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

### CEPEJ GLOSSARY

*As adopted at the 33<sup>rd</sup> plenary meeting of the CEPEJ  
Strasbourg, 5 and 6 December 2019*

#### **Note:**

**The purpose of this document is to harmonise the meaning of relevant terms used in the CEPEJ documentation issued to date, and to serve as a reference for future use of those terms. As a result of harmonisation, certain definitions proposed in this document may not correspond exactly to the related definitions previously approved by the CEPEJ.**

**Some of the terms used in this document may be subject to further elaboration in the explanatory note to the Evaluation Scheme.**

**The glossary is based on the work of the *Ad Hoc* Working group on definitions.**

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## Table of contents

ACCESS TO JUSTICE ( <i>accès à la justice</i> ) .....	5
ALTERNATIVE DISPUTE RESOLUTION (ADR) .....	5
<input type="checkbox"/> ARBITRATION ( <i>arbitrage</i> ) .....	5
<input type="checkbox"/> CONCILIATION ( <i>conciliation</i> ) .....	5
<input type="checkbox"/> MEDIATION ( <i>médiation</i> ) .....	5
<input type="checkbox"/> COURT-ANNEXED MEDIATION / COURT-RELATED MEDIATION / JUDICIAL MEDIATION ( <i>médiation annexée au tribunal/médiation conduite ou renvoyée par le tribunal/ médiation judiciaire</i> ) .....	5
ARTIFICIAL INTELLIGENCE FOR JUSTICE ( <i>intelligence artificielle dans le domaine de la justice</i> ) .....	5
AVERAGE (SEE ALSO MEDIAN) ( <i>moyenne</i> ) .....	6
BUDGET ( <i>budget</i> ) .....	6
<input type="checkbox"/> BUDGET APPROVED ( <i>budget approuvé</i> ) .....	6
<input type="checkbox"/> BUDGET IMPLEMENTED ( <i>budget exécuté</i> ) .....	6
<input type="checkbox"/> JUDICIAL SYSTEM BUDGET (SEE ALSO JUSTICE SYSTEM BUDGET (WHOLE)) ( <i>budget du système judiciaire</i> ) .....	6
<input type="checkbox"/> JUSTICE SYSTEM BUDGET (WHOLE) (SEE ALSO JUDICIAL SYSTEM BUDGET) ( <i>budget du système de justice dans son ensemble</i> ) .....	7
CALCULATED DISPOSITION TIME (CDT) (SEE ALSO DURATION OF PROCEEDINGS) ( <i>durée des procédures</i> ) .....	7
CASE ( <i>affaire</i> ) .....	8
<input type="checkbox"/> COMPLEX CASE ( <i>affaire complexe</i> ) .....	8
<input type="checkbox"/> NORMAL CASE ( <i>affaire normale</i> ) .....	8
Case that is neither a complex case nor a priority case. ....	8
<input type="checkbox"/> PRIORITY CASE ( <i>affaire prioritaire</i> ) .....	8
CATEGORIES OF CASES ( <i>catégories d'affaires</i> ) .....	8
<input type="checkbox"/> ADMINISTRATIVE LAW CASE ( <i>affaire administrative</i> ) .....	8
<input type="checkbox"/> CIVIL LAW CASE ( <i>affaire civile</i> ) .....	8
<input type="checkbox"/> CRIMINAL LAW CASE ( <i>affaire pénale</i> ) .....	9
<input type="checkbox"/> LITIGIOUS CASE ( <i>affaire contentieuse</i> ) .....	9
<input type="checkbox"/> NON-LITIGIOUS CASE ( <i>affaire non-contentieuse</i> ) .....	9
CATEGORIES OF CASE BY CASE STATUS ( <i>catégories d'affaires par statut des affaires</i> ) .....	9
<input type="checkbox"/> INCOMING CASE ( <i>nouvelle affaire</i> ) .....	9
<input type="checkbox"/> PENDING CASE ( <i>affaire pendante</i> ) .....	9
<input type="checkbox"/> PENDING CASE BY AGE ( <i>affaire pendante en fonction de son ancienneté</i> ) .....	9
<input type="checkbox"/> RESOLVED CASE ( <i>affaire résolue</i> ) .....	10
CASE MANAGEMENT SYSTEM (CMS) ( <i>système de gestion des affaires</i> ) .....	10
CASEFLOW ( <i>flux d'affaires</i> ) .....	10

CASELOAD (SEE ALSO PENDING CASES AND WORKLOAD) ( <i>volume d'affaires</i> ) .....	10
CASE WEIGHTING SYSTEM ( <i>pondération des affaires</i> ) .....	10
CLEARANCE RATE (CR) ( <i>taux de variation du stock d'affaires pendantes</i> ) .....	10
COUNCIL FOR THE JUDICIARY ( <i>conseil de la justice</i> ) .....	11
COURT ( <i>tribunal</i> ) .....	11
COURT OF GENERAL JURISDICTION ( <i>tribunal de droit commun</i> ) .....	11
COURT STAFF ( <i>personnel du tribunal</i> ) .....	11
CYBERJUSTICE ( <i>cyberjustice</i> ) .....	11
DISPOSITION TIME (CALCULATED) (CDT) (SEE ALSO CALCULATED DISPOSITION TIME (CDT))( <i>durée estimée d'écoulement du stock d'affaires pendantes</i> ) .....	11
DURATION OF PROCEEDINGS (SEE ALSO CALCULATED DISPOSITION TIME (CDT)) ( <i>durée des procédures</i> ) .....	11
ECHEVINAGE ( <i>échevinage</i> ) .....	12
ENFORCEMENT ( <i>exécution</i> ) .....	12
<input type="checkbox"/> ENFORCEMENT ( <i>exécution</i> ) .....	12
<input type="checkbox"/> ENFORCEMENT AGENT ( <i>agent d'exécution</i> ) .....	12
<input type="checkbox"/> ENFORCEMENT TIME ( <i>délai d'exécution</i> ) .....	12
EXPERT ( <i>expert</i> ) .....	12
FULL-TIME EQUIVALENT (FTE) ( <i>équivalent temps plein ETP</i> ) .....	12
JUDGE ( <i>juge</i> ) .....	12
<input type="checkbox"/> NON-PROFESSIONAL/LAY JUDGE ( <i>juge non-professionnel</i> ) .....	12
<input type="checkbox"/> OCCASIONAL PROFESSIONAL JUDGE ( <i>juge professionnel occasionnel</i> ) .....	13
<input type="checkbox"/> PROFESSIONAL JUDGE ( <i>juge professionnel</i> ) .....	13
JUROR ( <i>juré</i> ) .....	13
JUDICIAL MAP ( <i>carte judiciaire</i> ) .....	13
JUDICIAL/LEGAL COSTS ( <i>frais de justice/juridiques</i> ) .....	13
LAWYER ( <i>avocat</i> ) .....	13
LEGAL ADVISOR ( <i>conseiller juridique</i> ) .....	13
LEGAL AID ( <i>aide judiciaire ou aide légale</i> ) .....	13
MEDIAN (SEE ALSO AVERAGE) ( <i>médiane</i> ) .....	13
NOTARY ( <i>notaire</i> ) .....	14
OFFENCE ( <i>infraction</i> ) .....	14
PROCEDURAL DEADLINE OR TIME LIMIT ( <i>délai ou date limite de procédure</i> ) .....	14
PUBLIC PROSECUTOR ( <i>procureur</i> ) .....	14
PUBLIC PROSECUTION SERVICES ( <i>ministère public</i> ) .....	14
QUALITY OF JUSTICE ( <i>qualité de la justice</i> ) .....	15
RECHTSPFLEGER .....	15
SATISFACTION SURVEY (FOR COURT) ( <i>enquête de satisfaction au sein des tribunaux</i> ) .....	15

SIMPLIFIED PROCEDURE ( <i>procédure simplifiée</i> ) .....	15
SMALL CLAIMS PROCEDURE ( <i>procédure de petite créance</i> ) .....	15
TIMEFRAME (JUDICIAL) (SEE ALSO BACKLOG) ( <i>délai-cadre judiciaire</i> ).....	15
WAITING TIME ( <i>temps morts</i> ) .....	15
WORKLOAD (COURT) ( <i>charge de travail du tribunal</i> ) .....	15

## **ACCESS TO JUSTICE (*accès à la justice*)**

All the legal and organisational factors and resources (e.g. legal aid, court fees, information) affecting the availability and effectiveness of judicial services.

In the context of cyberjustice, this concept includes means of accessing the law (online information on one's rights and on the status of court proceedings, publication of case law) and accessing dispute settlement procedures (online granting of legal aid, referral to a court or mediation service).

## **ALTERNATIVE DISPUTE RESOLUTION (ADR)**

Methods, such as arbitration, conciliation, mediation and court annexed mediation to resolve a dispute without recourse to litigation. Some of these methods can be applicable to criminal matters.

- **ARBITRATION (*arbitrage*)**

Procedure by which the parties select an impartial third person, known as an arbitrator, to determine a dispute between them, and whose decision is binding.

- **CONCILIATION (*conciliation*)**

Confidential process by which an impartial third person, known as a conciliator, makes a non-binding proposal to the parties for the settlement of a dispute between them.

- **MEDIATION (*médiation*)**

Structured and confidential process in which an impartial third person, known as a mediator, assists the parties by facilitating the communication between them for the purpose of resolving issues in dispute.

- **COURT-ANNEXED MEDIATION / COURT-RELATED MEDIATION / JUDICIAL MEDIATION (*médiation annexée au tribunal/médiation conduite ou renvoyée par le tribunal/ médiation judiciaire*)**

Mediation which is initiated or carried out by a judge or a public prosecutor or court staff who facilitates, directs, advises on or conducts the mediation process. Such mediation may be mandatory either as a pre-requisite to the institution of proceedings or as a requirement of the court in the course of the proceedings.

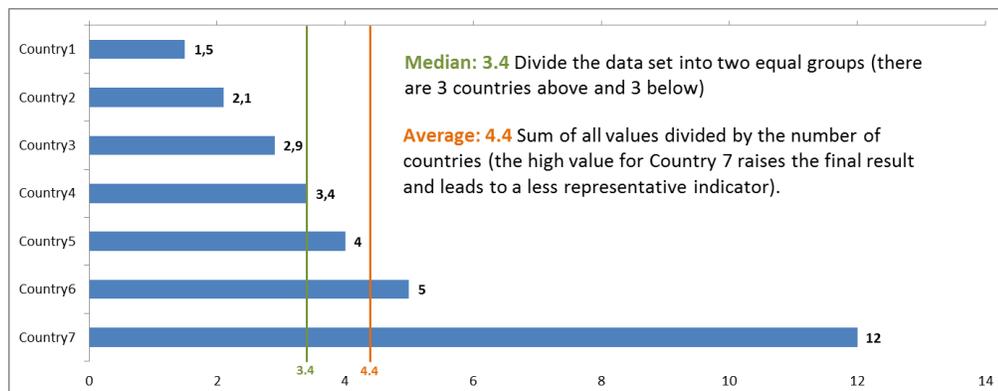
## **ARTIFICIAL INTELLIGENCE FOR JUSTICE (*intelligence artificielle dans le domaine de la justice*)**

Set of scientific methods, theories and techniques whose aim is to reproduce, by a machine, the cognitive abilities of human beings in the justice context.

## AVERAGE (SEE ALSO MEDIAN) (*moyenne*)

Result obtained by adding two or more amounts and then dividing the total by the number of amounts.

Average is sensitive to extreme values. Average should not be confused with median.



## BACKLOG (SEE ALSO TIMEFRAME (JUDICIAL)) (*arriéré*)

Pending cases at the court concerned which have not been resolved within an established timeframe.

For example, if the timeframe has been set at 24 months for all the civil proceedings, the backlog is the number of pending cases that are older than 24 months.

## BUDGET (*budget*)

- **BUDGET APPROVED (*budget approuvé*)**

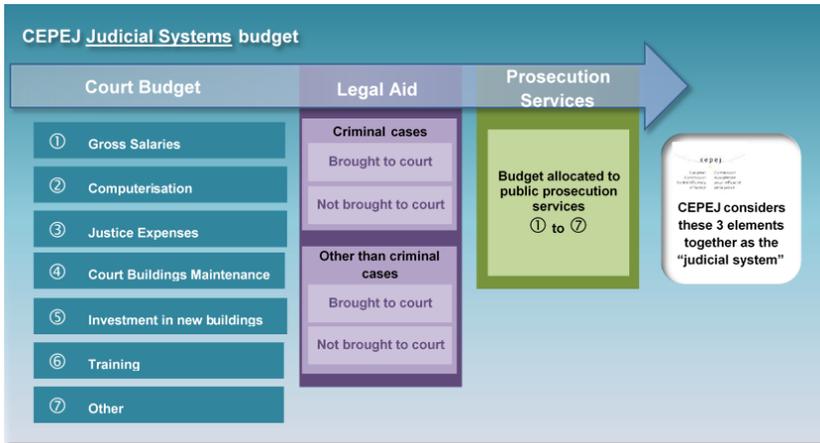
Budget which has been formally authorised by law (e.g. by the Parliament or another competent public authority).

- **BUDGET IMPLEMENTED (*budget exécuté*)**

Expenditure actually incurred in the reference year.

- **JUDICIAL SYSTEM BUDGET (SEE ALSO JUSTICE SYSTEM BUDGET (WHOLE)) (*budget du système judiciaire*)**

Budget allocated to the courts, the public prosecution services and legal aid.



- **JUSTICE SYSTEM BUDGET (WHOLE) (SEE ALSO JUDICIAL SYSTEM BUDGET) (*budget du système de justice dans son ensemble*)**

Budget allocated to the judicial system, and other elements of the justice system such as the budgets for the prison system, probation services, Councils for the Judiciary, the Constitutional Court, the judicial management body, State Advocate office (i.e. the lawyers representing the State's interests), enforcement services, notaries, forensic services, the judicial protection of juveniles (such as the budget allocated to social workers), the functioning of the Ministry of Justice, refugees and asylum seekers services, immigration service and even the budget for certain police services (i.e. judicial police, prisoners' transfer, security in courts, etc.).



**CALCULATED DISPOSITION TIME (CDT) (SEE ALSO DURATION OF PROCEEDINGS) (*durée des procédures*)**

Number of pending cases at the end of a year divided by the number of resolved cases within that year, multiplied by 365 (days in a year):

$$\text{Calculated Disposition Time} = \frac{\text{Number of pending cases at the end of the year}}{\text{Number of resolved cases within that year}} \times 365$$

This indicator estimates how many days should be required to resolve the pending cases based on the court's current capacity to resolve cases. It is used as a forecast of the length of judicial proceedings.

This indicator is not a calculation of the duration of the proceedings, but a theoretical estimate of the time needed to process pending cases.

### **CASE (*affaire*)**

Proceedings brought before a court for a determination in a litigious or non-litigious matter, or on a criminal charge.

- **COMPLEX CASE (*affaire complexe*)**

Case which, by virtue of particular attributes (e.g. number of parties, volume of evidence, number and/or complexity of issues in dispute), may require additional time for disposal beyond that which would be expected for an ordinary case within the case category concerned.

- **NORMAL CASE (*affaire normale*)**

Case that is neither a complex case nor a priority case.

- **PRIORITY CASE (*affaire prioritaire*)**

Case which, by its nature, should be disposed of as quickly as possible, as referred to in the jurisprudence of the European Court of Human Rights or at national or local level.

### **CATEGORIES OF CASES (*catégories d'affaires*)**

- **ADMINISTRATIVE LAW CASE (*affaire administrative*)**

Dispute, between persons (natural or legal) and public authorities, governed by administrative law.

In some countries, administrative cases are handled by specialised administrative courts and tribunals, while in other countries, such disputes are handled by civil courts of general jurisdiction.

- **CIVIL LAW CASE (*affaire civile*)**

While the majority of these cases concerns disputes between legal persons governed by private law, there can be no comprehensive definition of a civil case because of the diversity of European judicial systems.

- **CRIMINAL LAW CASE (*affaire pénale*)**

Case for which a criminal sanction for the commission of an offence may be imposed, even if this sanction is provided for, in some national systems, in an administrative law (e.g. fines or community service). Such offences may include, in some national systems, minor offences involving anti-social behaviour, public nuisance or traffic offences.

- **LITIGIOUS CASE (*affaire contentieuse*)**

Case involving a dispute which is determinable by a court.

- **NON-LITIGIOUS CASE (*affaire non-contentieuse*)**

Case processed by a court which does not involve the determination of a dispute (e.g. an incontestable application for registration of an interest or entitlement or an uncontested payment order case).

**CATEGORIES OF CASE BY CASE STATUS (*catégories d'affaires par statut des affaires*)**

- **INCOMING CASE (*nouvelle affaire*)**

Case filed in the court concerned within a defined time period.

Any case which has previously been filed in and is remitted to the same instance level (e.g. after an appeal) should be considered as a new incoming case.

- **PENDING CASE (*affaire pendante*)**

Case which remains to be resolved by the court concerned at a given point in time (e.g. 1<sup>st</sup> January).

- **PENDING CASE BY AGE (*affaire pendante en fonction de son ancienneté*)**

Case which remains to be resolved at a given point in time (e.g. on 31<sup>st</sup> December of the reference year), grouped by reference to the length of time which has elapsed since its filing.

Case category .....							
	0-12 months	13-18 months	19-24 months	25-30 months	31-36 months	Over 36 months	Total pending
Pending cases							

- **RESOLVED CASE (*affaire résolue*)**

Case which terminated in the court concerned either through a decision by the court, or through any other procedural step which ended the case (e.g. a discontinuance of the case or a settlement) within a defined time period.

Generally, the termination date will be the date of:

- signing or issuing of the judgement,
- approval by the court of a settlement,
- formal discontinuance.

**CASE MANAGEMENT SYSTEM (CMS) (*système de gestion des affaires*)**

System, usually electronic, which enables the processing of cases in a court, including features such as case filing, case event scheduling, production of template orders and other documents, and capture, extraction and reporting of caseflow data.

**CASEFLOW (*flux d'affaires*)**

Process by which incoming cases, resolved cases and pending cases are dealt with by a court during a given period.

**CASELOAD (SEE ALSO PENDING CASES AND WORKLOAD) (*volume d'affaires*)**

Sum of the pending cases at a given time (e.g. 1<sup>st</sup> January 2019) plus the incoming cases in a given period (e.g. from 1<sup>st</sup> January 2019 to 30<sup>th</sup> June 2019).

It is an indicator of the stock of cases that a court or a judge requires to deal with.

**CASE WEIGHTING SYSTEM (*pondération des affaires*)**

Scoring system to assess the degree of complexity of case types based on the understanding that one case type may differ from another case type in the amount of judicial time required for processing.

**CLEARANCE RATE (CR) (*taux de variation du stock d'affaires pendantes*)**

Ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage:

$$\text{Clearance Rate (\%)} = \frac{\text{Resolved cases in a period}}{\text{Incoming cases in a period}} \times 100$$

Clearance Rate equal to 100 % indicates the ability of the court or of a judicial system to resolve 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 those received. Finally, a Clearance Rate below 100 % appears when

the number of incoming cases is higher than the number of resolved cases. In this case the number of pending cases will increase.

Essentially, the Clearance Rate shows how the court or judicial system is coping with the in-flow of cases.

### **COUNCIL FOR THE JUDICIARY (*conseil de la justice*)**

Institution independent of the executive and the legislative powers, existing in certain States, which is responsible for various governance functions in relation to the judiciary. The Council is intended to safeguard the independence of both the judiciary and judges individually. In some States the Council of the Judiciary may also be responsible for prosecutors.

### **COURT (*tribunal*)**

Body established by law to exercise the judicial power of the State in civil, administrative and criminal matters.

### **COURT OF GENERAL JURISDICTION (*tribunal de droit commun*)**

Court which is competent to adjudicate on all types of proceedings brought at the jurisdictional instance to which that court belongs, and which are not to be dealt with before specialised courts owing to the nature of the subject-matter.

### **COURT STAFF (*personnel du tribunal*)**

Non-judge staff employed in a court, including but not limited to Rechtspfleger, staff providing direct assistance to judges, staff responsible for various administrative matters and for court management and technical staff.

### **CYBERJUSTICE (*cyberjustice*)**

Information and Communication Technology tools used to facilitate the administration of justice. Broadly understood as grouping together all the situations in which the application of ICT forms part of a dispute resolution process, whether in or out of court.

### **DISPOSITION TIME (CALCULATED) (CDT) (SEE ALSO CALCULATED DISPOSITION TIME (CDT))(*durée estimée d'écoulement du stock d'affaires pendantes*)**

### **DURATION OF PROCEEDINGS (SEE ALSO CALCULATED DISPOSITION TIME (CDT)) (*durée des procédures*)**

Length of time between the date on which a new case is filed in court and the date on which the case is resolved. This measure may apply to one or more court instances.

## **ECHEVINAGE (*échevinage*)**

Composition of a court in circumstances where a case is heard and decided by a panel of professional judges and non-professional judges.

## **ENFORCEMENT (*exécution*)**

- **ENFORCEMENT (*exécution*)**

Execution of court decisions, and other judicial or non-judicial enforceable titles, in compliance with the law, including seizure by an enforcement agent of the assets of a debtor which are legally available for seizure.

- **ENFORCEMENT AGENT (*agent d'exécution*)**

Person authorised by the State to carry out the enforcement process irrespective of whether that person is employed by the State or not.

- **ENFORCEMENT TIME (*délai d'exécution*)**

Time period from commencement to completion of the enforcement process. It is the sum of the periods necessary for the completion of all the actions carried out by the enforcement agent.

## **EXPERT (*expert*)**

Person holding expert competence in a particular area and who gives evidence and/or an expert opinion in court proceedings on an issue to which such competence is relevant.

## **FULL-TIME EQUIVALENT (FTE) (*équivalent temps plein ETP*)**

Number of persons working the standard number of hours. The number of persons working part time should be converted to full-time equivalent (e.g. when two people work half the standard number of hours, they count for one "full-time equivalent". One half-time worker should count for 0.5 of a full-time equivalent).

## **JUDGE (*juge*)**

Member of a court charged with exercising the judicial power of the State in determining civil, administrative and criminal cases.

- **NON-PROFESSIONAL/LAY JUDGE (*juge non-professionnel*)**

Person who is not a professional judge, charged with exercising the judicial power of the State. To be distinguished from a juror.

- **OCCASIONAL PROFESSIONAL JUDGE (*juge professionnel occasionnel*)**

Professional judge who does not perform duties on a permanent basis but who is remunerated for performing functions as a judge.

- **PROFESSIONAL JUDGE (*juge professionnel*)**

Judge who has been recruited, trained and appointed to a remunerated judicial position as such.

**JUROR (*juré*)**

Lay person who, with co-jurors (collectively a jury), tries issues of fact under guidance of a judge as to the law.

**JUDICIAL MAP (*carte judiciaire*)**

Distribution of court instances and network of court venues within a State.

**JUDICIAL/LEGAL COSTS (*frais de justice/juridiques*)**

Total costs of legal proceedings and other services related to the case payable by the parties during the proceedings (taxes, legal advice, legal representation, travel expenses, etc).

**LAWYER (*avocat*)**

Person qualified and authorised according to national law to plead and act on behalf of his/her clients, to engage in the practice of law, to appear before the courts or advise and represent his/her clients in legal matters.

**LEGAL ADVISOR (*conseiller juridique*)**

Legal professional who gives legal advice and prepares legal documents but does not have the competence to represent clients before the courts.

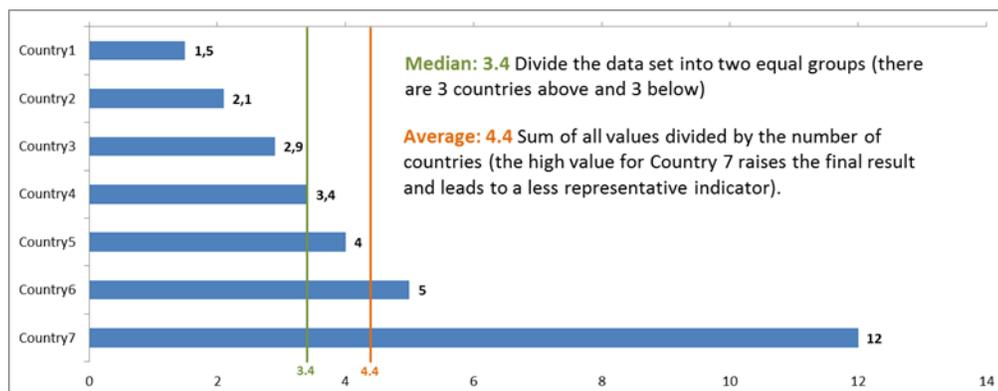
**LEGAL AID (*aide judiciaire ou aide légale*)**

Assistance to certain categories of persons in the form of State funded legal advice and/or representation.

**MEDIAN (SEE ALSO AVERAGE) (*médiane*)**

Value that divides the data set concerned into two equal groups so that 50% of the numbers are above this value and 50% are below it.

Median is sometimes more appropriate to use than the average, as it is less sensitive to extreme values. Should not be confused with average.



### **NOTARY (*notaire*)**

Professional public office-holder who on behalf of the State ensures the control of legality according to the will of the parties and the law and guarantees the authenticity of the acts in which he/she intervenes.

### **OFFENCE (*infraction*)**

Any act or omission that infringes the law and attracts a criminal sanction such as a sentence of imprisonment or fine and is dealt with by a court exercising criminal jurisdiction (or, where the national legal order provides, any other judicial or administrative authority).

### **PROCEDURAL DEADLINE OR TIME LIMIT (*délai ou date limitée de procédure*)**

Time period for the taking of a step in a court case established by the procedural law and entailing legal consequences in the event of non-compliance.

### **PUBLIC PROSECUTOR (*procureur*)**

Public officer who, on behalf of society and in the public interest, ensures the application of the law and conducts prosecutions 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.

In certain member States, public prosecutors also exercise competences in civil, administrative, commercial and labour law.

### **PUBLIC PROSECUTION SERVICES (*ministère public*)**

Organisational and administrative structure and resources which support the function of public prosecutor.

**QUALITY OF JUSTICE (*qualité de la justice*)**

Comprises not only the quality of judicial decisions and key aspects of judicial service delivery, but also all other assessable aspects that are relevant for the good functioning of the justice system.

**RECHTSPFLEGER**

Independent judicial officer, performing the tasks assigned by law, who is not a judicial assistant but works within the court and may carry out legal tasks in various areas, e.g. family law and guardianship law, law of succession, and the law on the land register and commercial registers; in some States, may also have competence to make judicial decisions independently such as on the granting of nationality, payment orders, execution of court decisions, auctions of immovable goods, criminal cases, and enforcement of judgements in criminal matters, reduced sentencing by way of community service, prosecution in district courts, decisions concerning legal aid, etc.; in some States may also be competent to undertake administrative judicial tasks.

**SATISFACTION SURVEY (FOR COURT) (*enquête de satisfaction au sein des tribunaux*)**

Survey measuring the extent to which a court activity or service meets a specific target group's expectations.

**SIMPLIFIED PROCEDURE (*procédure simplifiée*)**

Shortened and expedited form of court proceedings in civil disputes and criminal matters.

**SMALL CLAIMS PROCEDURE (*procédure de petite créance*)**

Simplified procedure designed for the resolution of claims of limited value as defined by law.

**TIMEFRAME (JUDICIAL) (SEE ALSO BACKLOG) (*délai-cadre judiciaire*)**

Established period of time within which cases are expected to be resolved.

Timeframes should not be confused with procedural deadlines or time limits, which apply to individual cases.

**WAITING TIME (*temps morts*)**

Time during which no activity takes place within a procedure (e.g. because the judge is waiting for an expert's report).

**WORKLOAD (COURT) (*charge de travail du tribunal*)**

Totality of the court activities required to be carried out (e.g. case management, management duties, any other activity that is part of the work of the court, judge or public prosecution service).

This definition should not be confused with a narrower definition of the term used in certain literature to indicate the number of cases once they have been weighted.