judge is needed.

Italy: The prosecutors cannot discontinue or conclude a case by their own. They always must obtain decision of the court regarding the outcome of a case.

Montenegro: The prosecutor's power to conclude an agreement on the admission of guilt with the accused is significant.

Poland: Prosecutors can negotiate a penalty with the defendant who pleads guilty. However, prosecutors can not end such cases by their own decision.

Sweden: The prosecutor often proposes a sentence to the judge even though it is not compulsory.

UK-England and Wales: The Crown Prosecutors do not impose or negotiate penalties; these can only be imposed by the courts if guilt is established.

Table 46 (related to the Figure 11.26 in the Chapter 11: Status and career of judges and prosecutors), Activities with which judges are allowed to combine their function (Q121)

Country	Remunerated						Without remuneration					
	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function
Albania	Yes	Yes				Yes					Yes	
Andorra	Yes	Yes										
Armenia	Yes	Yes										
Austria	Yes	Yes	Yes	Yes	Yes	Yes						
Azerbaijan	Yes	Yes					Yes	Yes				
Belgium	Yes	Yes					Yes	Yes			Yes	
Bosnia and Herzegovina	Yes	Yes			Yes							
Bulgaria	Yes	Yes									Yes	
Croatia	Yes	Yes	Yes		Yes							
Cyprus		Yes					Yes					
Czech Republic	Yes	Yes		Yes	Yes	Yes						
Denmark	Yes	Yes			Yes	Yes						
Estonia	Yes	Yes				Yes						
Finland	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
France	Yes	Yes				Yes	Yes	Yes			Yes	
Georgia	Yes	Yes										
Greece	Yes	Yes	Yes		Yes	Yes	Yes	Yes			Yes	
Hungary	Yes	Yes			Yes	Yes						
Iceland	Yes	Yes	Yes		Yes	Yes						
Ireland							Yes	Yes			Yes	
Italy	Yes	Yes			Yes	Yes	Yes	Yes			Yes	Yes
Latvia	Yes	Yes										
Lithuania	Yes	Yes										
Luxembourg	Yes	Yes										
Malta							Yes					
Moldova	Yes	Yes										
Monaco	Yes	Yes			Yes	Yes		Yes				
Montenegro	Yes	Yes		Yes	Yes	Yes						
Netherlands	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Norway	Yes	Yes	Yes		Yes	Yes						
Poland	Yes	Yes	Yes									
Portugal		Yes					Yes		Yes			
Romania	Yes	Yes									Yes	
Russian Federation	Yes	Yes			Yes							
San Marino	Yes	Yes									Yes	

Country	Remunerated						Without remuneration					
	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function
Serbia	Yes	Yes										
Slovakia	Yes	Yes										
Slovenia	Yes	Yes	Yes		Yes							
Spain	Yes	Yes			Yes							
Sweden	Yes	Yes	Yes		Yes							
Switzerland	Yes	Yes	Yes		Yes							
FYROMacedonia	Yes	Yes					Yes	Yes				
Turkey		Yes						Yes			Yes	
UK-England and Wales		Yes						Yes			Yes	
UK-Northern Ireland		Yes				Yes		Yes			Yes	Yes
UK-Scotland		Yes							Yes			
TOTAL number of countries	38	42	10	5	19	11	11	13	5	2	16	4

Table 47. (related to the Figure 11.27 in the Chapter 11: Status and career of judges and prosecutors), Activities with which prosecutors are allowed to combine their function (Q123)

Country	Remunerated						Without remuneration					
	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function
Albania	Yes	Yes				Yes					Yes	
Andorra	Yes	Yes										
Armenia	Yes	Yes										
Austria	Yes	Yes		Yes	Yes	Yes						
Azerbaijan	Yes	Yes					Yes	Yes			Yes	
Belgium	Yes	Yes										
Bosnia and Herzegovina	Yes	Yes			Yes						Yes	
Bulgaria	Yes	Yes									Yes	
Croatia	Yes	Yes									Yes	Yes
Cyprus												
Czech Republic	Yes	Yes		Yes	Yes	Yes						
Denmark	Yes	Yes	Yes	Yes	Yes	Yes						
Estonia	Yes	Yes										
Finland	Yes	Yes			Yes	Yes	Yes	Yes			Yes	Yes
France	Yes	Yes			Yes	Yes	Yes	Yes			Yes	Yes

Country	Remunerated						Without remuneration					
	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function	Teaching	Research and publication	Arbitrator	Consultant	Cultural function	Other function
Georgia	Yes	Yes				Yes						
Greece	Yes	Yes	Yes		Yes	Yes	Yes	Yes		Yes	Yes	
Hungary	Yes	Yes			Yes							
Iceland	Yes	Yes	Yes		Yes	Yes						
Ireland	Yes	Yes	Yes	Yes	Yes	Yes						
Italy	Yes	Yes			Yes	Yes	Yes	Yes		Yes	Yes	Yes
Latvia	Yes	Yes										
Lithuania	Yes											
Luxembourg	Yes	Yes										
Malta							Yes	Yes				
Moldova	Yes	Yes										
Monaco	Yes					Yes		Yes				
Montenegro	Yes	Yes		Yes	Yes	Yes						
Netherlands	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Norway	Yes	Yes			Yes	Yes						
Poland	Yes	Yes										
Portugal							Yes	Yes		Yes	Yes	
Romania	Yes	Yes										
Russian Federation	Yes	Yes			Yes							
San Marino	Yes	Yes										
Serbia	Yes	Yes										
Slovakia	Yes	Yes										
Slovenia	Yes	Yes										
Spain	Yes	Yes			Yes							
Sweden	Yes	Yes			Yes							
Switzerland	Yes	Yes			Yes							
FYROMacedonia	Yes	Yes					Yes	Yes				
Turkey		Yes						Yes			Yes	
UK-England and Wales												
UK-Northern Ireland												
UK-Scotland		Yes					Yes					
TOTAL number of countries	39	39	5	6	19	9	10	11	2	1	13	4

Table 48 (Chapter 11 - Status and career of judges and prosecutors)

Country	Total number of disciplinary proceeding initiated against:		Calculated number of proceedings initiated:		Total number of sanctions pronounced against:		Calculated number of sanctions pronounced:	
	Judges	Prosecutors	Per 100 judges	Per 100 prosecutors	Judges	Prosecutors	Per 100 judges	Per 100 prosecutors
Albania	9	14	2.4	4.4	9	3	2.4	0.9
Andorra	1	0	4.3	0.0	0	0	0.0	0.0
Armenia	26	4 to 5	12.0	1.5	5	3	2.3	0.9
Austria	47	1	2.8	0.3	58	0	3.5	0.0
Azerbaijan	24	41	4.9	3.5	15	41	3.0	3.5
Belgium	14	3	0.9	0.4	6		0.4	
Bosnia and Herzegovina	7	1	0.8	0.3	12	1	1.4	0.3
Bulgaria	17	11	0.8	0.7	7	3	0.3	0.2
Croatia	11	1	0.6	0.2	6	1	0.3	0.2
Cyprus	0	NA	0.0		0	NA	0.0	
Czech Republic	38	6	1.2	0.5	19	6	0.6	0.5
Denmark	91	2	23.9	0.3		2		0.3
Estonia	4	0	1.7	0.0	4	0	1.7	0.0
Finland					8	1	0.9	0.3
France	6	2	0.1	0.1	3	2	0.1	0.1
Georgia	33	32	0.1	8.0	27	21	0.1	5.2
Hungary	25	14	0.9	0.8	8	10	0.3	0.6
Iceland	0	0	0.0	0.0	0	0	0.0	0.0
Italy	111	62	1.8	3.1	40	6	0.7	0.3
Latvia	5	10	1.1	1.9	5	10	1.1	1.9
Lithuania	2	3	0.3	0.3	0	12	0.0	1.4
Luxembourg	0	0	0.0	0.0	0	0	0.0	0.0
Moldova	15	133	3.3	17.3	11	93	2.4	12.1
Monaco	0	0	0.0	0.0	0	0	0.0	0.0
Montenegro	6	0	2.4	0.0	10	0	4.1	0.0
Norway	37	0	6.9	0.0	2	0	0.4	0.0
Poland	57	29	0.6	0.5	38	28	0.4	0.4
Portugal	21		1.1		36		1.9	
Romania	11		0.3		13		0.3	
Russian Federation	371	2717	1.1	9.0	371	2717	1.1	9.0
San Marino	0	0	0.0	0.0	0	0	0.0	0.0
Slovakia	36	4	2.6	0.4	NA	9		1.0
Slovenia	3	2	0.3	1.1	0	0	0.0	0.0
Spain	45	3	0.9	0.1	28	3	0.6	0.1
Sweden	2	1	0.2	0.1	0	1	0.0	0.1
Switzerland	50	29	4.6	6.8	6	2	0.6	0.5
FYROMacedonia	15		2.3		12		1.8	
Turkey	350		4.9					
UK-England and Wales	59	NA	3.1		59		3.1	
UK-Northern Ireland	2		1.6		2		1.6	
UK-Scotland		2		0.5		6		1.4
Average			2.5	1.9			1.0	1.3
Median			1.1	0.4			0.6	0.3

Scheme for evaluating judicial systems 2009-20010 cycle

1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1. Number of inhabitants
2. Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	
Regional / entity level	

3. Per capita GDP (in €)
4. Average gross annual salary (in €)
5. Exchange rate from national currency (non-Euro zone) to € on 1 January 2009

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

1. 2. Budgetary data concerning judicial system

1.2.2. Budget (courts, public prosecution, legal aid, fees)

6. Total annual approved budget allocated to all courts (in €)
7. Please specify:
8. Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned or indicate NA (not available) in case that the information cannot be supplied

	Yes	Amount (Euro)
Annual public budget allocated to (gross) salaries	<input type="checkbox"/>	
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input type="checkbox"/>	
Annual public budget allocated to justice expenses	<input type="checkbox"/>	
Annual public budget allocated to court buildings (maintenance, operation costs)	<input type="checkbox"/>	
Annual public budget allocated to investments in new (court) buildings	<input type="checkbox"/>	
Annual public budget allocated to training and education	<input type="checkbox"/>	
Other (please specify):	<input type="checkbox"/>	

Please provide comments to explain the data provided under question 8:

9. Has the annual public budget of the courts changed (increased or decreased) over the last five years?

- Yes
- No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years:)

10. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- for criminal cases?
- for *other than criminal* cases?

If yes, are there exceptions? Please specify:

11. If yes, please specify the annual income of court fees (or taxes) received by the State (in Euros)

Please provide comments to explain the data provided under question 11:

12. Total annual approved budget allocated to the whole justice system (in €)

Please provide information concerning the budgetary elements that included in the whole justice system budget:

13. Total annual approved public budget allocated to legal aid (in €)

Please provide comments to explain the figure provided under question 13:

14. If possible, please specify (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	<input type="text"/>	<input type="text"/>

Please provide comments to explain the figures provided under question 14:

15. Is the public budget allocated to legal aid included in the court budget ?

- Yes
- No

16. Total annual approved public budget allocated to the public prosecution system (in €)

Please provide comments to explain the figure provided under question 16:

17. Is the budget allocated to the public prosecution included in the court budget?

- Yes
- No

18. Authorities formally responsible for the budget allocated to the courts:

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other ministry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parliament	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial Council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inspection body.	<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"/>

19. If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

Please indicate the sources for answering the questions 6, 8, 11, 12, 13, 14 and 16.

2. Access to Justice and to all courts

2.1. Legal aid

2.1.1. Principles

20. Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	<input type="checkbox"/>	<input type="checkbox"/>
Legal advice	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

21. If other, please specify (in regards to question 20):

22. Does legal aid foresee the covering or the exoneration of court fees?

- Yes
 No

If yes, please specify:

23. Can legal aid be granted for the fees that are related to the execution of judicial decisions?

- Yes
 No

If yes, please specify:

24. Number of cases granted with legal aid provided by (national, regional, local) public authorities (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
Total	
Criminal cases	
Other than criminal cases	

Please specify when appropriate:

25. In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

- Yes
 No

26. Does your country have an income and asset test for granting legal aid:

	Yes	Amount in €
for criminal cases		
for other than criminal cases?		

Please provide comments to explain the figures provided under question 26:

27. In *other than criminal* cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

- Yes
 No
 Not applicable (NAP)

Please provide comments to explain the answer under question 27:

28. If yes, is the decision for granting or refusing legal aid taken by:

- the court?
 an authority external to the court?
 a mixed decision-making authority (court and external)?

29. Is there a private system of legal expense insurance enabling individuals to finance court proceedings?

- Yes
 No

Please specify:

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

	Yes (the decision has an impact on who bears the legal costs)
criminal cases?	<input type="checkbox"/>
other than criminal cases?	<input type="checkbox"/>

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

Please indicate the sources for answering the questions 24 and 26:

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

31. Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:

- | | |
|--|--------------------------|
| | Yes |
| ▪ legal texts (e.g. codes, laws, regulations, etc.)?
Internet address(es): <input type="text"/> | <input type="checkbox"/> |
| ▪ case-law of the higher court/s?
Internet address(es): <input type="text"/> | <input type="checkbox"/> |
| ▪ other documents (for examples forms)?
Internet address(es): <input type="text"/> | <input type="checkbox"/> |

32. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

- Yes
 No

If yes, please specify:

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

- Yes
 No

If yes, please specify:

34. Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Victims of terrorism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children/Witnesses/Victims	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Victims of domestic violence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ethnic minorities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Disabled persons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juvenile offenders	<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"/>

If other, please specify:

35. Does your country have a compensation procedure for victims of crimes?

- Yes
 No

36. If yes, does this compensation procedure consist in:

- a public fund?
 a court decision?
 private fund?

If yes, which kind of cases does this procedure concern?

37. Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?

- Yes
 No

If yes, please specify:

38. Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?

- Yes
 No

If yes, please specify:

39. Do victims of crimes have the right to contest to a decision of the public prosecution to discontinue a case?

- Yes
 No

If yes, please specify:

2. 2. 2. Confidence of citizens in their justice system

40. Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?
 non execution of court decisions?
 wrongful arrest?
 wrongful condemnation?

If yes, please specify (fund, daily tariff):

41. Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction (with the services delivered by the judiciary system)?

- (Satisfaction) surveys aimed at judges

- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at citizens (visitors of the court)
- (Satisfaction) surveys aimed at other clients of the courts

If possible, please specify their titles, how to find these surveys, etc:

42. If possible, please specify:

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	<input type="checkbox"/>	<input type="checkbox"/>
Surveys at court level	<input type="checkbox"/>	<input type="checkbox"/>

43. Is there a national or local procedure for making complaints about the functioning (for example the treatment of a case by a judge or the duration of a proceeding) of the judicial system?

- Yes
- No

44. If yes, please specify:

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	<input type="checkbox"/>	<input type="checkbox"/>
Higher court	<input type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>
High Council of the Judiciary	<input type="checkbox"/>	<input type="checkbox"/>
Other external organisations (e.g. Ombudsman)	<input type="checkbox"/>	<input type="checkbox"/>

Please give elements of information concerning the efficiency of this complaint procedure:

3. Organisation of the court system

3.1. Functioning

3.1.1. Courts

45. Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.

	Total number
First instance courts of general jurisdiction Courts (<i>legal entities</i>)	
Specialised first instance Courts (<i>legal entities</i>)	
All the Courts (<i>geographic locations</i>)* (<i>this includes Supreme Courts and/or High Courts</i>)	

46. Please specify the different areas of specialisation (and, if possible, the number of courts concerned):

47. Is there a change in the structure in the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?

- Yes
 No

If yes, please specify:

48. Number of first instance courts competent for a case concerning (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
a debt collection for small claims	
a dismissal	
a robbery	

Please specify what is meant by small claims in your country (answer only if the definition has been changed since the previous evaluation cycle):

Please indicate the sources for answering the questions 45 and 48:

3.1.2 Judges, court staff

49. Number of professional judges sitting in courts
(please give the information in full time equivalent and for permanent posts; if there is no data please indicate this with NA))

Please provide comments to explain the answer under question 49:

50. Number of professional judges sitting in courts on an occasional basis and who are paid as such:

	Number
gross figure	
if possible, in full time equivalent	

51. Please provide comments to explain the answer under question 50:

52. Is there in the legal system *non*-professional judges (including lay judges and excluding juries) who are not remunerated but who can possibly receive a simple defrayal of costs? (Please indicate NA if no figures are available).

	Yes	Number
Do you have non-professional judges		

Please provide comments to explain the answer under question 52:

53. Does your judicial system include trial by jury with the participation of citizens?

- Yes
 No

If yes, for which type of case(s)?

54. If possible, indicate the number of citizens who were involved in such juries for the year of reference?

55. Number of non-judge staff who are working in courts (in full time equivalent and for permanent posts). Please indicate NA if no figures are available.

Please provide comments to explain the answer under question 55:

56. If possible, could you distribute this staff according to the 4 following categories. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

- non-judge staff (<i>Rechtspfleger</i> or similar bodies), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input type="checkbox"/> Yes	<input type="text"/>
- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars	<input type="checkbox"/> Yes	<input type="text"/>
- staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input type="checkbox"/> Yes	<input type="text"/>
- technical staff	<input type="checkbox"/> Yes	<input type="text"/>

Attention: the total of these four amounts must be the same as the data given under question 55.

Please provide comments to explain the answer under question 56:

57. If there are *Rechtspfleger* (or similar bodies) in your judicial system, please describe briefly their status and functions:

3.1.3 Prosecutors

58. Number of public prosecutors (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Please provide comments to explain the answer under question 58:

59. Do any other persons have similar duties as public prosecutors?

- Yes
 No

If yes, please specify:

60. Number of staff (non prosecutors) attached to the public prosecution service ((in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Please provide comments to explain the answer under question 60:

3.1.4 Court budget and New Technologies

61. Who is entrusted with the individual court budget?

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court President	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court administrative director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Head of the court clerk office	<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"/>

62. You can indicate below:

- any useful comments for interpreting the data mentioned above
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process in the court



63. For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Word processing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic files	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E-mail	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet connection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

64. For administration and management, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Case registration system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court management information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

65. For the communication between the court and the parties, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Electronic web forms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special Website	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other electronic communication facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

- Yes
 No

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

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and evaluation

67. Are the courts required to prepare an annual activity report?

- Yes
 No

68. Do you have a regular monitoring system of court activities concerning the:

- number of incoming cases?
 number of decisions?
 number of postponed cases?
 length of proceedings (timeframes)?
 other?

Please specify:

69. Do you have a regular system to evaluate the performance of each court?

- Yes
 No

Please specify:

70. Concerning court activities, have you defined performance indicators (if no, go to question 72)?

- Yes
 No

71. Please select the 4 main performance and quality indicators that is used for a proper functioning of courts:

- incoming cases
 length of proceedings (timeframes)
 closed cases
 pending cases and backlogs
 productivity of judges and court staff
 percentage of cases that are treated by a single sitting judge
 enforcement of penal decisions
 satisfaction of employees of the courts
 satisfaction of clients (regarding the services delivered by the courts)
 judicial quality and organisational quality of the courts
 costs of the judicial procedures
 other:

Please specify:

72. Are there performance targets defined for individual judges (if no go to question 73) ?

- Yes
 No

73. Please specify who is responsible for setting the targets:

- executive power (for example the ministry of Justice)?
 legislative power?
 judicial power (for example a High Judicial Council or a Higher Court)?
 other?

Please specify:

74. Are there performance targets defined at the level of the courts (if no go to question 75)?

- Yes
 No

75. Please specify who is responsible for setting the targets:

- executive power (for example the ministry of Justice)?
 legislative power?
 judicial power (for example a High Judicial Council or a Higher Court)?
 other?

If other, please specify:

76. Please specify the main targets applied:

77. Which authority is responsible for the evaluation of the performances of the courts:

- High Council of judiciary?
 Ministry of justice?
 inspection authority?
 Supreme Court?
 external audit body?
 other?

If other, Please specify:

78. Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?

- Yes
 No

If yes, please specify:

79. Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?

- Yes
 No

80. Is there a system which measures the backlogs and which detects the cases not processed within a reasonable timeframe for:

- civil cases?
 criminal cases?

administrative cases?

81. Do you have a way of analysing waiting time during court procedures?

- Yes
 No

If yes, please specify:

82. Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?

- Yes
 No

Please specify (including an indication of the frequency of the evaluation):

83. Is there a system for monitoring and evaluating the functioning of the prosecution services?

- Yes
 No

If yes, please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation system

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

84. What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.

85. Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

- Yes
 No

If possible, number of successful challenges (in a year):

86. Please give the following data concerning the number of cases regarding Article 6 of the European Convention of Human Rights (on duration and non-execution), for the year of reference. If there is no data available, please indicate it (NA).

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)				
Civil proceedings - Article 6§1 (non-execution)				

Criminal proceedings - Article 6§1 (duration)				
--	--	--	--	--

4. 2. Timeframes of proceedings

4. 2. 1. General information

87. Are there specific procedures for urgent matters as regards:

- civil cases?
- criminal cases?
- administrative cases?

Please specify:

88. Are there simplified procedures for:

- civil cases (small claims)?
- criminal cases (petty offences)?
- administrative cases?

Please specify (for example if you have introduced a new law on simplified procedures):

89. Do courts and lawyers have the possibility to conclude agreements on the modalities for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?

- Yes
- No

If yes, please specify:

4. 2. 2. Penal, civil and administrative law cases

90. Total number of cases in the first instance courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non litigious)*				
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (severe criminal offences)				

9 Misdemeanour and / or minor offences cases				
--	--	--	--	--

* Please indicate (in the comments below) which types of cases are *included* in the total figures of civil, commercial and administrative law cases.

** if applicable

Note 1: the cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. The cases mentioned in category 6 (administrative law cases) should also be separately mentioned for the countries which have specialised administrative courts or units in the courts of general jurisdiction.

For the criminal law cases there may be a problem of classification of cases between severe criminal law cases and misdemeanour cases. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedure). Please indicate if possible what case categories are included under "severe criminal cases" and the cases included under "misdemeanour cases and /or minor offences".

Note 2: please check if the figures submitted are consistent (horizontal and vertical). Horizontal consistent data means that: "(pending cases on 1 Jan 08 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 Dec 08. Vertical consistency of data means that the sum of the individual case categories for civil, commercial and administrative cases (categories 1 to 7) should be the figure presented at the second row (total civil, commercial and administrative law cases) and that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases in the 10th row of the table.

91. **Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases - definition of misdemeanour cases, minor offences and severe criminal cases):**

92. **Total number of cases in the second instance (appeal) courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations).**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non-litigious)*				
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour and/or minor offences cases				

* Please indicate (in the comments below) which types of cases are *included* in the total figures of civil, commercial and administrative law cases.

** if applicable

Please check the consistency of data as mentioned under question 88.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases and possibly the existence of appeal rates for some case categories):

93. Total number of cases in the highest instance courts (litigious and non-litigious): please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious)				
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (severe criminal offences)				
9 Misdemeanour cases (minor offences)				

* Please indicate (in the comments below) which types of cases are *included* in the total figures of civil, commercial and administrative law cases.

** if applicable

Please check the consistency of data as mentioned under question 88.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and on possible limitations to the appeal to the highest instance court):

94. Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by *first* instance courts: please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Jan. '08
Litigious divorce cases*				
Employment dismissal cases*				
Robbery cases				
Intentional homicide				

95. Average length of proceeding (from the date of lodging of court proceedings) in *days*, number of pending cases more than 3 years and percentage of cases subject to appeal:

please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	% of decisions subject to appeal	% pending cases more than 3 years	1 st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*					
Employment dismissal cases*					
Robbery cases					
Intentional homicide					

Please provide comments to explain the answers to question 92:

96. Where appropriate, please specify the specific procedure as regards (litigious and non-litigious) divorce:

97. How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

98. Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):

- 99.
- to conduct or supervise police investigation
 - to conduct investigation
 - when necessary, to demand investigation measures from the judge
 - to charge
 - to present the case in the court
 - to propose a sentence to the judge
 - to appeal
 - to supervise enforcement procedure
 - to end the case by dropping it without the need for a judicial decision
 - to end the case by imposing or negotiating a penalty without a judicial decision
 - other significant powers

Please specify:

100. Does the prosecutor also have a role in civil and/or administrative cases?

- Yes
- No

Please specify:

101. Functions of the public prosecutor in relation to criminal cases – please complete this table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases						

Please provide comments to explain the answers to question 97 and indicate in particular if the data given include traffic offences:

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
 - the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years
-

Please indicate the sources for answering the questions 88 to 92 and 97:

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1 Recruitment, nomination and promotion

102. How are judges recruited?

- Through a competitive exam (for instance after a law degree)?
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

Other, please specify:

103. Are judges initially/at the beginning of their carrier recruited and nominated by:

- An authority composed of judges only?
- An authority composed of non-judges only?
- An authority composed of judges and non-judges?

104. Is the same authority competent for the promotion of judges?

- Yes
- No

If no, please specify which authority is competent for the promotion of judges:

105. Which procedures and criteria are used for promoting judges? Please specify:

106. How are prosecutors recruited?

- Through a competitive exam? (for example after a law degree)
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

Other, please specify:

107. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- An authority composed of prosecutors only?
- An authority composed of non-prosecutors only?
- An authority composed of prosecutors and non-prosecutors?

108. Is the same authority formally responsible for the promotion of prosecutors?

- Yes
- No

If no, please specify which authority is competent for promoting prosecutors:

109. Which procedures and criteria are used for promoting prosecutors? Please specify:

110. Is the mandate given for an undetermined period for judges?

- Yes
- No

Are there exceptions? Please specify:

111. Is there a probation period for judges? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for judges		

112. Is the mandate given for an undetermined period for prosecutors?

- Yes
- No

Are there exceptions? Please specify:

113. Is there a probation period for prosecutors? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for prosecutors		

114. If the mandate for judges/prosecutors is not for an undetermined period, what is the length of the mandate? Is it renewable?

- for judges? Yes, please specify the length
- for prosecutors? Yes, please specify the length

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

5. 1. 2. Training

115. Nature of the training of judges. Is it compulsory?

- Initial training
- General in-service training
- In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
- In-service training for management functions of the court (e.g. court president)
- In-service training for the use of computer facilities in the court

116. Frequency of the training of judges

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the court (e.g. court president)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the court)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

117. Nature of the training of prosecutors. Is it compulsory?

- Initial training
- General in-service training
- Specialised in-service training (specialised public prosecutor)
- In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- In-service training for the use of computer facilities in the public prosecution service)

118. Frequency of the training of prosecutors

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Specialised in-service training (specialised public prosecutor)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the public prosecution service)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

You can indicate below:

- **any useful comments for interpreting the data mentioned in this chapter**
- **comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court**
- **the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years**



5. 2. Practice of the profession

5. 2. 1. Salaries

119. Salaries of judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Gross annual salary (€)	Net annual salary (€)
First instance professional judge at the beginning of his/her career		
Judge of the Supreme Court or the Highest Appellate Court		
Public prosecutor at the beginning of his/her career		
Public prosecutor of the Supreme Court or the Highest Appellate Instance		

Please provide comments to explain the answers to question 115:

120. Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	<input type="checkbox"/>	<input type="checkbox"/>
Special pension	<input type="checkbox"/>	<input type="checkbox"/>
Housing	<input type="checkbox"/>	<input type="checkbox"/>
Other financial benefit	<input type="checkbox"/>	<input type="checkbox"/>

121. If other financial benefit, please specify:

122. Can judges combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

123. If other function, please specify:

124. Can prosecutors combine their work with any of the following other functions?

	Yes with remuneration	Yes without remuneration	No
Teaching	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

125. If other function, please specify:

126. Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?

- Yes
- No

If yes, please specify:

Please indicate the source for answering the question 115:

5. 2. 2. Disciplinary procedures

127. Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:
128. Which authority has the disciplinary power on judges and prosecutors? Please specify:
129. Number of disciplinary proceedings initiated against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Judges	Prosecutors
Total number (1+2+3+4)		
1. Breach of professional ethics		
2. Professional inadequacy		
3. Criminal offence		
4. Other		

Please provide comments to explain the answers to question 125:

130. Number of sanctions pronounced against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Judges	Prosecutors
Total number (total 1 to 9)		
1. Reprimand		
2. Suspension		
3. Withdrawal of cases		
4. Fine		
5. Temporary reduction of salary		
6. Degradation of post		
7. Transfer to another geographical (court) location		
8. Dismissal		
9. Other		

Please provide comments to explain the answers to question 126:

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
 - the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years
-

6. Lawyers

6. 1. Statute of the profession

6. 1. 1 Profession

131. Total number of lawyers practising in your country. If there is no data available, please indicate it (NA).

132. Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court? If no go to question 130.

- Yes
 No
 Not applicable

133. Number of legal advisors. If there is no data available, please indicate it (NA)

134. Do lawyers have a monopoly of representation in (multiple options are possible):

- Civil cases*?
 Criminal cases - Defendant*?
 Criminal cases - Victim*?
 Administrative cases*?

* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases:

135. Is the lawyer profession organised through?

- a national bar?
 a regional bar?
 a local bar?

Please specify:

Please indicate the source for answering the questions 127 and 129:

6. 1. 2. Training

136. Is there a specific initial training and/or examination to enter the profession of lawyer?

- Yes
 No

137. Is there a mandatory general system for lawyers requiring continuing professional training?

- Yes
 No

138. Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

- Yes
 No

If yes, please specify:

6. 1. 3. Fees

139. Can users establish easily what the lawyers' fees will be?

- Yes
 No

Please provide comments to explain the answer under question 135:

140. Are lawyers fees:

- regulated by law?
 regulated by Bar association?
 freely negotiated?

Please provide comments to explain the answer under question 136:

6. 2. Evaluation

6. 2. 1 Complaints and sanctions

141. Have quality standards been formulated for lawyers?

- Yes
 No

142. If yes, who is responsible for formulating these quality standards:

- the bar association?
 the legislature?
 other?

Please specify (including a description of the quality criteria used):

143. Is it possible to complain about :

- the performance of lawyers?
 the amount of fees?

Please specify:

144. Which authority is responsible for disciplinary procedures:

- the judge?
 the Ministry of justice?
 a professional authority or other?

Please specify:

145. Disciplinary proceedings initiated against lawyers: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number				

Please provide comments to explain the answers to question 141:

146. Sanctions pronounced against lawyers : please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Reprimand	Suspension	Removal	Fine	Other
Annual number					

Please provide comments to explain the answers to question 142:

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

147. Does the legal system provide for mediation procedures? If no go to question 148.

- Yes
 No

148. If applicable, please specify, by type of cases, the organisation of mediation:

	Possibility for private mediation proposed by the judge or court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Prosecutor
Civil and commercial cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family law cases (ex. Divorce)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment dismissals	<input type="checkbox"/>	<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"/>	<input type="checkbox"/>

149. Is there a possibility to receive legal aid for mediation procedures?

- Yes
 No

If yes, please specify:

150. Number of accredited mediators. If there is no data available, please indicate it (NA) :

151. Please Indicate the total number of *judicial* mediation procedures per case category. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

- civil cases?
- family cases?
- administrative cases?
- employment dismissals?
- criminal cases?

Number

Please indicate the source for answering the question 147:

7. 1. 2. Other forms of alternative dispute resolution

152. Can you give information concerning other forms of alternative dispute resolution (e.g. arbitration, conciliation)? Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
 - the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years
-

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

153. Do you have in your system enforcement agents (judicial officers)? If no go to question 154.

- Yes
 No

154. Number of enforcement agents. If there is no data available, please indicate it (NA):

155. Are enforcement agents (multiple options are possible):

- judges?
 bailiff practising as private profession ruled by public authorities?
 bailiff working in a public institution?
 other enforcement agents?

Please specify their status and powers:

156. Is there a specific initial training or examination to enter the profession of enforcement agent?

- Yes
 No
 Not applicable

157. Is the profession of enforcement agent organised by?

- a national body?
 a regional body?
 a local body?
 not applicable

158. Can users establish easily what the fees of the enforcement agents will be?

- Yes
 No
 Not applicable

159. Are enforcement fees:

- regulated by law?
 freely negotiated?
 not applicable

Please indicate the source for answering the question 153:

8. 1. 2. Supervision

160. Is there a body entrusted with the supervision and the control of the enforcement agents?

- Yes
 No
 Not applicable

161. Which authority is responsible for the supervision and the control of enforcement agents:

- a professional body?
 the judge?
 the Ministry of justice?
 the prosecutor?
 other?

Please specify:

162. Have quality standards been formulated for enforcement agents?

- Yes
 No
 Not applicable

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

163. Is there a specific mechanism for executing court decisions rendered against public authorities, including the follow up to this execution?

- Yes
 No

If yes, please specify:

164. Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify:

8. 1. 3. Complaints and sanctions

165. What are the main complaints of users concerning the enforcement procedure?
Please indicate a maximum of 3.

- no execution at all?
 non execution of court decisions against public authorities?
 lack of information?
 excessive length?
 unlawful practices?
 insufficient supervision?
 excessive cost?
 other?

Please specify:

166. Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

- Yes
 No

If yes, please specify:

167. Is there a system measuring the timeframes of the enforcement of decisions :

- for civil cases?
 for administrative cases?

168. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court sits:

- between 1 and 5 days
 between 6 and 10 days
 between 11 and 30 days
 more

If more, please specify:

169. Number of disciplinary proceedings initiated against enforcement agents. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of disciplinary proceedings

for breach of professional ethics
for professional inadequacy
for criminal offence
Other

170. Number of sanctions pronounced against enforcement agents. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of sanctions

Reprimand
Suspension
Dismissal
Fine
Other

You can indicate below:

- *any useful comments for interpreting the data mentioned in this chapter*
- *the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years*

Please indicate the source for answering the questions 167, 168 and 169:

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

171. Is there a judge who is in charge of the enforcement of judgments?

- Yes
 No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor):

172. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

- Yes
 No

If yes, please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

173. Do you have notaries in your country? If no go to question 177.

- Yes
 No

174. Is the status of notaries (if the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations):

a private one (without control from public authorities)?	number	<input type="text"/>
a status of private worker ruled by the public authorities?	number	<input type="text"/>
a public one?	number	<input type="text"/>
other?	number	<input type="text"/>

If other, please specify:

175. Do notaries have duties:

- within the framework of civil procedure?
 in the field of legal advice?
 to authenticate legal deeds?
 other?

Please specify:

Please indicate the source for answering the question 173!:

9. 1. 2. Supervision

176. Is there an authority entrusted with the supervision and the control of the notaries?

- Yes
 No

177. Which authority is responsible for the supervision and the control of the notaries:

- a professional body?

- the judge?
- the Ministry of justice?
- the prosecutor?
- other?
- not applicable

Please specify:

You can indicate below:

- *any useful comments for interpreting the data mentioned in this chapter*
- *the characteristics of your system of notaries and the main reforms that have been implemented over the last two years*

10. Court interpreters

178. Is the title of court interpreter protected?

- Yes
- No

179. Is the function of court interpreter regulated?

- Yes
- No

180. Number of certified court interpreters. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

181. Are there binding provisions regarding the quality of court interpreting in judicial proceedings?

- Yes
- No

If yes, please specify:

182. Are the courts responsible for the selection of court interpreters?

- Yes
- No

Please provide comments to explain the answers to question 178 (in particular, if no, which authority selects court interpreters?) :

11. Foreseen reforms

183. Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? For example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc.

Please specify:

Explanatory note

Introduction

Background

At their 3rd Summit, organised in Warsaw on 16 and 17 May 2005, the Heads of State and government of the member states of the Council of Europe "[decided] to develop the evaluation and assistance functions of the European Commission for the Efficiency of Justice (CEPEJ)".

The CEPEJ decided, at its 12th plenary meeting, to launch the third evaluation cycle 2008 – 2010, focused on 2008 data.

The CEPEJ wishes to use the methodology developed in the previous cycles to get, with the support of the national correspondents, a general evaluation of the judicial systems in the 47 member states of the Council of Europe. This will enable policy makers and judicial practitioners to act taking into account that unique information.

The present Scheme was adapted by the Working group on evaluation (CEPEJ-GT-EVAL) in the light of the previous evaluation cycles and taking into account the comments submitted by CEPEJ members, observers, experts and national correspondents. The exercise for adapting the Scheme was confined, however, to questions that were problematic or of little relevance, so as to consolidate the body of data collected at regular intervals and to make it easier to draw comparisons and assess trends.

The CEPEJ adopted this new version of the Scheme at its 13th plenary meeting (10 – 11 June 2009).

General recommendations

The aim of this exercise is to compare the functioning of judicial systems in their various aspects, to have a better knowledge of the trends of the judicial organisation and to propose reforms to improve the efficiency of justice. The evaluation Scheme and the analysis of the conclusions which can result from it should become a genuine tool in favour of public policies on justice and for the sake of the European citizens.

Because of the diversity of the judicial systems in the member states concerned, not every state will probably be able to answer all questions. Therefore the objective of the Scheme is also to stimulate the collection of data by the states in those fields where such data are still not available.

The CEPEJ Guidelines on judicial statistics - GOJUST (CEPEJ(2008)11) should steer the work of the national correspondents when answering the questionnaire to facilitate the collection of homogenous judicial statistics from all member states.

It must be noted that the Scheme neither aims to include an exhaustive list of indicators nor aims to be an academic or scientific study. It contains indicators which have been considered relevant when assessing the situation of the judicial systems and to enable the CEPEJ to work more in depth in promising fields for the improvement of the quality and the efficiency of justice. At the same time, the data collected will enable the CEPEJ to continue to work in depth in new and essential fields for the improvement of the quality and efficiency of justice.

In order to make the process of data collection and data processing easier, the Scheme has been presented in an electronic form, accessible to national correspondents entrusted with the coordination of data collection in the member states. **National correspondents are kindly requested to forward the national answers to the Scheme by using this electronic questionnaire.**

Comments concerning the questions of the Scheme

This note aims to assist the national correspondents and other persons entrusted with replying to the questions of the Scheme.

a. General remarks

The year of reference for this Scheme is **2008**. If 2008 data are not available, please use the most recent figures. In this case, please indicate the year of reference used under the relevant question.

Please indicate the sources of your data if possible. The "source" concerns the institution which has given the information to answer a question (e.g. the National Institute of the Statistics of the Ministry of Justice) in order to check the credibility of the data.

All financial amounts should be given, if possible, in Euros. For the countries which do not belong to the euro zone, the exchange rate should be indicated on 1 January 2009.

For the purpose of this Scheme, and unless specified otherwise in a specific question, "civil law cases" refers in general to all those cases involving private parties, including namely family law cases, commercial cases, employment cases.

When the choice between 'yes' or 'no' is offered, please tick the appropriate box. It may, however, not always be possible to choose between these answers. Please feel free to give a more elaborated answer of your choice. If certain information is not available or not applicable to your situation, please use "**N.A**" (not available) or "**NAP**" (not applicable). **It is essential that all questions are answered, at least with these abbreviations.**

With respect to the numerical information please provide *only* numbers without a blank (1 000), a point (1.000) or a comma (1,000). This to avoid interpretation problems and problems of comparability. The correct figure in the example should be 1000.

When a qualitative answer to a specific question remains unchanged from one evaluation process to the other, the answer can be simply "cut and paste" from the previous exercise. It can also be indicated: "see 2008 answer".

Complementary comments on the answers

In general, if certain questions cannot be answered or if you need to give details in particular due to the specificity of your judicial system, please comment on it.

Specific areas have been left to briefly make, on the one hand, any useful comments for interpreting the data given in the chapter, and, on the other hand, the main characteristics or even make a brief qualitative description of your system if your state has chosen specific system to cope with a specific situation.

You are not required to fill in this area systematically. On the contrary, please feel free to add comments on certain questions where you deem it useful, even if no specific area for “comments” has been foreseen. Your comments will be useful for the analysis of your replies and for processing data.

If the data indicated for the year of reference (2008) differ significantly from the same data given for the previous evaluation round, please give the explanation for this difference after your answer.

Help desk

Should you have any question regarding this Scheme and the way to answer it, please send an e-mail to Stéphane Leyenberger (stephane.leyenberger@coe.int) or Muriel Décot (muriel.decot@coe.int).

b. Comments question by question

. Demographic and economic data

For the data requested in this Chapter, please use if possible the data available at the Council of Europe or, for lack of data at the Council of Europe, the OECD data to ensure a homogenous calculation of the ratios between member states. If the data concerning your country are not available at the Council of Europe (or the OECD), please use another source and specify this source.

Question 1

The number of inhabitants should be given, if possible, as of 1 January 2008 (the year of reference). If this is not possible, please indicate which date has been used.

Question 2

The Scheme requires an indication of the amount of *public expenditure* (all expenses made by the state or public bodies, including public deficits) instead of the amount of the “budget” which is not precise enough and would not include certain “extra expenditure” which does not fall within the budget. The expression *territorial authorities* has been added in order to include federal states or states where power is shared between the central authorities and the territorial authorities. The reply to this question will enable ratios to be calculated which would measure the total real investment of member states in the operation of justice.

Question 3

Please indicate the Gross Domestic Product (GDP) of your country in 2008 (i.e.: the value of all final goods and services produced in a country in one year). GDP can be measured by adding up all of the economy's incomes (wages, interest, profits) or expenditures (consumption, investment, government purchases and net exports - minus imports). This data will be useful to calculate several ratios enabling a comparative analysis.

Question 4

Please indicate the average *gross* annual salary and not the *disposable* salary. The gross salary is calculated before any social expenses and taxes have been paid; it is the amount that the employer has actually to pay per employee, but not to the employee.

Please use the same definition for “gross annual salary” in question 115.

The annual gross average salary is an important piece of information in order to calculate ratios which would measure and compare the salaries of the principal “players” involved in the judicial system, in particular judges and prosecutors.

Question 5

The exchange rate of the national currency related to the date of reference is important for situations where countries are not able to convert their national currency into the Euros. It should be given on 1 January 2009. Information on the exchange rate may be used in the analysis of the replies.

Questions 6 and 7

These questions aim to establish the total amount of the budget covering the functioning of the courts, whatever the source of this budget is. The figures presented must be the figures of the **approved** budget, e.g. the budget that has been formally approved by the Parliament (or another competent public authority), but not the one effectively executed.

This amount does **not** include:

- the budget for the prison and probation systems;
- the budget for the operation of the Ministry of Justice (and/or any other institution which deals with the administration of justice);
- the budget for the operation of other organs (other than courts) attached to the Ministry of Justice;
- the budget of the prosecution system;
- the budget of the judicial protection of youth (social workers, etc);
- the budget of the Constitutional courts;
- the budget of the High Council for the Judiciary (or similar organ).

The budget of the judicial training structures (e.g. National schools of judges and prosecutors) should be included in the figures of question 6 too.

Where appropriate, this amount should include both the budget at national level and at the level of territorial entities.

If it is not possible to separate the budget of the courts from the budget for the public prosecution offices, please indicate this and give an estimate of the court budget (compared with the prosecution budget) if possible.

Question 8

The budgets to be addressed for the purpose of this question concern only those used for the operation of the courts ((gross) salaries, computer equipment, justice expenses, court buildings (investments in new buildings as well as maintenance costs' of the court buildings, training and education or other).

Salaries are those of all judicial and non-judicial staff working within courts, with the exception, where appropriate, of the prosecution system (and the non prosecutor staff working for the prosecution system).

IT (Information Technologies) includes all the expenses for the installation, use and maintenance of computer systems, including the expenses paid out for the technical staff.

Justice expenses borne by the state refers to the amounts that the courts should pay out within the framework of judicial proceedings, such as expenses paid for expert opinions or court interpreters. Any expenses paid to the courts by the parties should not be indicated here.

Court buildings' budgets includes all the costs that are related to the maintenance and operation of court buildings (rental costs, costs for electricity, costs for security, cleaning, etc.).

Investments in court buildings includes all the costs that are connected with investments in new court buildings.

Training and education includes all the costs that are related to training courses or the education of judges and court staff. If the training of judges cannot be separated from the training of prosecutors, please indicate it.

Attention: the sum of the amounts indicated under question 8 must correspond to the amount indicated under question 6.

Question 9

This question aims to identify trends at a European level in the budgets spent on the judiciary over the last five years. If budgetary data are available, please provide the figures (in Euros).

Questions 10 and 11

There may be a general rule in some states according to which a party is required to pay a court tax or fee to start a proceeding at a general jurisdiction court. This general rule can have exceptions - please indicate these exceptions. This tax does not concern lawyers' fees. Please also indicate if this court tax applies in criminal cases only or also to other case.

A portion of the budget of courts can be financed by incomes resulting from the payment of such court fees or court taxes by the parties. The figures concerning the total amount (in Euros) of court fees or court taxes received by judicial systems must be included under question 11.

For the purposes of this question, *courts of general jurisdiction* means those courts which deal with all those issues which are not attributed to specialised courts according to the nature of the case.

Question 12

The total approved budget allocated to the entire justice system (which may include: the budget of the prison system, the operation of the ministry of justice or other bodies, the judicial protection of youth, the public prosecution system, the judiciary, high councils for the judiciary, schools for the judiciary, etc) will enable, for instance, to assess the part of this budget dedicated to the judicial system proper (court system), as stated in question 6.

To get a clear picture concerning the total budget of the justice system it is necessary to give a description of the kind of justice organisations which are included in this budget (and what is – according to your situation – not included).

Questions 13

Annual public budget allocated to legal aid refers to the amount of the public budget allocated by the Ministry of Justice or the institution dealing with the administration of justice and/or the territorial authorities to legal aid in its widest sense. This includes both aid given for representation before the courts and legal advice. Further information can be given in Chapter II.A. The total should include only the sums directly paid to those benefiting from legal aid or their lawyers (and not include administrative costs).

Please indicate separately the sums allocated to criminal cases and those allocated to all other cases.

Question 15

In certain countries the budget for legal aid forms an integral part of the court budget. To make a better comparison between the countries, an identification of the countries where this is the case is necessary.

Question 16

Public Prosecutor is to be understood in the sense of the definition contained in Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system: "(...) authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system".

If there is a single budget for judges and prosecutors please indicate, if possible, the proportion of this budget intended for prosecutors. If part of the Public Prosecution's budget is allocated to the police budget, or to any other budget, please indicate it.

Question 17

This question is inserted so as to identify those countries where the budget for the prosecution is included into the court budget.

Questions 18 and 19

The aim of this question is to identify the institutions involved in the various phases of the process regarding the global budget allocated to the courts. This question does not concern the management of the budget at individual court level, to be addressed under question 61. Various answers are possible for this question, because in certain countries the management and the allocation of the budget to the courts is for example a combined responsibility of the ministry of justice and of a council for the judiciary. Where there is a combined responsibility, please give a brief description of how the responsibilities for the allocation of the budgets to the courts are organised. If available, please insert an organisation scheme.

1. <i>Access to justice and to all courts</i>

As the European Convention on Human Rights guarantees legal aid in criminal matters, the questionnaire specifies legal aid in criminal cases from legal aid in other than criminal cases.

For the purposes of this Scheme, *legal aid* is defined as the aid given by the state to persons who do not have sufficient financial means to defend themselves before a court. For the characteristics of legal aid. Please refer to Resolution Res(78)8 of the Committee of Ministers of the Council of Europe on Legal Aid and Advice.

Questions 20 and 23

In certain countries the public budget for legal aid is not only aimed at the payment of the lawyers' fees in situations where clients have insufficient financial means, but can also be used for the payment of court fees or court taxes – or be granted through the exoneration of such fees. Legal aid might also be granted to cover the costs related to the enforcement of judicial decisions (for instance to pay the fees of an enforcement agent).

Question 24

This question concerns the annual number of cases for which legal aid have been granted to persons going to court. It does not concern legal advice regarding questions that are not addressed by the court. Indicate if the number of legal aid cases provided concerns the cases at the national level, regional level, local level or all together (use the comment part for this).

Question 26

If the reply to the question is “yes”, you can indicate in your comments the annual income (if possible for a single person) for which legal aid can be awarded.

Questions 27 and 28

These questions require from the states to give an indication on whether it is possible, according to the law, to refuse legal aid in other than criminal matters for specific reasons and on the competent body deciding on this issue.

Question 29

This question does not refer to insurances offered to companies. For the purposes of this question, “*legal expenses insurance*” covers the costs of legal proceedings, including lawyers’ fees and other services relating to settlement of the claim. If possible, please give some indications on the current development of such insurances in your country. Please also specify whether this is a growing phenomenon.

Question 30

For this question, please indicate whether the decision given by the judge concerns also the allocation of judicial costs. In other words, states should indicate whether, for instance in a civil case, the party which has lost the case has to bear the costs of the winning party. In the affirmative, please indicate whether this concerns criminal cases and/or other cases.

Judicial costs include all costs of legal proceedings and other services relating to the case paid by the parties during the proceedings (taxes, legal advice, legal representation, travel expenses, etc).

Question 31

The web sites mentioned could appear in particular on the internet web site of the CEPEJ.

Question 32

This question can apply to all types of cases.

A mandatory provision of information to individuals on the foreseeable timeframe of the case to which they are parties is a concept to be developed to improve judicial efficiency. It can be simple information to the parties or for instance a procedure requiring the relevant court and the opposing parties to agree on a jointly determined time-limit, to which both sides would commit themselves through various provisions. Where appropriate, please give details on the existing specific procedures.

Question 33

The question aims to specify if the state has established structures which are known to the public, easily accessible and free of charge, for victims of criminal offences.

Question 34

This question aims to learn how states protect those groups of population which are particularly vulnerable in judicial proceedings. It does not concern the police investigation phase of the procedure.

Specific information mechanism might include, for instance, a public, free of charge and personalised information mechanism, operated by the police or the justice system, which enables the victims of criminal offences to get information on the follow up to the complaints they have launched.

Specific hearing modalities might include, for instance, the possibility for a child to have his/her first declaration recorded so that he/she does not have to repeat it in further steps of the proceedings.

Specific procedural rights might include, for instance, *in camera* hearing for the victims of rape or the obligation to inform beforehand the victim of rape, in case of the release of the offender.

Please specify if other specific modalities are provided for by judicial procedures to protect these vulnerable groups (for instance, the right for a woman who is a victim of family violence to enjoy the use of the common house).

In this context, ethnic minorities must be addressed in line with the Council of Europe’s framework convention for the protection of national minorities (CETS N° 157). It does not concern foreigners involved in a judicial procedures. Special measures for these groups can be, for instance: language assistance during a court proceeding or special measures to protect the right to a fair trial and to avoid discrimination.

This question does not concern compensation mechanisms for the victims of criminal offences, which are addressed under questions 35 to 37

Questions 35 to 37

These questions aim to provide precise information on the existing compensation mechanisms for the victims of criminal offences. These details concern the nature of the compensation mechanisms, the type of offences for which compensation can be claimed and the quality of the recovery of damages awarded by the court.

Question 38

In certain countries the public prosecutor can play a role in the assistance of victims of crimes (for example to provide them with information or assist them during judicial proceedings, etc). If this is the case, please specify it.

Question 39

This question is related to situations where public prosecutors can discontinue a case (for example due to the lack of evidence, when a criminal offender could not be identified or, in some legal systems, for reasons of opportunity). It aims to know whether victims of crimes may have the possibility to contest such a decision, to 'force' the public prosecution to move forward on a criminal case.

Question 40

This question concerns every user of justice and the compensation for damage suffered because of dysfunctions of the justice system. Where appropriate, please give details on the compensation procedure and the possible existing scales for calculating the compensation (e.g. the amount per day of unjustified detention or condemnation).

The cases brought before the European Court of Human Rights show that some member states experience specific difficulties as regards the execution of court decisions rendered against public authorities (at national, regional or local level). If specific mechanisms have been introduced in your country to cope with this situation, please specify it.

Questions 41 and 42

These questions concern the surveys aimed at the parties (citizens, lawyers, other legal professionals – court experts, interpreters, representatives of governmental agencies, etc.) who had a direct contact with a court and are directly involved in proceedings (for instance the parties). It does not concern general opinion surveys. It contains also appreciation surveys from the persons employed in courts (judges and non judge staff) or the public prosecution agencies (prosecutors and non prosecutor staff).

You can give here concrete examples by indicating the titles of these surveys, the web sites where they can be consulted, etc.

Questions 43 and 44

These questions refer to the existence of a procedure enabling every user of the justice system to complain about a fact that he/she thinks to be contrary to the good functioning of the judicial system. If such a procedure exists, please specify the modalities for managing these complaints in the table under question 44. It must be specified what is the competent body for addressing the complaint to and, where appropriate, if this body must, on the one hand, answer this complaint in a given timeframe (to acknowledge receipt of the complaint, to provide information on the follow up to be given to the complaint, etc.) and, on the other hand, address the complaint in a given timeframe.

One specific type of complaint can be a situation of (possible) corruption of a judge, prosecutor or staff of courts and public prosecution agencies. If there are situations known in your country (underlined in particular in the reports by the Group of States against Corruption - GRECO), please specify it. If possible, you could indicate in particular the number of complaints against judges, prosecutors or staff in potential situation of corruption, the characteristics of the corruption cases and the number of persons convicted for corruption.

If possible, please give details on the efficiency of these procedures, indicating for instance the timeframes or the number of complaints filed.

Organisation of the court system

A court can be considered either as a legal entity or a geographical location. Therefore it is required to number the courts according to both concepts, which allow in particular to give information on the accessibility to courts for the citizens.

Questions 45 and 46

Courts (administrative structure)

For the purposes of this question, a *court* means a body established by law appointed to adjudicate on specific type(s) of judicial disputes within a specified administrative structure where one or several judge(s) is/are sitting, on a temporary or permanent basis.

For the purpose of this question, a *first instance court of general jurisdiction* means those courts which deal with all those issues which are not attributed to *specialised courts* owing to the nature of the case.

A Supreme Court or a High Court is *not* defined as a specialised court, but belongs to the ordinary organisation of the judiciary.

Please give the list of specialised courts and, if possible, their number.

Should the specific nature of your system require it, you could indicate the criteria used to number these courts.

Courts (geographic locations)

For the purposes of this question, please indicate the total number of geographical locations (premises or court buildings) where judicial hearings are taking place, numbering both the courts of first instance of general jurisdiction and the specialised courts of first instance. Please include in the data the various buildings belonging to the same tribunal in a same city, if these buildings have court rooms. Premises of the Supreme Court or High Courts should be counted in these figures too.

Should the specific nature of your system require it, you could indicate the criteria used to number these courts.

Question 47

This question enables to indicate possible changes in the 'judicial map' for example as a result of a reduction of the number of courts (or geographical court locations) or the merge of different courts (for example the integration of commercial courts into civil courts). If this is the case, please provide information on the type of changes.

Question 48

This question aims to compare the number of courts (geographic locations) with jurisdiction for specific and standard cases. It should enable a comparison between member states in spite of the differences in the judicial organisation.

Small claims (namely civil cases where the litigious amount is low) are not specified to take into account the differences in the living conditions in European states. Please specify the maximum amount to define a "small claim" (i.e. a civil case where the financial value of the claim is relatively low) in your country, which is generally used as criteria of procedural jurisdiction.

Should your system require it, you could indicate the criteria which are used to number these courts.

Questions 49 to 56

These questions aim to count all persons entrusted with the task of delivering or participating in a judicial decision.

For the purposes of this Scheme, *judge* must be understood according to the case law of the European Court of Human Rights. In particular, the judge decides, according to the law and following an organised proceeding, on any issue within his/her jurisdiction. He/she is independent from the executive power.

Therefore judges deciding in administrative or financial matters (for instance) must be counted if they are included in the above mentioned definition.

Question 49

For the purposes of the question, *professional judges* means those who have been trained and who are paid as such. Please indicate the number of actually filled posts at the date of reference and not the theoretical budgetary posts. The information should be presented in full time equivalent and for permanent posts. **Public prosecutors should be excluded from these figures.**

Question 50

This question concerns professional judges but who do not perform their duty on a permanent basis.

In a first phase, in order to measure to what extent part time judges participate in the judicial system, the gross data could be indicated. In a second phase, in order to compare the situation between, member states, the same indication could be given, if possible, in full time equivalent.

Question 52

For the purposes of this question, *non-professional judges* means those who sit in courts (as defined in question 49) and whose decisions are binding but who do not belong to the categories mentioned in questions 49 and 50 above. This category includes namely lay judges and the (French) "*juges consulaires*".

If possible, please indicate, for each category of non-professional judges, the average number of working days per month. Neither arbitrators, nor those persons who have been sitting in a jury (see question 53) are subject to this question.

Question 53

This category concerns for instance the citizens who have been drawn to take part in a jury entrusted with the task of judging serious criminal offences.

Question 55

The whole judicial (administrative or technical) non-judge staff working in all courts must be counted here, in full time equivalent for permanent posts. This includes Rechtspfleger (if applicable), court clerks, judicial advisors, secretaries, technical staff, etc. Precisions according to the various categories of non-judge staff can be given under question 56.

Questions 56 and 57

These questions aim to specify the various functions of non-judge judicial, administrative staff and technical staff working in courts.

The Rechtspfleger (see also question 57) is included in the list of staff only for those states which experience this quasi-judicial function. The Rechtspfleger must be defined as an independent organ of jurisdiction according to the tasks that were delegated to him/her by law. Such tasks can be connected to: family and guardianship law, law of succession, law on land register, commercial registers, decisions about granting a nationality, penal cases, execution of penal cases, order to replace prison by doing community service, prosecution at district courts, decisions concerning legal aid, etc.

Non-judge (judicial) staff directly assists a judge with judicial support (assistance during hearings, (judicial) preparation of a case, court recording, judicial assistance in the drafting of the decision of the judge, legal counselling - for example court registrars). If data have been given under the previous category (Rechtspfleger), please do not add this figure again under the present category.

Administrative staff is not directly involved in the judicial assistance of a judge, but is responsible for administrative tasks (such as the registration of cases in a computer system, the supervision of the payment of court fees, administrative preparation of case files, archiving) and/or the management of the court (for example a head of the court secretary, head of the computer department of the court, financial director of a court, HRM manager, etc.).

Technical staff means staff in charge of execution tasks or assuming technical and other maintenance functions such as cleaning staff, security staff, and staff working at the computer departments of courts or electricians.

Attention: the total of the four amounts given in the table must be the same as the data given under question 55.

Question 58

For the purposes of this question, *prosecutors* are defined according to the Recommendation R(2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system, as public authorities who, on behalf of society and in public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system. The information should be given in full time equivalent for permanent posts.

Question 59

In some countries, some persons (private workers or police officers) are specifically entrusted with duties similar to those exercised by public prosecutors. Please specify whether these persons are included in the data concerning the number of public prosecutors. Please also give information on these categories (statute, number, functions). This excludes lawyers who are bringing an accusation in a criminal hearing. This excludes also victims who can go directly to the judge without intervention from the public prosecutor.

Question 60

For the purposes of this question, please number the non-prosecutor staff working for the prosecution system, even when this staff appear in the budget of the court (where appropriate, and if possible, please give an estimate of the number of non-prosecutorial staff). Please make sure (in case the staff of the prosecution services cannot be separated from the court staff) that the figures presented in question 55 exclude staff which is working for the prosecution. The information should be given in full time equivalent.

Question 61

Contrary to question 18 which concerns the elaboration of the budget before it is actually allocated between the courts, this question concerns those persons within the courts who enjoy specific powers as regards the budget. Multiple answers are possible. If available, please give a description of the responsibilities of the various actors regarding the individual court budget.

Questions 63 to 65

These questions aim to evaluate the quality of the computerised support to judges and court clerks in their various judicial and administrative tasks.

Please tick the boxes according to the rate of courts which are equipped with the computer facilities indicated in the table. For instance, if it is not possible in your country to file a claim by electronic form, tick the case “-10% of courts” in the row “electronic form”.

Question 66

The CEPEJ recommends that the collection of judicial statistics is centralised within a specific department.

Question 67

The *annual report of the court* includes e.g. data on the number of cases processed or pending cases, the number of judges and administrative staff. It might also include targets and an assessment of the activity.

Questions 68 to 81

Various court activities (including judges and administrative court staff) are nowadays subject, in numerous countries, to monitoring and evaluation procedures.

The monitoring procedure aims to assess the day-to-day activity of the courts, and in particular what the courts produce, notably through data collection and statistical analysis.

The evaluation procedure refers to the performance of the court systems with prospective concerns, using indicators and targets. This evaluation can have a more qualitative nature.

Question 68

Please indicate the main items which are regularly assessed by the *monitoring* procedure. The list which is mentioned is not exhaustive and can be completed.

Questions 69 to 75

These questions concern the *evaluation of the performance of the courts*, such as the number of incoming cases, length of proceedings, etc (see the indicators listed under question 71). It does not refer to the general evaluation of the overall functioning of the court (see question 80).

In question 71, it might be interesting to compare among states what are then the most important issues to be considered in view of improving their system and to know, under questions 72 and 73, if the states define specific targets to individual judges and to the courts.

Questions 77

The aim of this question is to know which authority is responsible for the supervision on the courts' performances. In some countries this may be the Council for the judiciary, whilst in other countries this is the responsibility of the ministry of Justice, the Supreme Court or a combined responsibility between various bodies.

Questions 78 and 79

A recent trend in Europe concerns the introduction of quality systems in courts, for example in the Netherlands (rechtspraak) and in Finland (Court of appeal of Rovaniemi). It is important to identify these countries and to see if specialised persons working in the courts are also responsible for quality policy. See also the reference material on the CEPEJ website concerning court quality.

Question 80

Backlogs are composed of filed cases which have not yet been decided. Please give details concerning your system to measure backlogs.

For the purposes of this Scheme, "*civil cases*" refer in general to all those cases involving private parties, including namely family law cases, commercial cases, and employment cases.

Question 81

Waiting time means time in which nothing happens during a procedure (for instance because the judge is waiting for the report of an expert). It is not the general length of procedure.

Question 82

This question does not specifically concern the evaluation of performance indicators, but the overall evaluation of the (smooth) functioning of the court.

The supervision of the courts may have here the character of inspection visits. These visits might be organised by making use of a programme cycle, where courts or groups of courts in a certain region are regularly visited, annually, bi-annually or at another frequency, this plan of visits being made known in advance. Please indicate, if appropriate, the frequency of these inspection visits.

Question 83

This question concerns the same types of monitoring or evaluation procedures as those under questions 67 and 68, but applies specifically to the prosecution system.

Fair trial

Question 84

This question refers to situations in which a judgement is given without actual defence. This may occur – in some judicial systems – when a suspect is at large or does not show up for trial. The aim of this question is to find out if the right to an adversarial trial is respected, in particular in criminal cases in first instance. The right to an adversarial trial means the opportunity for the parties to have knowledge of and comment on the observations filed or evidence adduced by the other party (see amongst others *Ruiz-Mateos vs. Spain*, judgment of the ECHR of 23 June 1993, Series A no. 262, p.25, para. 63).

Question 85

This question aims to provide information on procedures which allow to guarantee to the user of justice the respect of the principle of judges' impartiality, in line with Article 6 of the European Convention on Human Rights. If possible, please indicate the number of cases successfully challenged within the year of reference.

Question 86

This table concerns the number of cases regarding (the violation) of Article 6 of the European Convention on Human Rights for the year of reference, specifying civil (including commercial and administrative law cases) and criminal cases.

The main focus of this question is on cases related to the duration of court proceedings and (for civil cases) the non-execution of decisions.

European Convention on Human Rights - Article 6 – Right to a fair trial

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Question 87

Such a *procedure of urgency* (accelerated) can be used so that the judge can take a provisional decision (e.g. decision on the right to control and care for a child) or when it is necessary to preserve elements of proof or when there is a risk of imminent or hardly repairable damage (for instance emergency interim proceedings).

Question 88

Such a *simplified procedure* can be used in civil matters for instance when it concerns the enforcement of a simple obligation (e.g. payment order).

For criminal matters, the question aims to know whether petty offences (for instance minor traffic offences or shoplifting) can be processed through administrative or simplified procedures. These offences are considered as incurring sanctions of criminal nature by the European Court of Human Rights and shall therefore be processed in the respect of the subsequent procedural rights.

Question 89

This question refers to agreements between lawyers and the courts which can be concluded in order to facilitate the dialogue between main actors of the proceeding and in particular to improve timeframes of proceedings. Such agreements can concern the submission of files, the setting up of deadlines for submissions of elements, dates for hearings, etc.

Questions 90 to 95

The national correspondents are invited to pay special attention to the quality of the answers to questions 90 to 95 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only when answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

Questions 90 to 93

The member states are asked to provide information on the caseload of the courts (from the first instance courts until the highest courts).

Pending cases means cases which have not been completed within the year. *Resolved cases* includes all the procedures which have come to an end at the level considered (first instance or appeal) during the year, either through a judgement or through any other decision which has resulted in the end of the procedure (provisional decisions or decisions regarding the proceeding should not be counted here).

In the table there are two main categories: non-criminal cases and criminal cases. The non-criminal cases are all litigious and non-litigious civil, commercial and (if applicable) administrative law cases.

In some countries commercial cases are addressed by special commercial courts, whilst in other countries these cases are handled by general (civil) courts. Despite the organisational differences between countries in this respect, all the information concerning civil and commercial cases should be included in this table. Examples of litigious civil and commercial cases are litigious divorce cases or disputes on contracts. Non-litigious cases concern for example uncontested payment orders, request for the change of names, divorce cases with mutual consent (for some legal systems), etc.

In some countries administrative law cases are addressed by special administrative courts or tribunals, whilst in other countries disputes between citizens and (local, regional or national) authorities are handled by the civil courts as well. If countries do have separate administrative law procedures or are able to distinguish between administrative law cases

(for example cases concerning asylum or the refusal of a construction permit by local government) and civil law cases, these figures should be indicated in the table.

In addition to these types of case, in certain courts, registration tasks and enforcement cases are dealt with by special units or entities. For example: regarding business registers, land registers and enforcement cases. Activities related to business registers could be the registration of new enterprises or companies in the business register of the court or the modification of the legal status of a company. Modifications in the ownership of immovable goods (like land or houses) might be a part of the activities of the courts which are responsible for the land register. The category 'other' can be connected with administrative tasks of the courts, for example with the management of insolvency registers (or bankruptcy registers). If these registration tasks are part of the court activities, please mention the number of cases concerned. It must be noted that, in certain countries, activities concerning the business registers, land register or other types of registers might not be a task of a court, but is carried out by a private organisation of a public agency.

The cases mentioned in categories 3 to 5 (enforcement, land registry, business register) are excluded from the total to be indicated under categories 1 and 2 and should be presented, where appropriate, separately in the table. The cases mentioned in category 6 (administrative law cases) are also excluded from the total under categories 1 and 2 for the countries which have specialised administrative courts or units in the courts of general jurisdiction.

For criminal law cases there may be a problem of classification of cases between severe criminal law cases and misdemeanour cases. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedure). Please indicate if possible what case categories are included under "severe criminal cases" and the cases included under "misdemeanour cases (minor offences)".

The definition of the total of criminal offences can be derived from the European Sourcebook of Crimes and Criminal justice. The total of criminal offences include all offences defined as criminal by any law, including traffic offences (mostly dangerous and drink driving). Criminal offences include acts, which are normally processed by the public prosecutor, whereas offences processed directly by the police, such as minor traffic offences and certain breaches of public order are not included.

The figures provided must be as much as possible horizontally and vertically consistent. This means that the outcome of the following sum: "(pending cases per 1 Jan 08+ incoming cases) – resolved cases" should result in the total number of pending cases on 31 Dec 08 (horizontal consistency). The sum of the individual case categories in civil law, commercial and administrative law (1 to 7) should also be presented in the second row (vertical consistency); the same should apply for the sum of severe criminal cases and misdemeanour cases/small offences in the 10th row.

Questions 94 and 95

Please refer to the CEPEJ Guidelines on judicial statistics – GOJUST (CEPEJ(2008)11) and the SATURN Guidelines on judicial time management (CEPEJ(2008)8) and to their shared appendix: EUGMONT, which invite all the member states to be able, through the organisation of their statistic system, to give detailed data on the timeframes of judicial proceedings for four specific case categories.

Therefore case information is requested for these four categories, which are (mostly) common in Europe: litigious divorce cases, dismissal cases, robbery cases and intentional homicide cases. For each category information needs to be provided on the number of pending cases at the beginning and the end of the year of reference, the number of decisions, the appeal percentage and the number of pending cases with a duration of over more than three years. Information is also requested regarding the length of court proceedings in days. If countries only have information on the length of proceedings in months (or years) they need to recalculate the length of proceedings from months/years to days.

The four case categories can be defined as follows:

Litigious divorce cases: i.e. the dissolution of a marriage contract between two persons, by the judgement of a court of a competent jurisdiction. The data should not include: divorce ruled by an agreement between the parties concerning the separation of the spouses and all its consequences (procedure of mutual consent, even if they are processed by the court) or ruled through an administrative procedure. If your country has a totally non-judicial procedure as regards divorce or if you can not isolate data concerning adversarial divorces, please specify it and give the subsequent explanations. Furthermore, if there are in your country, as regards divorce, compulsory mediation procedures or reflecting times, or if the conciliation phase is excluded from the judicial proceeding, please specify it and give the subsequent explanations.

Employment dismissal cases: cases concerning the termination of (an) employment (contract) at the initiative of the employer (working in the private sector). It does not include dismissals of public officials, following a disciplinary procedure for instance.

Robbery concerns stealing from a person with force or threat of force. If possible these figures should include: muggings (bag-snatching, armed theft, etc) and *exclude* pick pocketing, extortion and blackmail (according to the definition of the European Sourcebook of Crime and Criminal Justice). The data should not include attempts. The case should counted here when the robbery is either the only offence concerned or the main offence concerned by the case.

Intentional homicide is defined as the intentional killing of a person. Where possible the figures should include: assault leading to death, euthanasia, infanticide and *exclude* suicide assistance (according to the definition of the European Sourcebook of Crime and Criminal Justice). The data should not include attempts. The case should counted here when the intentional homicide is either the only offence concerned or the main offence concerned by the case.

The average length of proceedings concerns the first and second instance proceedings. Only litigious cases are addressed here.

If the average length of proceedings is not calculated from the lodging of court proceedings, please specify the starting point for the calculation. Please calculate the timeframe until the judicial decision is given, without taking into account the execution procedure.

Question 96

The information requested will enable to take into account the differences between the member states as regards divorce procedures, and in particular the mandatory timeframes foreseen by the legislation of some countries.

Question 97

An explanation can be given on how the length of court proceedings is measured and which methods are used.

Question 98

The role of the prosecutor varies significantly among member states. Therefore the approach that has been used consists in a non exhaustive list of his/her functions, to be answered by choosing the relevant tasks. You can give further details about such functions.

Question 99

In civil matters, the prosecutor can, in some member states, be entrusted for instance with safeguarding the interest of children or persons under guardianship. In administrative matters, he/she can, for instance, represent the interest of children vis-à-vis the state or one of its organs.

This issue is addressed by the Consultative Council of European Prosecutors (CCPE) in its Opinion N° 3 (20 08) on the "Role of prosecution services outside the Criminal Law Field" (www.coe.int/ccpe).

Question 100

This question aims to provide information on the number of criminal cases to be addressed by the prosecutor in first instance. As traffic cases represent a large volume of cases, please specify whether the data indicated includes or not such cases.

Discontinued criminal cases mean cases received by the prosecutor, which have not been brought before the court and for which no sanction or other measure had been taken. If information on the number of cases is not available, it can be given in number of persons concerned (a same case may concern several persons). Please indicate the number of cases discontinued because the case could not be processed, either (i) where no suspect was identified or (ii) due to the lack of an established offence or a specific legal situation (e.g. amnesty) or (iii) for reason of opportunity, where the legal system allows it.

Career of judges and prosecutors

Questions 101 to 113

Questions 101 to 104 concern only judges and questions 105 to 108 concern only prosecutors. If judges and prosecutors are designated according to the same procedure, please indicate it.

Questions 109 to 112

These questions are related to the terms of office of judges and prosecutors. In some countries judges and prosecutors have a probation period at the starting of his/her career, whilst in other countries this is not the case.

A mandate for an undetermined period means that judges and prosecutors are appointed for 'life' (until their official age of retirement) and cannot be removed from office (unless there are severe disciplinary proceedings/sanctions against a judge or a prosecutor pronounced where the highest sanction is a dismissal). It might happen that judges/prosecutors are appointed for life after a probation period.

Questions 114 to 117

With a growing influence of the use of computer technology in courts and public prosecution agencies it is important to know if, in the various countries, specific training is offered to judges, prosecutors and staff on the use of computer technology.

For each of the four types of training, countries are asked to indicate if this training is compulsory or not, as well as the frequency of the training provided (annual, regular (for example every three months) or occasional (sometimes a training course is given)).

In the comment section after question 117, specific information can be provided, in particular concerning the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights as an integral part of the training curricula of judges and prosecutors.

Question 118

The question concerns the annual gross salary of a full time first instance professional judge at the beginning of his/her career (starting salary at his/her salary scale), a full time judge of the Supreme Court or last instance judge (maximum annual salary at his/her salary scale), a full time prosecutor at the beginning of his career (starting salary at his/her salary scale) and a full time prosecutor working at the Supreme Court or the highest instance (maximum annual salary at his/her salary scale). If a bonus given to judges significantly increases their income, please specify it and, if possible, indicate the annual amount of such bonus or the proportion that the bonus takes in the judge's income. This bonus does not include the bonus mentioned under question 125 (productivity bonus).

The *gross* salary is calculated before any social expenses and taxes have been paid.

The *net* salary is calculated *after* the deduction of social expenses (such as pension schemes) and taxes (for those countries where they are deducted a priori and automatically from the sources of income; when this is not the case, please indicate that the judge has to pay further income taxes on this "net" salary, so that it can be taken into account in the comparison).

If it is not possible to indicate a determined amount, please indicate the minimum and maximum annual gross and net salary.

Question 119

This question aims to provide information on the advantages that judges and prosecutors might be given because of their functions.

Questions 121 to 124

Teaching means for instance exercising as University professor, participation in conferences, in pedagogical activities in schools, etc.

Research and publication means for instance publication of articles in newspapers, participation in the drafting of legal norms.

Cultural function means for instance performances in concerts, theatre plays, selling of his/her own paintings, etc.

If rules in this field exist in your country, which require in particular an authorisation to perform the whole or a part of these activities, please specify it.

Question 125

This question refers to the productivity bonus that judges could be granted, for instance based on the number of judgements delivered over a given period of time.

Questions 126 and 127

These questions specify the authority entrusted with the initiation of a disciplinary procedure vis-à-vis the authority responsible for deciding on a penalty in a disciplinary case.

Questions 128 and 129

This question, which appears as a table, specifies the number of disciplinary proceedings against judges or prosecutors and the sanctions actually decided against judges or prosecutors. If a significant difference between those two figures exists in your country, and if you know why, please specify it.

In the second column, *breach of professional ethics* (e.g. rude behaviours vis-à-vis a lawyer or another judge), *professional inadequacy* (e.g. systematic slowness in delivering decisions), *criminal offence* (offence committed in the private or professional framework and open to sanction) refer to some mistakes made by judges or prosecutors which might justify disciplinary proceedings against them. Please complete the list where appropriate. The same applies to the type of possible sanctions (*reprimand, suspension, dismissal, fine, and withdrawal of a case, transfer to another location or department, temporary reduction in salary*).

If the disciplinary proceeding is undertaken because of several mistakes, please count the proceeding only once and for the main mistake.

Specific comments could in particular be developed, where appropriate, as regards the procedures initiated and the sanctions pronounced in the case of corruption of judges and prosecutors, notably taking into account the reports by the Group of States against Corruption (GRECO) and possibly by *Transparency International*.

Lawyers

Questions 130 to 132

For the purposes of this chapter, *lawyers* refer to the definition of the Recommendation Rec(2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer: a person qualified and authorised according to national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters.

As some countries have experienced difficulties to count precisely the number of lawyers according to this definition without taking into account solicitors (lawyers who have no competence to represent users in courts), please give a global figure, and specify whether this figure includes solicitors. If you have figures for both categories, please specify them. If possible, please indicate also whether this figure includes trainees.

Question 133

This question aims to get information concerning persons entitled, according to the type of cases, to represent their clients before courts and/or at measuring the scope of the "monopoly of lawyers". In some countries a legal

representation by a lawyer is mandatory for criminal cases, whilst in other countries this might not be the case (a representation by for example a family member is possible). A similar principle can be found in civil law cases. In certain countries for civil cases with a small financial value there may not be the obligation to hire a lawyer to defend your case before the court.

The answer to this question might vary whether first or second instances are considered. If appropriate, please specify it.

Question 134

This question aims to know at which level the profession of lawyer is organised (for instance registration of lawyers, disciplinary procedures, representation of the profession vis-à-vis the executive power). It can be organised both at national and regional/local levels. Where appropriate, please indicate the number of regional or local bars.

Question 135

If a specific training or exam (for example passing the Bar exam) is not required, please indicate however if there are specific requirements as regards diploma or university graduation.

Question 136

A European trend can be noticed as regards the development of mandatory continuous training of lawyers. This question aims at assessing this trend.

Question 137

Specialisation in some legal fields refers to the possibility for a lawyer to use officially and publicly this specificity, such as "lawyer specialised in real estate law".

Questions 138 and 139

As the systems for defining lawyers' fees vary significantly, and taking into account the principle of freedom for defining fees in numerous countries, the previous evaluation exercises have shown the quasi-impossibility to get detailed information on the amount of lawyers' fees.

Therefore these questions only aim to provide information on the way fees are determined and on the possibility for users to have easy access to prior information on the foreseeable amount of fees (the fees that the lawyer estimates that he/she must request when he/she opens the file).

Questions 140 and 141

Similar to courts or other legal professionals lawyers might use, as developed by (national, regional or local) bar associations, quality standards. Is this the case, please specify which quality standards and criteria are used.

Question 142

The question refers to the complaints which might be introduced by users who are not satisfied with the performance of the lawyer responsible for their case. This complaint can concern for instance delays in the proceeding, the omission of a deadline, the violation of professional secrecy. Where appropriate, please specify.

Please specify also, where appropriate, the body entrusted with receiving and addressing the complaint.

Questions 143 to 145

The question refers to disciplinary proceedings which are generally introduced, for instance by other lawyers or judges. This question, which appears as a table, specifies the number of disciplinary proceedings against lawyers from the sanctions actually decided against lawyers. If a significant difference between those two figures exists in your country, and if you know why, please specify it.

Where appropriate, please complete or modify, in the comment area, the list of reasons for disciplinary proceedings and the type of sanctions mentioned in the second column.

If the disciplinary proceeding is undertaken because of several mistakes, please count the proceeding only once and for the main mistake.

The disciplinary proceedings can be the responsibility of a professional organisation (for example Bar associations), a special chamber at a court, the ministry of justice or a combination of them.

Alternative Disputes Resolutions

A common definition of mediation is difficult to define. States are currently at various stages concerning the development of mediation.

Recommendation Rec(2002)10 of the Committee of Ministers of the Council of Europe gives a definition of the mediation in civil matters: it is a dispute resolution process whereby parties negotiate over the issues in dispute in order to reach an agreement with the assistance of one or more mediators.

Recommendation Rec(1999)19 of the Committee of Ministers of the Council of Europe gives a definition of the mediation in penal matters: it is any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the crime through the help of an impartial third party (mediator).

Generally, for the purposes of this Chapter, *mediation* is to be considered as a judicial process, or a process developed within a judicial context (e.g. required by a judge) in which a third party, who has no immediate interest in the matters in dispute, facilitates discussion between the parties in order to help them to resolve their difficulties and reach an agreement.

Questions 146 and 147

These questions, which appears as a table for question 144, aims to indicate, for each type of cases, the possibility to have private mediation (for example conducted by lawyers who are accredited mediators or psychologists with a mediation specialisation), mediation conducted by a public authority (other than a court) or mediation proposed by the judge or court annexed mediation. In the last case, the mediator is a court employer (this can be a judge or another employer which is accredited to treat mediation cases).

For the purposes of this specific question, "*civil cases*" exclude family cases and employment cases, to be addressed in the specific rows below in the table.

Question 148

Just as they can benefit from legal assistance by making use of the facilities of legal aid (in case a party does not have sufficient financial means) parties can have, in certain countries, the possibility of receiving legal aid to start a mediation proceeding. If this is the case, please specify.

Question 149

Please indicate, if possible, the number of accredited mediators, either by the court or by another national authority or a NGO.

Question 150

This question is mainly directed at those states in which precise figures concerning mediation procedures by types of cases are available. If figures available do not enable you to completely answer the question or, for example, if these figures partially cover civil cases (divorce), please indicate it.

The interest of this question is to understand in which fields mediation is more used and considered as a successful procedure.

For the purposes of this specific question, "*civil cases*" exclude family and employment cases, to be addressed specifically below.

Question 151

While questions 146 to 150 concern judicial mediation (as part of the proceeding an intervention of a judge/court is foreseen - even if there might be private mediation), this question refers to all other types of alternative dispute resolution and in particular to cases which, being non litigious, are brought outside the courts' jurisdiction.

This question aims *inter alia* to identify the type of cases which can be, in some member states, addressed by non judicial bodies (for instance divorce cases addressed by Conciliation Boards in some Scandinavian countries or the use of arbitration).

Please specify the main categories of cases concerned by ADR other than mediation.

Enforcement of court decisions

In accordance with the definition contained in Recommendation Rec(2003)17 of the Committee of Ministers of the Council of Europe on enforcement of court decisions: the enforcement agent is a person authorised by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not.

Please note that questions 152 to 163 only concern the enforcement of decisions in *civil matters* (which include commercial matters or family law issues for the purpose of this Scheme).

Questions 152 and 154

Some countries have court employed execution officers, some are in the public service outside courts and, in some countries, they work as private professionals (entrusted with public duties rules by public authorities).

Question 155

This question might be "not applicable" if the execution is the direct power of the judge.

Question 156

This question aims to know at which level the profession of enforcement agent is organised (for instance registration of professions, disciplinary procedures, representation of the profession). It can be organised both at national and regional/local levels. This question might be "not applicable" if the execution is the direct power of the judge.

Questions 157 and 158

These questions aim to provide information on the way enforcement fees are determined and on the possibility for users to have easy access to prior information on the foreseeable level of amount of fees in order for an enforcement agent to execute the judicial decision. These questions might be "not applicable" if the execution is the direct power of the judge.

Questions 159 to 160

Enforcement agents are entrusted with public duties. It is therefore important to know who supervises them, even if their status can be very different. In addition it is important to know if specific quality criteria are used in the profession of the enforcement agents and which criteria are defined. The questions might be "not applicable" if the execution is the direct power of the judge.

Question 163

Taking into account the amount of cases before the European Court of Human Rights regarding in particular the non execution of court decisions rendered against public (national, regional or local) authorities, it might be interesting, to better assess the situation in the member states, to comment specifically on this situation, if you consider it as a major issue in your country.

Question 164

The previous evaluation exercises demonstrated that all the countries that answered provide in their legislation for complaints which can be filed by users against enforcement agents. The answers should give more in-depth knowledge of the reasons of such complaints and if there has been a quality policy formulated for the enforcement agents. Please indicate the four main reasons for complaints vis-à-vis the execution procedure.

Question 165

Please indicate, where appropriate, which are the items that your country wishes to improve on, which are the foreseen or the adopted measures undertaken to improve the situation and, where appropriate, which are the difficulties in this field. In other words, please evaluate the situation in the country concerning the enforcement procedures.

Question 166

This question refers to the setting up of a statistical system, which can also be used for measuring the length of judicial proceedings, enabling to indicate, in number of days for example, the length of the enforcement procedure as such, from the service of the decision to the parties. One of the reasons for the difficulty to have statistics in this field can be that, in civil matters, the execution of the decision depends on the wish of the winning party.

Question 167

The aim of this question, which appears as a specific case, is to compare the situation between countries concerning the notification of the judicial decision enabling the beginning of the enforcement procedure.

Questions 168 and 169

These questions specify the number of disciplinary proceedings against enforcement agents from the sanctions actually decided against them. If a significant difference between those two figures exists in your country, and if you know why, please specify it. If appropriate, please complete or modify (in the comment area) the list of reasons for disciplinary proceedings and the type of sanctions.

If the disciplinary proceeding is undertaken because of several mistakes, please count the proceeding only once and for the main mistake.

The total number indicated must be the sum of the numbers indicated under the various kinds of sanctions.

Questions 170 and 171

Only few questions have been included in the Scheme as regards the enforcement of court decisions in criminal matters. They are limited to issues directly linked to the functioning of the court system. This issue is further evaluated within the framework of other mechanisms of the Council of Europe.

Notaries

Questions 172 to 176

The functions and status of notaries are very different in the various member states. These questions aim to define only the status and the judicial functions exercised by the notaries (e.g. drawing up friendly settlements), as well as the nature of the supervision when exercising these functions.

Question 173

In addition to the differentiation between the public and the private status of the notaries, this question aims to differentiate those countries where the notary is a fully private function, with no public nature (first choice), and those where, while exercising the profession as a private worker, the notary is entrusted with public power (second choice), under the supervision of a public authority (for instance the prosecutor or the judge). Please indicate only one possibility.

Court interpreters

Questions 177 to 181

Court interpreters play a major role in guaranteeing access to the judge for the court users who do not have the ability to understand and/or speak the official language of the court. For certain countries quality criteria are defined and interpreters are accredited.

To get a better understanding of the role of court interpreters in court proceedings four general questions have been asked. Some questions are derived from the report Hertog e. and van Gucht J. (2008), Status Quaestionis: questionnaire on the provision of legal interpreting and translation in the EU, Intersentia (Antwerp, Oxford, Portland).

Foreseen reforms

Question 182

As a general conclusion, this open question offers the possibility of indicating general or more specific remarks concerning the situation in the replying countries and the necessary reforms to be undertaken to improve the quality and the efficiency of justice. It could be interesting to indicate whether these reforms are under preparation or have only been envisaged at this stage.

It could be specified in particular whether these reforms concern substantial or procedural law, in civil, criminal or administrative matter (to be specified), or the organisation of the court system, the organisation of legal professions, or any other field.

Though it is not compulsory to reply to this question, concrete suggestions from national experts would be very useful for the future work of the CEPEJ.

Sales agents for publications of the Council of Europe Agents de vente des publications du Conseil de l'Europe

BELGIUM/BELGIQUE

La Librairie Européenne -
The European Bookshop
Rue de l'Orme, 1
BE-1040 BRUXELLES
Tel.: +32 (0)2 231 04 35
Fax: +32 (0)2 735 08 60
E-mail: order@libeurop.be
<http://www.libeurop.be>

Jean De Lannoy/DL Services
Avenue du Roi 202 Koningslaan
BE-1190 BRUXELLES
Tel.: +32 (0)2 538 43 08
Fax: +32 (0)2 538 08 41
E-mail: jean.de.lannoy@dl-servi.com
<http://www.jean-de-lannoy.be>

BOSNIA AND HERZEGOVINA/ BOSNIE-HERZÉGOVINE

Robert's Plus d.o.o.
Marka Marulića 2/V
BA-71000, SARAJEVO
Tel.: + 387 33 640 818
Fax: + 387 33 640 818
E-mail: robertsplus@bih.net.ba

CANADA

Renouf Publishing Co. Ltd.
1-5369 Canotek Road
CA-OTTAWA, Ontario K1J 9J3
Tel.: +1 613 745 2665
Fax: +1 613 745 7660
Toll-Free Tel.: (866) 767-6766
E-mail: order.dept@renoufbooks.com
<http://www.renoufbooks.com>

CROATIA/CROATIE

Robert's Plus d.o.o.
Marasovičeva 67
HR-21000, SPLIT
Tel.: + 385 21 315 800, 801, 802, 803
Fax: + 385 21 315 804
E-mail: robertsplus@robertsplus.hr

CZECH REPUBLIC/ RÉPUBLIQUE TCHÈQUE

Suweco CZ, s.r.o.
Klecakova 347
CZ-180 21 PRAHA 9
Tel.: +420 2 424 59 204
Fax: +420 2 848 21 646
E-mail: import@suweco.cz
<http://www.suweco.cz>

DENMARK/DANEMARK

GAD
Vimmelskaftet 32
DK-1161 KØBENHAVN K
Tel.: +45 77 66 60 00
Fax: +45 77 66 60 01
E-mail: gad@gad.dk
<http://www.gad.dk>

FINLAND/FINLANDE

Akateeminen Kirjakauppa
PO Box 128
Keskuskatu 1
FI-00100 HELSINKI
Tel.: +358 (0)9 121 4430
Fax: +358 (0)9 121 4242
E-mail: akatilaus@akateeminen.com
<http://www.akateeminen.com>

FRANCE

La Documentation française
(diffusion/distribution France entière)
124, rue Henri Barbusse
FR-93308 AUBERVILLIERS CEDEX
Tél.: +33 (0)1 40 15 70 00
Fax: +33 (0)1 40 15 68 00
E-mail: commande@ladocumentationfrancaise.fr
<http://www.ladocumentationfrancaise.fr>

Librairie Kléber
1 rue des Francs Bourgeois
FR-67000 STRASBOURG
Tel.: +33 (0)3 88 15 78 88
Fax: +33 (0)3 88 15 78 80
E-mail: librairie-kleber@coe.int
<http://www.librairie-kleber.com>

GERMANY/ALLEMAGNE

AUSTRIA/AUTRICHE
UNO Verlag GmbH
August-Bebel-Allee 6
DE-53175 BONN
Tel.: +49 (0)228 94 90 20
Fax: +49 (0)228 94 90 222
E-mail: bestellung@uno-verlag.de
<http://www.uno-verlag.de>

GREECE/GRÈCE

Librairie Kauffmann s.a.
Stadiou 28
GR-105 64 ATHINAI
Tel.: +30 210 32 55 321
Fax: +30 210 32 30 320
E-mail: ord@otenet.gr
<http://www.kauffmann.gr>

HUNGARY/HONGRIE

Euro Info Service
Pannónia u. 58.
PF. 1039
HU-1136 BUDAPEST
Tel.: +36 1 329 2170
Fax: +36 1 349 2053
E-mail: euroinfo@euroinfo.hu
<http://www.euroinfo.hu>

ITALY/ITALIE

Licosa SpA
Via Duca di Calabria, 1/1
IT-50125 FIRENZE
Tel.: +39 0556 483215
Fax: +39 0556 41257
E-mail: licosa@licosa.com
<http://www.licosa.com>

NORWAY/NORVÈGE

Akademika
Postboks 84 Blindern
NO-0314 OSLO
Tel.: +47 2 218 8100
Fax: +47 2 218 8103
E-mail: support@akademika.no
<http://www.akademika.no>

POLAND/POLOGNE

Ars Polona JSC
25 Obroncow Street
PL-03-933 WARSZAWA
Tel.: +48 (0)22 509 86 00
Fax: +48 (0)22 509 86 10
E-mail: arspolona@arspolona.com.pl
<http://www.arspolona.com.pl>

PORTUGAL

Livraria Portugal
(Dias & Andrade, Lda.)
Rua do Carmo, 70
PT-1200-094 LISBOA
Tel.: +351 21 347 42 82 / 85
Fax: +351 21 347 02 64
E-mail: info@livrariaportugal.pt
<http://www.livrariaportugal.pt>

RUSSIAN FEDERATION/ FÉDÉRATION DE RUSSIE

Ves Mir
17b, Butlerova ul.
RU-101000 MOSCOW
Tel.: +7 495 739 0971
Fax: +7 495 739 0971
E-mail: orders@vesmirbooks.ru
<http://www.vesmirbooks.ru>

SPAIN/ESPAGNE

Díaz de Santos Barcelona
C/ Balmes, 417-419
ES-08022 BARCELONA
Tel.: +34 93 212 86 47
Fax: +34 93 211 49 91
E-mail: david@diazdesantos.es
<http://www.diazdesantos.es>

Díaz de Santos Madrid
C/Albasanz, 2
ES-28037 MADRID
Tel.: +34 91 743 48 90
Fax: +34 91 743 40 23
E-mail: jpinilla@diazdesantos.es
<http://www.diazdesantos.es>

SWITZERLAND/SUISSE

Planetis Sàrl
16 chemin des Pins
CH-1273 ARZIER
Tel.: +41 22 366 51 77
Fax: +41 22 366 51 78
E-mail: info@planetis.ch

UNITED KINGDOM/ROYAUME-UNI

The Stationery Office Ltd
PO Box 29
GB-NORWICH NR3 1GN
Tel.: +44 (0)870 600 5522
Fax: +44 (0)870 600 5533
E-mail: book.enquiries@tso.co.uk
<http://www.tsoshop.co.uk>

UNITED STATES and CANADA/ ÉTATS-UNIS et CANADA

Manhattan Publishing Co
2036 Albany Post Road
USA-10520 CROTON ON HUDSON, NY
Tel.: +1 914 271 5194
Fax: +1 914 271 5886
E-mail: coe@manhattanpublishing.co
<http://www.manhattanpublishing.com>

Council of Europe Publishing/Éditions du Conseil de l'Europe

FR-67075 STRASBOURG Cedex

Tel.: +33 (0)3 88 41 25 81 – Fax: +33 (0)3 88 41 39 10 – E-mail: publishing@coe.int – Website: <http://book.coe.int>