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**European Commission for the Efficiency of Justice
(CEPEJ)
Working Group on the Evaluation of Judicial Systems
(CEPEJ-GT-EVAL)**

**Specific Study of the CEPEJ on the Legal Professions:
Enforcement Agents**

Contribution from the International Union of Judicial Officers (UIHJ)

Note: This document is a contribution written by the International Union of Judicial Officers¹ (UIHJ)² mainly on the basis of 2022 data collected by the European Commission for the Efficiency of Justice (CEPEJ).

The analyses presented in this study are those of the authors and do not necessarily reflect the official position of the European Commission for the Efficiency of Justice. The CEPEJ does not guarantee the accuracy of the data, analyses, opinions and/or conclusions of this study. The CEPEJ - or any person acting on its behalf - cannot be held responsible for any use that may be made of the information contained therein.

These data were collected not only in the Council of Europe member States³, but also in Israel (ISR) and Morocco (MAR) – two states having observer status with the CEPEJ and who participated to its 2022-2024 evaluation cycle. Unless otherwise specified, the analyses in this study therefore include replies from all these states or entities. It is worth mentioning that the two observer States have not been taken into consideration when establishing the European medians and averages. The latter are based solely on data supplied by the Council of Europe member States/entities.

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³ Albania (ALB), Andorra (AND), Armenia (ARM), Austria (AUT), Azerbaijan (AZE), Belgium (BEL), Bosnia and Herzegovina (BIH), Bulgaria (BGR), Croatia (HRV), Cyprus (CYP), the Czech Republic (CZE), Denmark (DNK), Estonia (EST), Finland (FIN), France (FRA), Georgia (GEO), Germany (DEU), Greece (GRC), Hungary (HUN), Iceland (ISL), Ireland (IRL), Italy (ITA), Latvia (LVA), Lithuania (LTU), Luxembourg (LUX), Malta (MLT), Republic of Moldova (MDA), Monaco (MCO), Montenegro (MNE), the Netherlands (NLD), Northern Macedonia (MKD), Norway (NOR), Poland (POL), Portugal (PRT), Romania (ROU), Serbia (SRB), the Slovak Republic (SVK), Slovenia (SVN), Spain (ESP), Sweden (SWE), Switzerland (CHE), Türkiye (TUR), Ukraine (UKR), UK-England and Wales (UK:ENG&WAL), UK-Northern Ireland (UK:NIR); UK-Scotland (UK:SCO).

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Effective enforcement of judicial decisions is an integral part of the requirements of the right to a fair trial enshrined in Article 6 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights since the important judgment of 19 March 1997 *Hornsby v Greece*⁴. Similarly, in its judgment of 22 June 2004 *Pini and Bertani and Others v Romania*, the Court stated that enforcement agents "*work to ensure the proper administration of justice and thus represent a vital component of the rule of law*"⁵.

Given the volume of cases brought to the Court and the instruments adopted by the Council of Europe in the field of enforcement, the European Commission for the Efficiency of Justice (CEPEJ) decided to pay particular attention to this issue.

In non-criminal matters, the Committee of Ministers of the Council of Europe adopted, in September 2003, two relevant Recommendations in the field of enforcement: Recommendation Rec(2003)16 and Recommendation Rec(2003)17. While the former focuses on the enforcement of judgments in administrative matters, the latter mainly concerns civil and commercial matters. In the latter, "*enforcement*" is defined 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*". Similarly, the concept of "*enforcement agent*" corresponds to "*any person authorized by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not*". This definition - which is retained in the context of the present study - is based on the principle that the enforcement agent may have a public status (for example, a judge or a court official acting on his/her delegation) or a private status (for example, a bailiff or commissioner) and that both statuses may coexist in the same state (mixed regime).

Following Recommendation Rec(2003)17⁶, the CEPEJ adopted, in December 2009, its Guidelines for a better implementation of the existing Council of Europe recommendation on enforcement (CEPEJ(2009)11REV2)⁷. The same year, a specific study - drafted under the aegis of the CEPEJ - was also devoted to this subject⁸.

In December 2015, the CEPEJ took a further step in addressing the issue of enforcement, by elaborating a Good practice guide on enforcement of judicial decisions (CEPEJ(2015)10)⁹. With this Guide, the CEPEJ focuses its attention on the reception, in national law, of the principles enshrined in Recommendation Rec(2003)17 and developed in the 2009 Guidelines. These various documents describe the tasks and duties of enforcement agents as well as the rules relating to the enforcement procedure¹⁰, as well as the rights and obligations of the claimant¹¹ and the defendant¹².

⁴ Application n° 18357/91, § 40.

⁵ Application n° 78028/01 and 78030/01, § 183. See also: European Court of Human Rights, 10 February 2011, *3ACZ S.R.O. v. Czech Republic*, n° 21835/06, § 62.

⁶ See also Consultative Council of European Judges, Opinion N° 13 (2010) on the role of judges in the enforcement of judgments (CCJE(2010) 2 final, 19 November 2010) and, to a lesser extent, Consultative Council of European Prosecutors, Opinion N° 3 (2008) on the role of public prosecutors outside the criminal justice system (CCPE(2008) 3, 21 October 2008).

⁷ Hereinafter: the "Enforcement Guidelines".

⁸ J. LHUILLIER, D. SOLENIK, G. NUCERA, J. PASSALACQUA, *Enforcement of court decisions in Europe*, CEPEJ Studies N° 8, 2009.

⁹ Hereinafter: the "Good practice guide on enforcement".

¹⁰ The "Enforcement procedure" is understood here as "all the formalities and acts legally required to implement a precautionary measure and/or an enforcement measure in a given case" (definition used in the Good practice guide on enforcement of judicial decisions, *op. cit.*).

¹¹ The "claimant" or "creditor" is the "party seeking enforcement" (*ibid.*).

¹² The "defendant" or "debtor" is the "party bound by an obligation to pay, to do or to refrain from doing, against whom enforcement is sought" (*ibid.*).

More recently, emphasis has been placed on the judicial electronic auction procedure, with the preparation of a Guide dated 16 June 2023¹³.

The CEPEJ's specific study on the legal professions, devoted to enforcement agents, is part of this general dynamic.

It is difficult to assess the proper enforcement of judgments in civil and commercial matters on the basis of relevant statistics, as the initiation of enforcement proceedings is not automatic. It is up to the successful party to decide whether or not to request enforcement of the court decision. This study - the drafting of which was entrusted to the International Union of Judicial Officers (UIHJ) - is therefore not so much interested in the rate of enforcement of court decisions, as in the organisation of the enforcement process and the role of enforcement agents. The CEPEJ, through its questionnaire for the evaluation of judicial systems, has nevertheless tried to measure the average length of the enforcement proceedings, which is one of the components of the reasonable time taken into consideration within the case law of the European Court of Human Rights in the context of the right to a fair trial.

In 2022, with a view to carry out the previous edition of the specific study on enforcement agents (2020 data), the CEPEJ enriched its evaluation of judicial systems with new questions. For example, some of them concern the deployment of new communication technologies and their impact on the continuous training of enforcement agents or on the conduct of civil enforcement proceedings. Others relate to the important issue of finding information about the debtor and his/her assets, or determining who should bear the cost of enforcement. Still others relate to the civil enforcement procedures that can be implemented by enforcement agents (new data include: preventive seizure of movable or immovable property, seizures of boats and ships, seizures of aircraft, seizures of electronic assets and sales of shares/securities). Conversely, questions relating to the organisational structure of enforcement agents and those concerning the existence of quality standards were removed from the questionnaire submitted to the states and entities.

The same questionnaire was used to draw up the current edition of the specific study on enforcement agents.

Before presenting the trends and the main conclusions drawn from the analysis of the data collected from the states and entities participating in the last Evaluation Report, we will examine in turn the enforcement of judgments in civil, commercial and administrative matters on the one hand, and the enforcement of judgments in criminal matters, on the other hand. Indeed, in criminal matters, the enforcement of sentences is of a different nature. It concerns the public power, often under the supervision of the courts, and depends on criminal policy choices. Its specific features justify a separate examination.

I. Enforcement of justice decisions in civil, commercial and administrative matters

This study looks at both – civil enforcement procedures and the professionals responsible for implementing them. In this context, the organisation of the profession of enforcement agent, the performance of enforcement procedures and the monitoring of enforcement activities will be examined successively.

¹³ CEPEJ, *Guide on judicial e-auctions*, 16 June 2023, CEPEJ(2023)11. Its adoption was accompanied by the dissemination of an interesting comparative study: M. BLASONE and D. SATKAUSKIENE, *Comparative study on the use of judicial e-auctions in the Council of Europe member States*, 16 June 2023, CEPEJ-GT-CYBERJUST(2023)1.

1. Organisation of the profession of enforcement agent

The professional organisation of enforcement agents may be assessed with regard to the qualifications required to exercise this profession, the status of these professionals, the rules governing their competences and their repartition.

1.1 Qualifications to become an enforcement agent

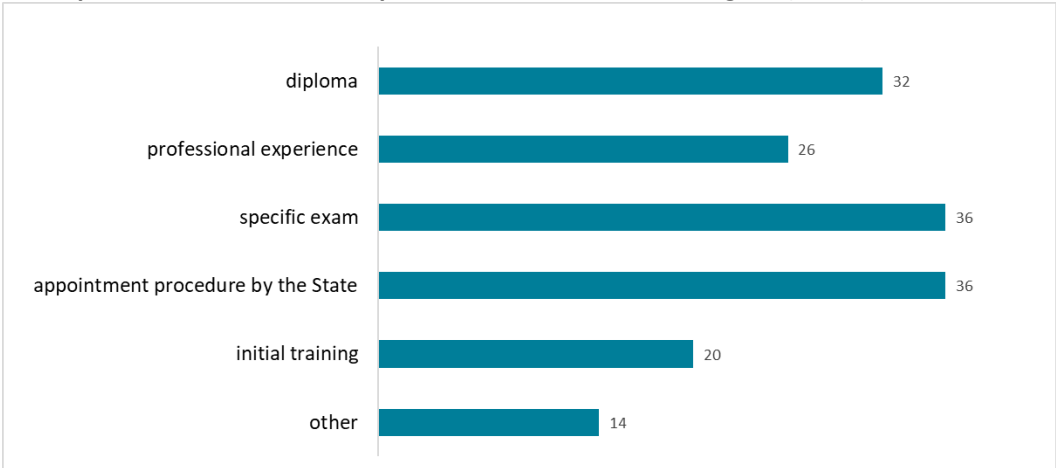
The qualifications required to work as an enforcement agent can be assessed not only when entering the profession, but also - to a certain extent - throughout one's career, with the requirement for continuous training.

1.1.1 Prerequisites

In Europe, it is very often required of candidates for the position of enforcement agent to have completed a practical training period and/or to hold a legal diploma. The skills required to enter the profession should therefore place enforcement agents on the same level of expectations and training as judges, notaries and lawyers.

Of the 48 states and entities that replied to the questionnaire, 32 (compared with 30 in the previous year) mention the requirement of a diploma and 36 (compared with 33 in the previous year) report the holding of a specific examination to become an enforcement agent. Although it is less clear than in previous exercises, there seems to be a certain correlation between the status (public or private) of enforcement agents and the existence of initial training or a final selection procedure. States or entities in which there is no specific initial training or examination, often entrust the enforcement of court decisions to civil servants in the administration of justice under the authority of a competent judge or to court employees (**Denmark, Norway**). Conversely, there is an initial training and/or a final selection procedure in all the states - at least those that provided a reply - where enforcement agents have exclusively private status.

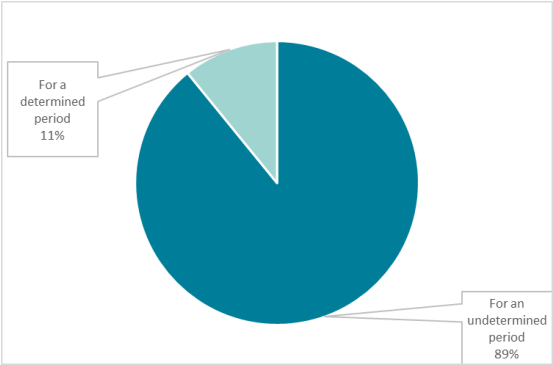
Figure 1: Requirements to access the profession of enforcement agent (Q170)



A very large majority of states or entities (36 member States/Entities and **Israel**) have an appointment procedure. It should be noted that in almost all of them, the term of appointment is for an undetermined period (for comparison purposes, in **Hungary**, the enforcement agent's term of office is 7 years; in **Belgium**, it is 30 years, subject to not exceeding the age of 75). This clarification should be distinguished from that relating to the existence of a retirement age. In 33 countries or entities, this age is 65 or over (including 80 in **Monaco**), while **Armenia** and **Azerbaijan** provide for the age of 55 and 60 respectively. This age may also vary depending on the location (e.g., **Germany**, according to the

Länder), on the gender (e.g., Georgia, Romania, the Slovak Republic) or on the status (e.g., Spain) of the enforcement agent.

Figure 2: Length of the enforcement agents’ term of office (Q171)



1.1.2. Continuous training

If the initial professional training of enforcement agents is fundamental to the proper administration of the enforcement procedure, the same applies to continuous training, which is just as important for instilling the responsibilities of the enforcement agent and ensuring uniformity of skills¹⁴ in the profession.

Figure 3: Training of enforcement agents (Q172-1, Q172-2, Q172-3)



According to point 26 of the Guidelines on enforcement, adopted by the CEPEJ in December 2009, enforcement agents should be subject to a system of compulsory continuous professional training¹⁵. By definition, this training is provided in respect of agents who are already in post and is distinct from the specific initial training from which persons applying to carry out these duties may benefit.

In 2022, such a system is planned in more than half of the states or entities that responded (29 out of 48: 28 member States/entities and Israel, i.e. 60%). By way of comparison, in 2020, a continuous training system existed in 27 member States/entities and two observer States (i.e., 29 out of the 47 that responded). Similarly, in 2018, continuous training was in place in around 57% of countries (27 out of 47) and in 2014, in 46% of them (21 out of 46). There is thus a clear trend towards more widespread compulsory continuous training for enforcement agents in member States and entities.

Since 2022 (2020 data), the questionnaire for the member States includes new questions on the impact of new communication technologies on continuous training. The data collected during this exercise

¹⁴ The main activities, as well as the so-called "ancillary" activities, must be covered by these training sessions. Adde, CEPEJ, *Mediation awareness and training programme for enforcement agents: ensuring the efficiency of the judicial referral to mediation*, 17 June 2021, CEPEJ(2021)7.

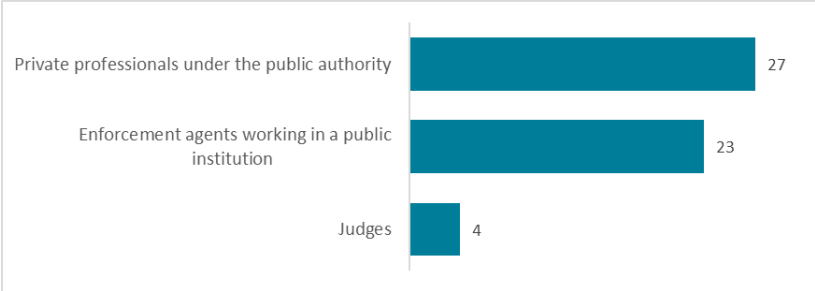
¹⁵ Adde, CEPEJ, *Good practice guide on enforcement of judicial decisions*, aforementioned, point 19.

allow identifying some initial trends. It emerges that in 2022, more than a third of states and entities have set up an online training system (e-Learning) for these professionals (i.e., 18 out of 48 (17 member States/ entities and **Israel**); for the previous exercise, the figure was 16 out of 47 (15 member States/ entities and **Israel**). Similarly, 20 member States/entities (compared with 17 the previous year) and **Israel** state that new communication technologies are included in the continuing training system for enforcement procedures. This shows that new technologies are playing an increasingly important role in training.

1.2 Status of enforcement agents

All the States or entities that replied to this part of the CEPEJ questionnaire have defined a status for enforcement agents.

Figure 4: Enforcement agents by type (Q169)



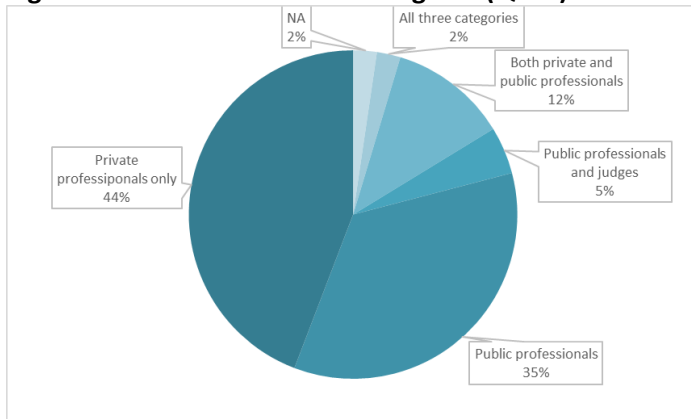
Generally speaking, the status of enforcement agents may be public, private or a combination of the two. Of the 45 responses received to the questionnaire for 2022, these professionals have only private status in 21 member States or entities (compared to 21 in the previous exercise and 18 in the one before that), i.e., 44% of them; in 17 member States or entities, they have only public status and there is a combination of statuses in 6 member States or entities.

Similarly, in 28 states or entities (27 member States/entities and **Israel**), some or all of the enforcement agents carry out their activities as private professionals, under the supervision of a public authority. They may be ministerial officers, such as bailiffs (or “*commissaires de justice*”) who practise in **Belgium, France, Luxembourg** or the **Netherlands**.

By way of comparison, in 23 states or entities, these professionals are attached to a public institution, while in four states/entities they have the status of judge. In several States, enforcement agents are clerks and assistant judges (**Denmark**) or legal secretaries (**Spain**). In **Switzerland**, several systems exist and vary from canton to canton.

Although there are variations in the data collected by the CEPEJ over the course of successive evaluations of judicial systems, the preponderance of private status over public status cannot be denied.

Figure 5: Status of enforcement agents (Q169)



1.3 Competences of enforcement agents

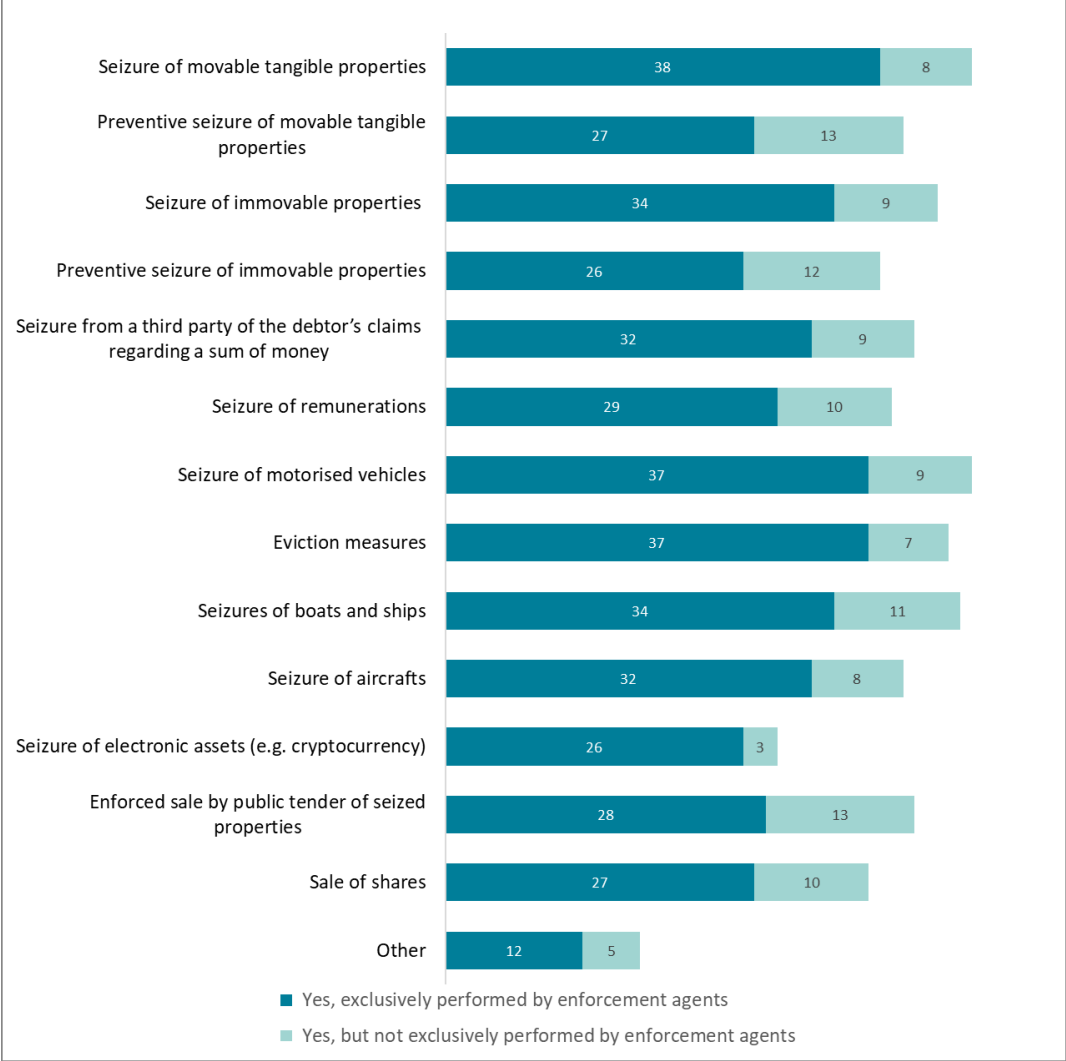
1.3.1. Activities of enforcement of court decisions

The activities carried out by enforcement agents include, first and foremost, the implementation - most often on an exclusive basis - of civil enforcement procedures provided for by the law of the state in which they operate.

According to point 33 of the Enforcement Guidelines, "*enforcement agents, as defined by a country's law, should be responsible for the conduct of enforcement within their competences as defined by national law*". This point further specifies that "*Member States should consider giving enforcement agents sole competent for: enforcement of judicial decisions and other enforceable titles or documents, and implementation of all the enforcement procedures provided for by the law of the state in which they operate*". In the wake of these provisions, we can read, in point 36 of the Good practice guide on enforcement of judicial decisions, adopted in 2015 by the CEPEJ, that states "*could be equipped with a legislative arsenal comprising enforcement procedures geared to [...] the varied composition of people's assets (movable or immovable assets, tangible or intangible assets, registered or non-registered assets)*".

In order to measure compliance with these recommendations in positive law, the questionnaire submitted to member States covers the implementation by enforcement agents of the main civil enforcement procedures. Since 2022 (2020 data), the list of procedures concerned refers also to: preventive seizure of movables or immovables, seizures of boats and ships, seizures of aircraft, seizures of electronic assets and sales of shares.

Figure 6: Civil enforcement proceedings within the competence of enforcement agents (Q171-2)



More specifically, for the 46 member States or entities that replied to the questionnaire, the situation is as follows: seizure of movable tangible property (46 States or entities, among which 38 exclusively), seizure of motorised vehicles (47 states or entities, among which 37 exclusively), expulsion (45 states or entities, among which 37 exclusively), seizure of boats and ships (45 states or entities, among which 34 exclusively), seizure of a claim for a sum of money from a third party (e.g. a bank) (42 States or entities, among which 32 exclusively), seizure of aircraft (40 states or entities, among which 32 exclusively), preventive seizure of immovable property (38 states or entities, among which 26 exclusively), seizure of immovable property (44 states or entities, among which 34 exclusively), enforced sale by public tender of seized properties (42 states or entities, among which 28 exclusively), seizure of electronic assets (29 states or entities, among which 26 exclusively), preventive seizure of movable tangible properties (40 states or entities, among which 27 exclusively), seizure of the debtor's remunerations (40 states or entities, among which 29 exclusively), sale of shares (37 states or entities, among which 27 exclusively), and "other" (17 states or entities, among which 12 exclusively).

In comparison with the previous year, two trends can be observed: on the one hand, for the vast majority of procedures, the number of states or entities concerned is increasing and, as a result, the competence of enforcement agents is gradually being extended to all enforcement measures; on the other hand, the number of states or entities conferring exclusive competence on enforcement agents is increasing.

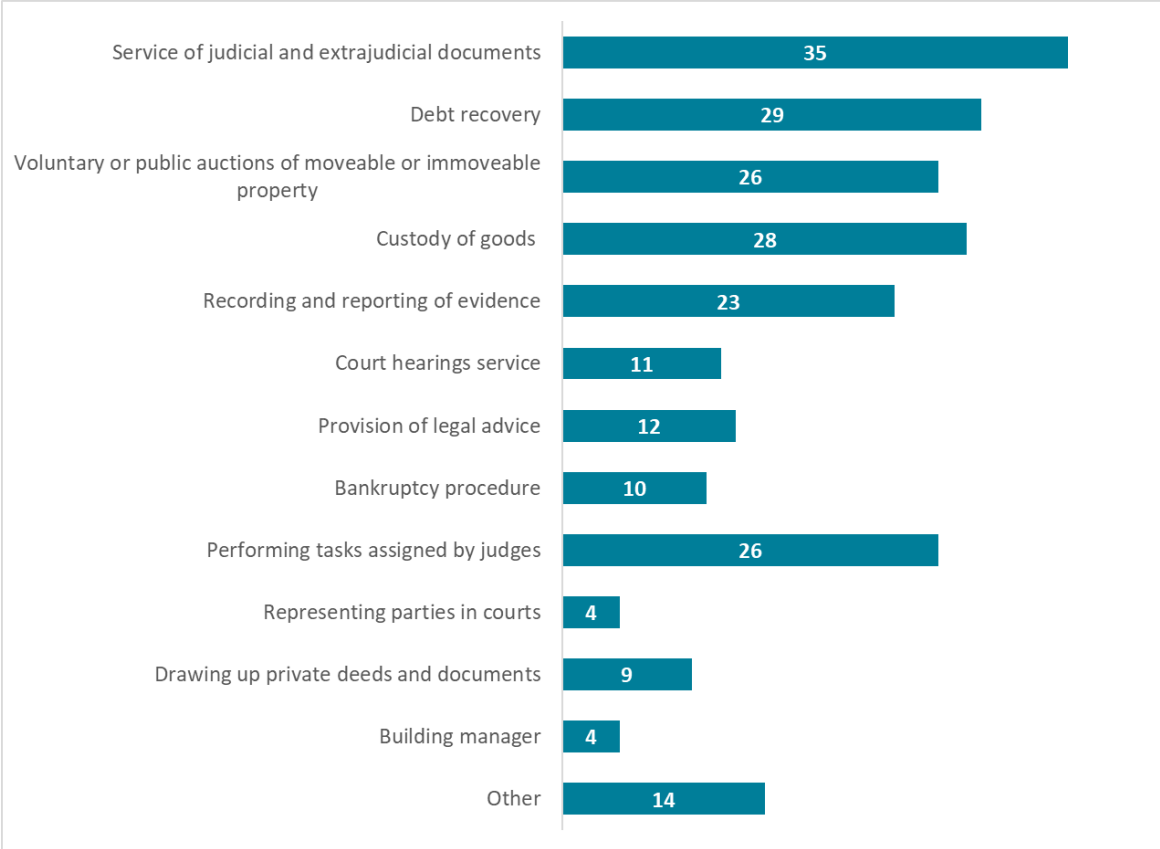
In 2022, in 12 states or entities (**Estonia, Finland, Germany, Italy, Republic of Moldova, the Netherlands, Norway, Poland, Romania, Switzerland, Türkiye, Ukraine**), enforcement agents exercise exclusively all the procedures listed, including the option "other" for **Finland, Germany, Italy, the Republic of Moldova, Norway and Türkiye**.

The diversity of the procedures concerned makes it possible to adapt enforcement to the composition of the debtor's assets. This contributes to increase the effectiveness of enforcement and serves the interests of the creditor, while allowing greater consideration to be given to the legitimate interests of the debtor.

1.3.2. Other activities of enforcement agents

Alongside the function of enforcing court decisions, many states or entities entrust enforcement agents with the task of serving judicial or extrajudicial documents (35 member States/entities, **Israel and Morocco**), as well as a whole series of so-called "ancillary" activities compatible with their main functions.

Figure 7: Other activities that can be performed by enforcement agents (Q171-3)



The following may be carried out: debt recovery (29 member States, **Israel and Morocco**), custody of goods (28 member States, **Israel and Morocco**), voluntary or public auctions of movable or immovable property (26 member States and **Morocco**), performing tasks assigned by judges (26 member States, **Israel and Morocco**), recording and reporting of evidence (23 member States and **Morocco**), provision of legal advice (12 member States), court hearings service (11 member States/entities), bankruptcy procedure (10 member States/entities), drawing up private deeds and documents (9 member States/entities), representing parties in courts (4 member States/entities), building manager (4 member States/entities) and "other" functions (14 member States/entities and **Israel**). These "other" activities include, for example, the possibility of acting as debt mediator (e.g., in **Belgium**).

Compared with 2020 data, we can see that the classification of ancillary activities, in terms of the number of states entrusting them to enforcement agents, has changed only very slightly. By extension, there has been some stability on this point since 2014.

To varying degrees, depending on the member State, there is a certain multidisciplinary among enforcement agents, in line with the provisions of point 34 of the 2009 Enforcement Guidelines¹⁶. In the light of the data collected during successive exercises, we can see a gradual increase in the so-called "ancillary" activities conferred on enforcement agents in member States/entities.

1.4. Repartition of enforcement agents

The repartition of enforcement agents can be analysed in relation to the population of the member States, in terms of their number per 100 000 inhabitants or the distribution male/female.

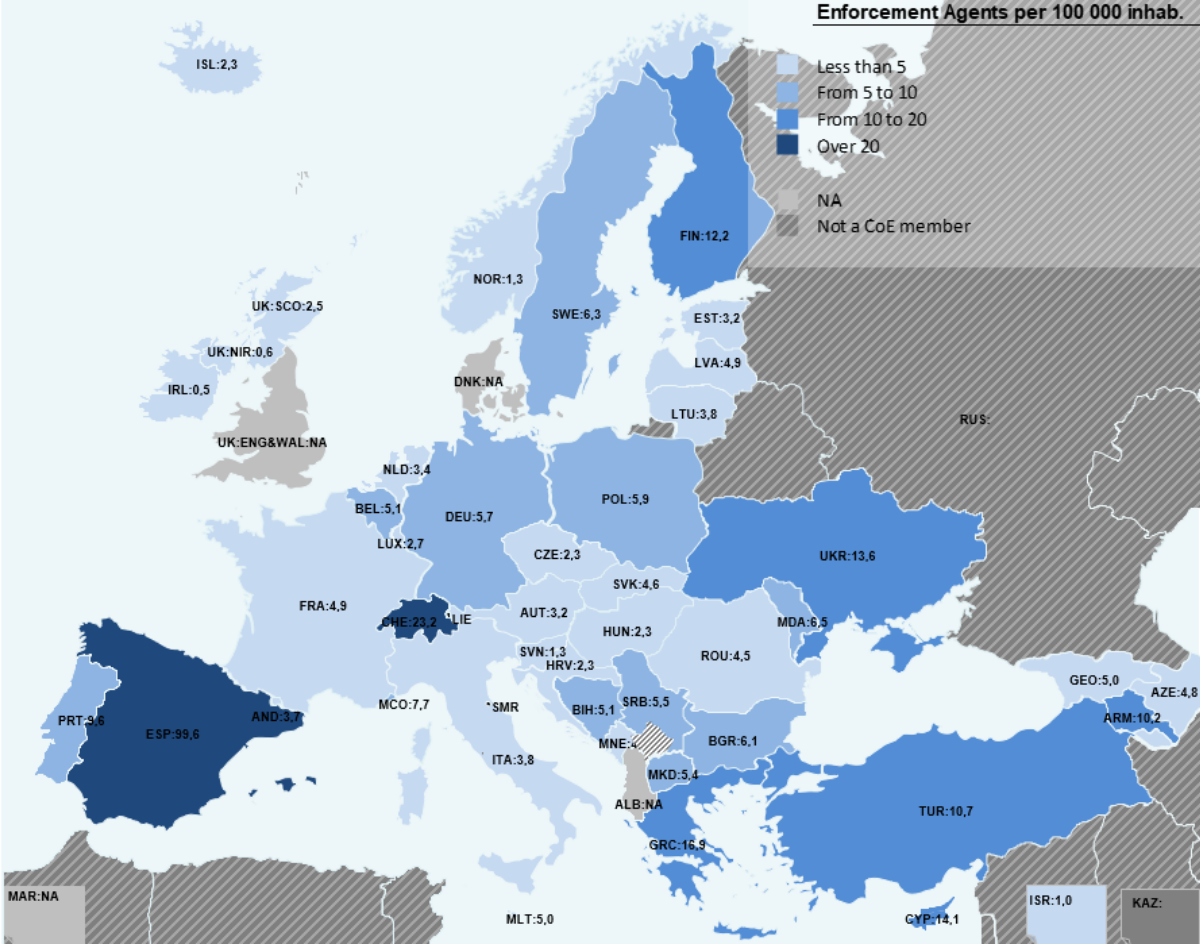
1.4.1. Number of enforcement agents

Unsurprisingly, in absolute terms, the number of enforcement agents varies greatly from one country to another. While there are fewer than 30 professionals in nine states or entities (**Andorra, Iceland, Ireland, Luxembourg, Malta, Monaco, Montenegro, Slovenia, UK-Northern Ireland**), there are more than three thousand in five States (**France, Germany, Spain, Türkiye, Ukraine**). While **Spain** reports 47 845 professionals, the median number in the 44 states or entities that responded is 250.

While the differences are spectacular, they cannot be analysed in isolation from the size or population of the countries concerned.

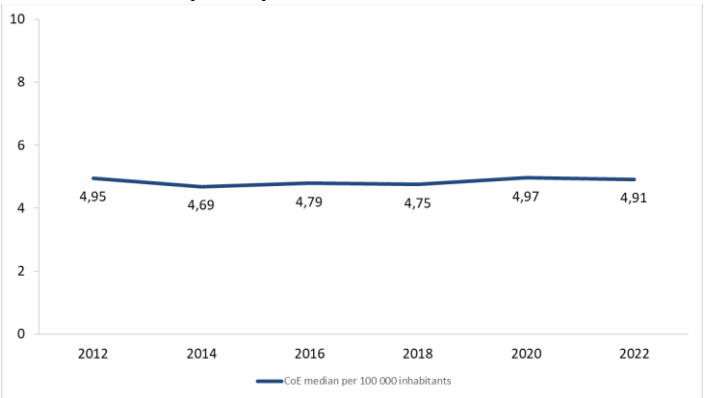
¹⁶ *Adde*, CEPEJ, *Good practice guide on enforcement of judicial decisions*, aforementioned, point 13.

Figure 8: Enforcement agents per 100 000 inhabitants (Q169)



Looking at the data presented, it appears that over the period 2012-2022 the median number of enforcement agents per 100 000 inhabitants has fallen slightly. It fell from 4,95 to 4,91, with the lowest median recorded in 2014, at 4,69. It should be noted that this number was 5,2 per 100 000 in 2010.

Figure 9: Evolution of the median number of enforcement agents per 100 000 inhabitants between 2012 and 2022 (Q169)

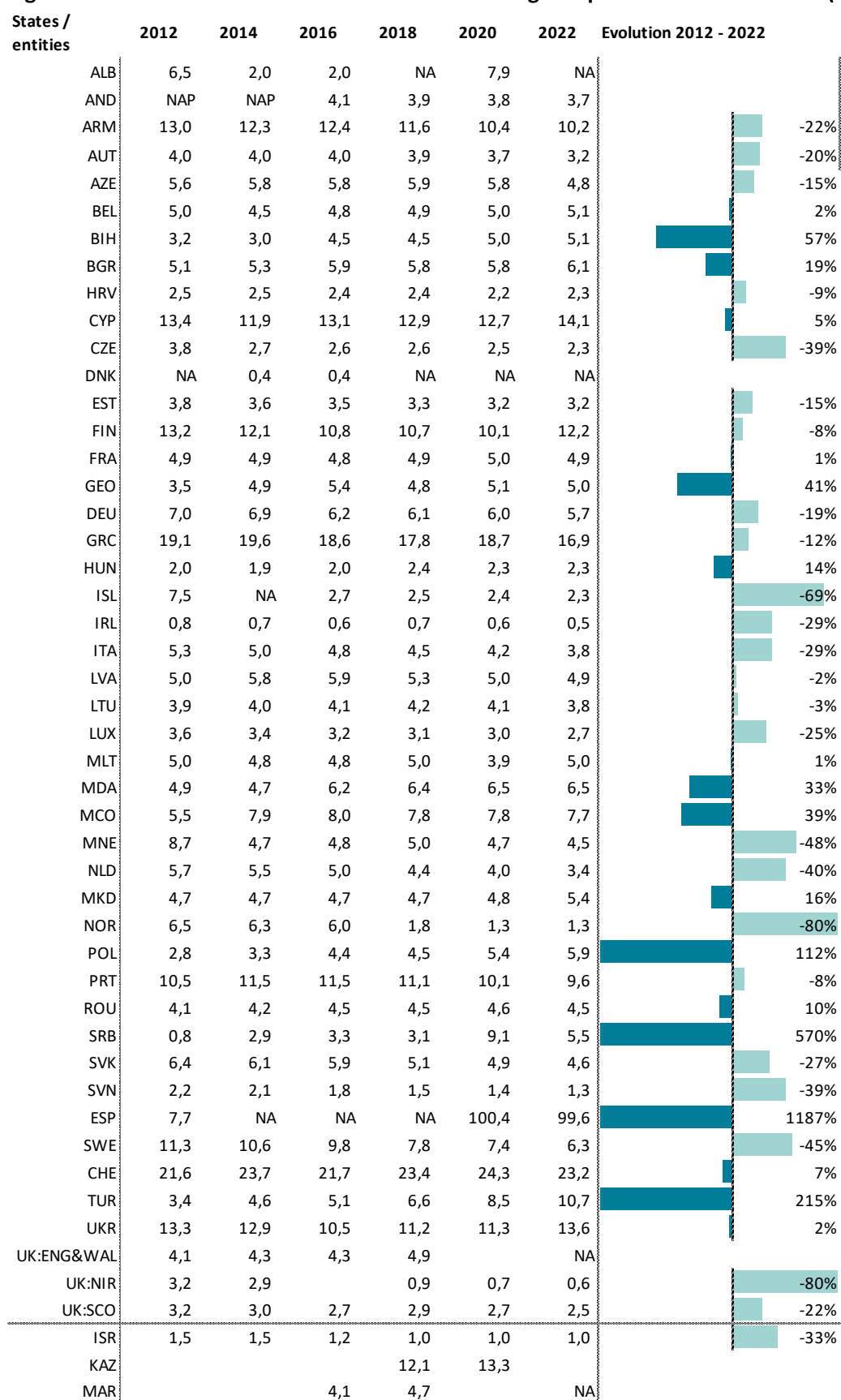


In 2022, there were an average of 7,9 enforcement agents per 100 000 inhabitants (35 states being below this average). That same year, only 8 states (**Armenia, Cyprus, Finland, Greece, Spain, Switzerland, Türkiye and Ukraine**) had more than 10 agents per 100 000 inhabitants (compared with 9 in 2020).

If we relate the number of enforcement agents per 100 000 inhabitants to the status of these professionals, it appears that when they work solely as private professionals, this number is most often lower than the median number of 4,92. However, there are some counterexamples, such as **Greece** (16,9 professionals per 100 000 inhabitants) and **Portugal** (9,6 professionals per 100 000 inhabitants). The opposite is true when these professionals are exclusively attached to a public institution (see in particular **Spain**: 99,6 enforcement agents per 100 000 inhabitants).

Over the period 2012-2022, the evolution of the number of enforcement agents per 100 000 inhabitants is spectacular when considering the specific situation of some member States.

Figure 10: Evolution of the number of enforcement agents per 100 000 inhabitants (Q169)



► Examples of increases

In **Spain**, there has been an increase of 1187%, reaching 4,745 professionals in 2022. The increase for **Serbia** is 570% (373 enforcement agents in 2022).

In **Poland**, the increase is of 112% over the period 2012-2022. According to UIHJ sources, the struggle to reduce the length of proceedings by the Polish Ministry of Justice has led to an increase in the number of bailiffs, as a means of solving the problem. The rate of increase is high, due to the low initial number of enforcement agents. There were 210 in 2010 in 2022, compared with 590 in 2004.

In **Romania**, over the period 2010-2022, the increase is of 95%. The information available to the UIHJ explains this strong increase in the number of enforcement agents mainly by the merger with bank enforcement agents and the inclusion of the latter within the profession in 2010. There are 859 enforcement agents in 2022.

In **Türkiye**, for the period 2012-2022, the increase in the number is of 215%. According to UIHJ sources, the number of enforcement agents has been increased in order to meet the needs of the population (representing in 2022, 85 279 553 inhabitants) that have arisen due to the existing workload (around 13 million cases), the insufficient number of staff and the new enforcement offices established. The figures presented reflect the rate of increase. The situation stabilised in 2010-2012 (with around 2 600 agents) and has risen sharply in recent years (3 540 agents in 2014; 5 395 in 2018; 7 089 in 2020; 9 097 in 2022). As for the 27% increase observed between 2018 and 2020, the comment accompanying the CEPEJ data refers both to the desire to strengthen human resources and offer citizens more efficient, faster and better-quality services, and to the project conducted with the EU entitled "Improved Capacity of Civil Enforcement Offices".

► Examples of decreases

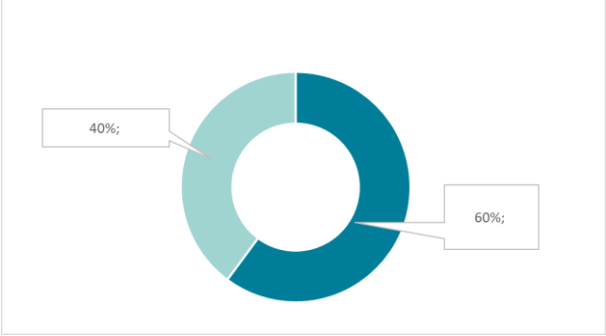
Conversely, in other countries, the trend is downwards over the period 2012-2022. This is the case, for example, in **UK-Northern Ireland** (down 80%), **Norway** (down 80%), **Iceland** (down 69%), **Montenegro** (down 48%), **Sweden** (down 45%) and the **Czech Republic** (down 39%). There are various explanations for these decreases. For example, according to UIHJ sources, in **Montenegro**, the decrease in the number of enforcement agents is related to the introduction - by the Law on Enforcement and Debt Collection and the Law on Public Enforcement Officers - of a new enforcement system that replaced the one based on judicial enforcement. The Enforcement and Debt Collection Act came into force in September 2011 and defined the public enforcement officer system for the first time. The Public Enforcement Officers Act came into force in December 2012. Initially scheduled for the first quarter of 2013, the first enforcement agents were appointed in 2014.

Furthermore, these decreases in enforcement agents' numbers need to be assessed in the light of the number of professionals concerned. For example, in 2022, 72 agents are working in **Norway**, 28 in **Montenegro** and 9 in **Iceland**.

1.4.2. Feminisation rate of the profession

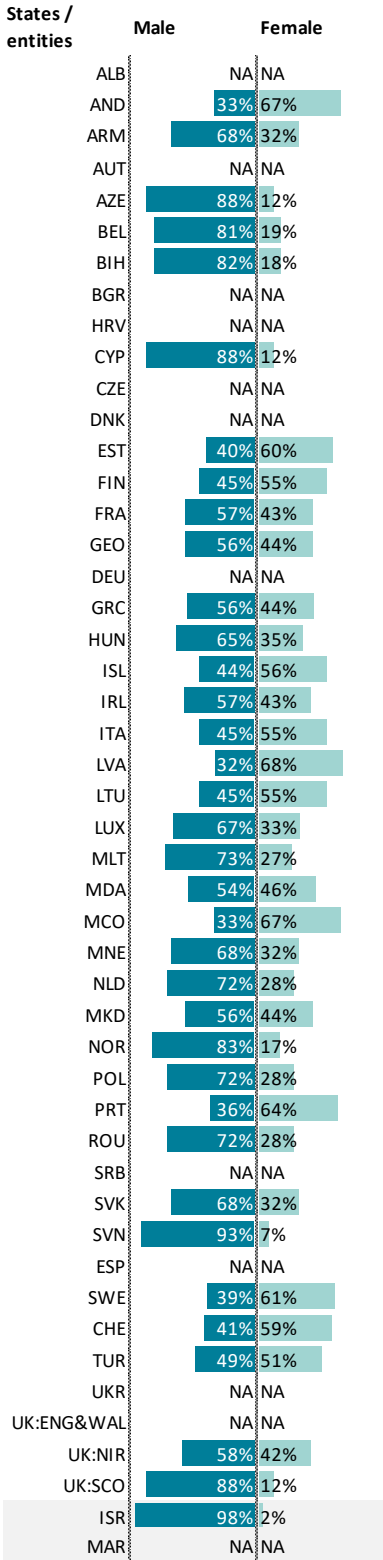
In 2022, the data collected by the CEPEJ show that, in the 35 member States or entities which replied to this part of the questionnaire, the majority of persons carrying out the activities of enforcement agents are men (i.e., 60%, or approximately two-thirds). This percentage has decreased slightly since the previous years (64% in 2018; 61% in 2020) which reflects a general trend towards the feminisation of the profession. In contrast, **Israel** - the observer State that provided data - deviates from the European trend, with a very high percentage of male enforcement agents, i.e. 97,9%.

Figure 11: Average gender ratio for enforcement agents (Q169)



In six member States, the percentage of women equals or exceeds 60% (**Andorra, Estonia, Latvia, Monaco, Portugal and Sweden**). This number is identical to that observed in the previous exercise.

Figure 12: Number of enforcement agents by gender (Q169)



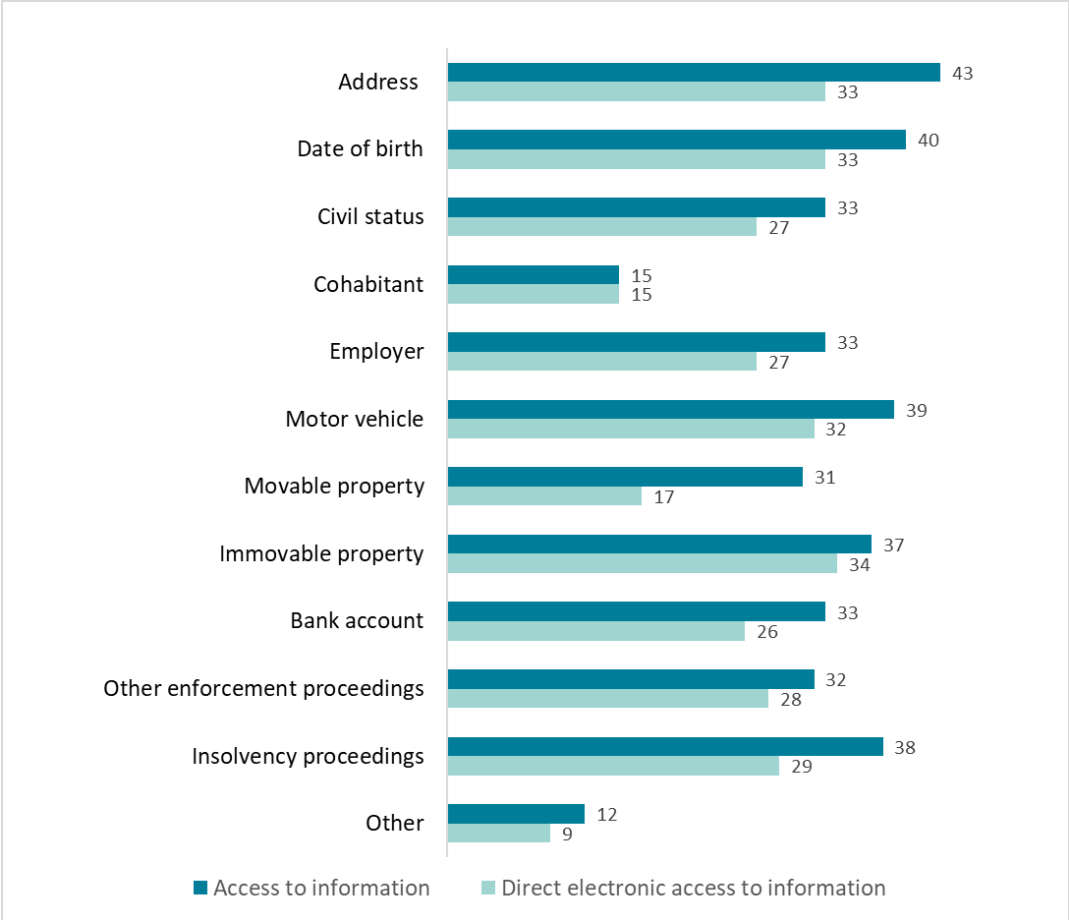
2. Implementation of enforcement procedures

As in previous editions, this specific CEPEJ study on enforcement agents analyses data relating to the timeframes and cost of enforcement. These are relevant criteria for assessing the efficiency of enforcement procedures.

Alongside these data, from 2022 (données 2020), the CEPEJ wished to complete its examination of national laws by including two new questions: one concerns the information available to the enforcement agent on the debtor and his/her assets, and the other relates to the role of new technologies in the field of enforcement. These two factors undeniably influence the effectiveness of enforcement. On the one hand, there is no point in benefiting from an efficient enforcement procedure without knowing where the assets to be enforced are located. On the other hand, the use of new technologies in the field of enforcement may make it possible to speed up certain procedures, to adapt enforcement measures to the diversity of debtor’s assets or to facilitate the advertising of auctions - or enable electronic auctions to be held - and, in so doing, to multiply the number of potential buyers of seized assets that are put up for sale.

2.1 Accessible patrimonial information

Figure 13: Access to information by enforcement agents (Q171-1)



In accordance with Recommendation Rec(2003)17 of the Committee of Ministers to member States on enforcement of justice decisions, the "search and seizure of defendants' assets should be made as effective as possible, taking into account relevant human rights and data protection provisions. There should be fast and efficient collection of necessary information on defendant's assets through access to relevant information contained in registers and other sources, as well as the option for defendants to make a declaration of their assets¹⁷". The importance of allowing the enforcement agent "rapid and direct access to the property information" of the defendant/debtor was also highlighted in the CEPEJ

¹⁷ Recommendation, III, point 6.

Guidelines of 2009, where it is stated that states "*are encouraged to consider making such information available to the enforcement agent by Internet through a secured access, if possible*"¹⁸.

In the light of the data collected by the CEPEJ, it appears first of all that, in 2022, national laws allow enforcement agents to access information likely to enable them to carry out the main civil enforcement procedures provided for by law.

Among the 48 states and entities that replied to this question, in descending order, information is available concerning : the debtor's address (43 member States/entities and **Israel**), the debtor's date of birth (40 member States/entities), motor vehicles (39 member States/entities and **Israel**), insolvency proceedings (38 member States/entities), the debtor's immovable property (37 member States/entities), the debtor's civil status (33 member States/entities and **Israel**), the debtor's bank accounts (33 member States/entities), the identity of the debtor's employer (33 member States/entities), the existence of other enforcement proceedings (32 member States/entities), the debtor's movable property (31 member States/entities), and the presence of persons cohabiting with the debtor (15 member States/entities).

As can be seen, the information available may directly concern the debtor and those around him/her. Similarly, it relates not only to the debtor's assets, but also to his/her liabilities. In this respect, before initiating civil enforcement proceedings against property belonging to the debtor, it is particularly useful for the enforcement agent to know whether other enforcement proceedings are underway against the debtor or whether the debtor is the subject of insolvency proceedings. If so, depending on the situation, a new civil enforcement procedure would be unlikely to be effective or would not be possible.

Secondly, as with the implementation of civil enforcement procedures, new technologies are having an increasing impact on the search for property information. As recommended by the Committee of Ministers in the 2003 Recommendation or by the CEPEJ in the 2009 Guidelines and in the 2015 Good practice guide, many national laws make it possible to mobilise the resources of new technologies to facilitate the search for information on the debtor and his/her assets. Here again, in descending order, information on the following is directly accessible in electronic form: ownership of immovable property (34 member States/entities), the debtor's address (33 member States/entities and **Israel**), the debtor's date of birth (33 member States/entities), motor vehicles (32 member States/entities and **Israel**), the existence of insolvency proceedings (29 member States/entities), the existence of other enforcement proceedings (28 member States/entities), the debtor's civil status (27 member States/Entities and **Israel**), the identity of the debtor's employer (27 member States/entities), the debtor's bank accounts (26 member States/Entities), movable property (17 member States/Entities) or the presence of persons cohabiting with the debtor (15 member States/entities). In view of the dematerialisation of the banking sector, it is surprising that only 26 of the member States or entities that replied to the questionnaire (i.e., 56%) state that they allow direct electronic access to information relating to bank accounts. However, there has been a perceptible improvement since the previous year, when only 21 member States or entities (i.e., around 48%) provided direct electronic access to bank account information.

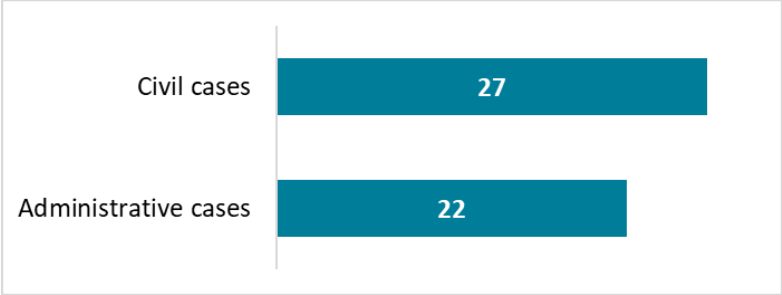
The comparison of the data collected for 2020 and 2022 respectively allows for a double observation: for each of the above-mentioned items of information, the number of member States/entities allowing access to enforcement agents and the number of member States/entities granting these professionals direct digital access are increasing. This reflects increased transparency of assets and the growing digitisation of procedures.

¹⁸ Guidelines, *op. cit.*, point 40. See also, Good practice guide on enforcement, *op. cit.*, points 41 et seq.

2.2. Timeframes of enforcement procedures

It is difficult to predict how long it will take to enforce a court order in civil and commercial matters, as the effectiveness of enforcement depends not only on the diligence of the creditor, but also on the solvency of the debtor. However, the notification period, which also depends on its procedural form, can be reduced in a concrete manner either by the action of an enforcement agent or by the simplified form of a letter with acknowledgement of receipt. Thus, the time limit depends either on the diligence of the enforcement agent or on the good or bad functioning of the postal services. In such situations, each country evaluates the average time taken as an indicator of efficiency. The credibility of the justice system presupposes that a litigant who has obtained a court decision can have it served and enforced as quickly as possible.

Figure 14: Existence of a system for measuring the length of enforcement procedures (Q185)



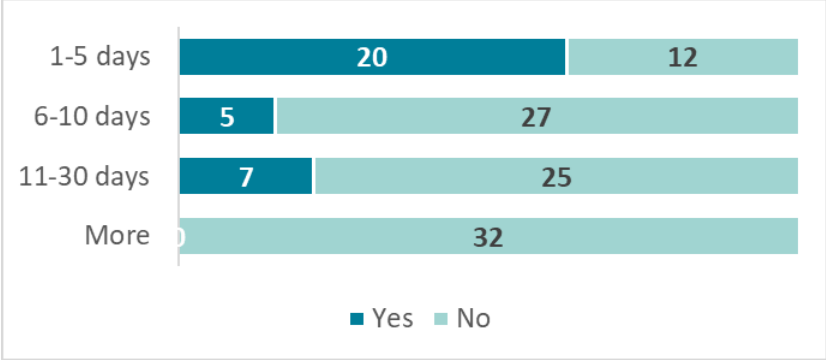
In civil and commercial matters, systems for measuring the length of enforcement proceedings exist in the majority of the 46 states or entities that replied to the questionnaire (29 states¹⁹ (27 member States/entities, **Israel** and **Morocco**), compared with 19 where such systems are lacking). The proportions differ as regards the existence of such systems in administrative matters (24 states²⁰ (22 member States/entities, **Israel** and **Morocco**), compared with 24 where they are not provided for). While in 24 states (compared with 21 in 2020 and 18 in 2014) the length of enforcement procedures can be measured in both areas, in 19 states no system has been set up (compared with 20 in 2020).

With regard to the time taken to notify a court decision, concerning the recovery of a claim, to a person domiciled in the city where the court is located, of the 34 states or entities that provided information, 26 (25 member States/entities and **Morocco**) stated that it is possible to complete notification to the person concerned within a period of between 1 and 10 days. No state indicated that it took more than 30 days to notify the person concerned of the decision (compared with 2 states in 2014, 1 state in 2018 and 1 in 2020). It should be noted that 5 states²¹ (**Albania, Bosnia-Herzegovina, Hungary, Latvia, Republic of Moldova**) state that they require "6 to 10 days", while 8²² others (**Andorra, Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Georgia and Israel**) state "11 to 30 days".

Compared with 2020, these timeframes have been reduced in **Greece, Hungary, Lithuania and Portugal**.

¹⁹ There were 25 out of 46 last year.
²⁰ There were 19 out of 46 last year.
²¹ There were 6 in 2020.
²² The same was true in 2020.

Figure 15: Estimated average timeframe to notify the parties (Q186)

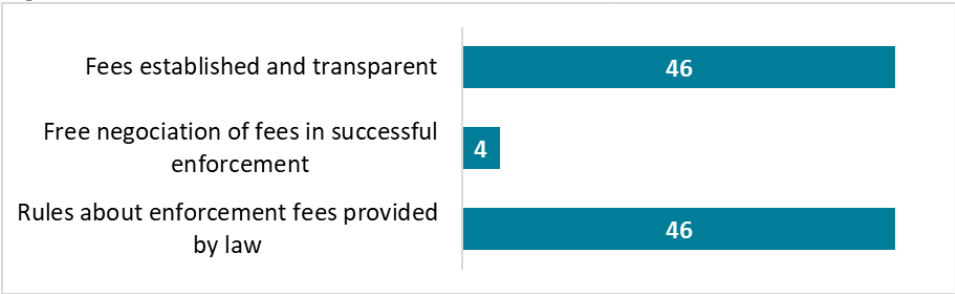


2.3 Cost of enforcement procedures

In civil and commercial matters, it is generally up to the creditor to assess whether it is appropriate to enforce the court decision, in particular with regard to the foreseeable cost of enforcement. However, in full compliance with points 47 and the following of the 2009 CEPEJ Guidelines, all the states or entities replied that the applicable fees are clearly established and transparent. This situation was already observed in 2018 and 2020²³.

The cost of enforcement is made up of the enforcement costs *stricto sensu* (costs relating to the procedural act) and the enforcement agent's fees, which may be linked to the result obtained. States were asked in questions 174, 175 and 176 to indicate whether the fees are regulated by law or freely negotiated between the enforcement agent and the creditor. In all the states or entities that replied to the questionnaire, the cost of the procedure is strictly regulated by the state. Only **Albania, Estonia, the Netherlands, Ukraine and Morocco** indicated that fees are freely negotiated in the event of successful enforcement proceedings. In these states, even in these circumstances, the situation is actually intermediate: enforcement fees are mainly regulated by law, although they can also be negotiated. This is an important issue because, whether in private or mixed systems, enforcement agents are paid in part or in full by enforcement fees or by bonuses resulting from them. It should also be emphasised that fees should only be freely negotiated for the creditor. The debtor's costs should be determined by law.

Figure 16: Enforcement fees (Q174, Q175-1, Q176)

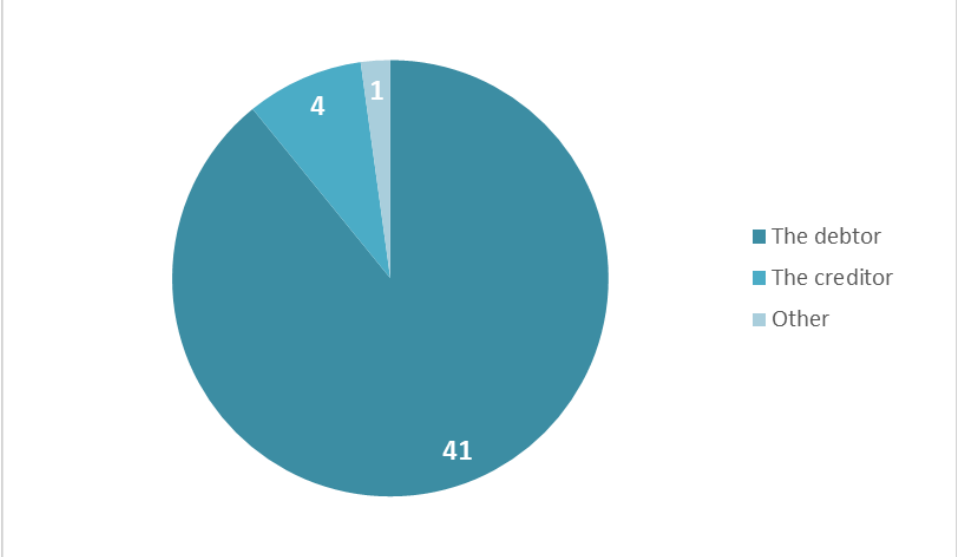


Regulation of the cost of the procedure by the state makes it possible to control the cost of the act, but not to verify its appropriateness. Consequently, it often provides for the possibility of the litigant lodging a complaint against the enforcement agent and/or for the judge to decide on the payment, by the enforcement agent, of unjustified costs.

²³ By way of comparison, in 2012, three states reported that it was not easy to predict the fees of enforcement agents (**Andorra, Bosnia-Herzegovina and Montenegro**). **Andorra** repeated this statement in 2014.

In addition, Recommendation Rec(2003)17²⁴ provides for that "the necessary costs of enforcement should be generally borne by the defendant, notwithstanding the possibility that costs may be borne by other parties if they abuse the process". This recommendation is respected in 42 states or entities (41 member States/entities and **Israel**). Five, on the other hand, report that payment is the responsibility of the creditor (**Albania, Italy, Norway, UK-Northern Ireland and Morocco**) and **Luxembourg** specifies that another solution is preferred (e.g., advance payment by the creditor).

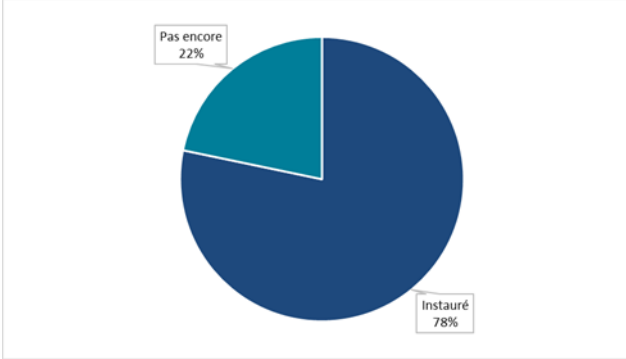
Figure 17: Payment of fees claimed in the event of successful enforcement proceedings (Q175-2)



2.4. Role of new information and communication technologies

The deployment of new technologies in the field of civil justice is a reality in many states. In order to measure the extent of this phenomenon in the specific context of the enforcement of court decisions, the CEPEJ has enriched its questionnaire in 2022 (données 2020).

Figure 18: Electronic service/notification (Q172-4)



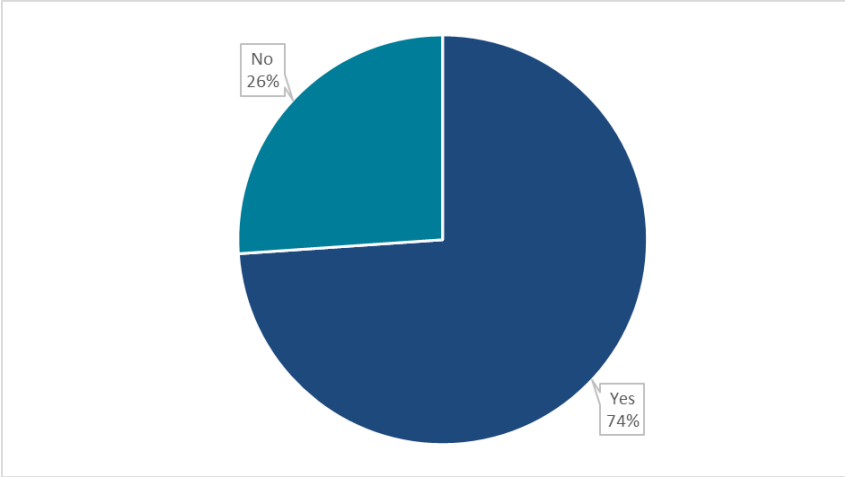
Firstly, 38 states or entities (36 member States/entities, **Israel** and **Morocco**) - out of 48 that replied - answered in the affirmative to the question of whether they had introduced a system of electronic notification of documents in their legislation (compared with 31 states or entities out of 47 in the previous exercise). This statistic covers situations where notification/communication by electronic means is compulsory and those where the applicant is free to choose the paper support; these two types of situations may coexist in the legal system of the same state, depending on the type of

²⁴ Recommendation, spec. point III, 5.

document to be notified. There is a clear trend towards digitisation. Concerning Council of Europe member States or entities, 78% are now involved, compared with 64% the previous year.

Secondly, 35 states or entities (34 member States/entities and **Morocco**) report that the development of new technologies has had an effect on the various stages of the enforcement procedure.

Figure 19: Developments in new technologies have had an effect on the various stages of the enforcement procedure (Q172-5)



Unsurprisingly, in the majority of cases, the states or entities responded in the same way to both questions (31 member States/entities and **Morocco**). It should be noted that 7 states or entities (compared with 11 in the previous exercise) replied in the negative to both questions (**Andorra, Bosnia-Herzegovina, Denmark, Iceland, Ireland, Monaco, Montenegro**).

3. Supervision of enforcement activities

Supervision activities, rules on professional discipline and statistics relating to complaints against enforcement agents are all relevant to the generic issue of monitoring enforcement operations.

3.1 Supervision

Supervision of activities is the process by which an authority makes observations, for the benefit of the enforcement agent, about its working methods (scheduling problems, lack of courtesy, etc.). It is a kind of simplified control that does not involve the actual examination of a complaint, but which aims to ensure the proper administration of justice. The term "control" is used here to mean the review of the legality or illegality of the enforcement agent's actions.

According to point 78 of the Guidelines on enforcement, "*the authorities responsible for supervision and/or control of enforcement agents have an important role in also guaranteeing the quality of enforcement services. The member States should ensure that their enforcement activities are assessed on an ongoing basis. This assessment should be performed by a body external to the enforcement authorities (for example, by a professional body). The member States' authorities should clearly determine the control procedures to be performed during inspections*".

It is therefore necessary to distinguish between the author and the object of the control.

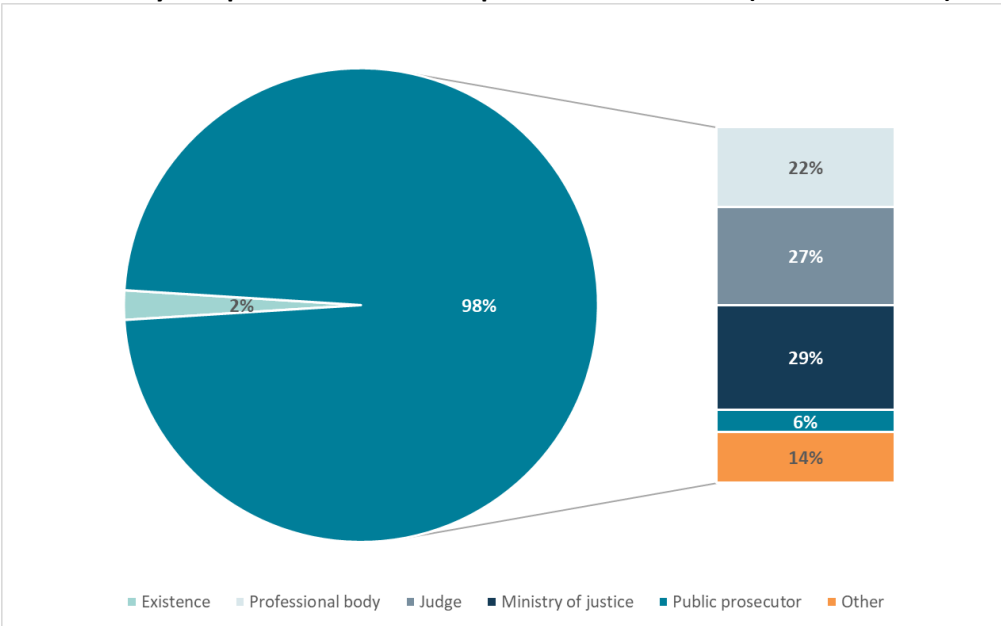
3.1.1. Supervision bodies

In 2022, of the 46 states or entities that responded to the questionnaire, 44 (compared with 44 in 2020, 36 in 2018 and 32 in 2014) have a body responsible for supervising and monitoring the activities of enforcement agents. As can be seen, supervision and control of the activities of enforcement agents are almost systematic. Only two countries report that there are no competent authorities in this area (**Malta, Sweden**), but the situation varies.

Indeed, in **Malta**, the control and supervision of enforcement agents falls within the competence of the respective entities employing them, namely the Court Services Agency and the Asset Recovery Bureau. Thus, the Courts Administration employs the enforcement agents and can therefore take disciplinary actions against them as employees but cannot control the legality of their actions.

In **Sweden**, the Parliamentary Ombudsmen oversee the implementation of laws in the public sector on behalf of the parliament and independently of the executive power. This review concerns the courts and other public authorities and their employees, including the Swedish Enforcement Authority and its agents. Anyone who has a complaint about the conduct of an enforcement agent or the way in which laws are applied may apply to the Parliamentary Ombudsmen. As the Swedish Enforcement Authority is an independent state body, operational supervision and monitoring take place within its Headquarters. It acts under the authority of the Ministry of Finance, but the latter is not authorised to intervene in the supervision and control of the operational activities of the enforcement agents. The Ministry assesses activities annually in the light of budget allocations. The judge has no supervisory or control function and only intervenes in the event of an appeal against a decision by the implementing authority. Complaints may also be lodged with the Justice Ombudsman in a specific case, which may result in criticism of the Enforcement Authority.

Figure 20: Existence of a system for supervising and controlling the activities of enforcement agents and authority competent to exercise supervision and control (Q177 and Q178)



In civil and commercial matters, the public prosecutor is responsible for supervising and controlling enforcement agents in 7²⁵ states or entities (6 member States/entities and **Morocco**), but is never the only body responsible. In some cases, s/he shares this function with a judge (**Belgium, Luxembourg, Monaco, Türkiye, Morocco**), and/or a professional body (**Belgium, France, Greece, Luxembourg**), and/or with the Ministry of Justice (**France, Greece, Türkiye**).

²⁵ This compares with 6 in the previous two years.

As regards the existence of a professional body, in 2022, 23 states or entities (compared with 22 in 2020) chose the "professional body" option as their competent authority. Given the large number of states with a professional body, the corresponding percentage may seem low on balance. The percentage of professional bodies with powers to supervise and control enforcement agents seems likely to be correlated with the status of enforcement agents: the likelihood of the professional body being the competent authority is higher in cases where enforcement agents have private status.

In 2022, 28 states or entities (compared with 25 in 2020) have chosen to entrust judges with responsibility for supervising and monitoring the activities of enforcement agents. This represents a clear increase over the last ten years. By way of comparison, only 14 states had opted for this configuration in 2010. This trend may reflect a certain "culture of the judge" in the context of enforcement, particularly in the countries of Central and Eastern Europe.

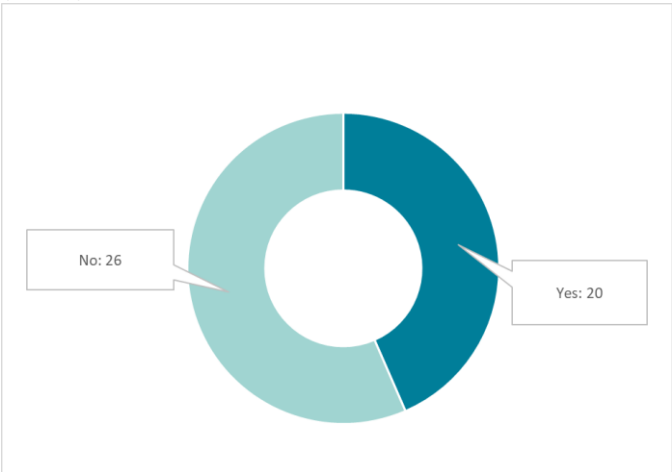
As in 2020, in 30 states or entities, the Ministry of Justice is responsible for supervising the activities of enforcement agents. Where the Ministry of Justice is the responsible authority, it is not uncommon for there to be a joint ("judge-ministry") system of control and supervision (18 out of 30 states).

In a large majority of states or entities, the authorities responsible for supervising and monitoring the activities of enforcement agents are multiple (33 states or entities). In this respect, 11 states or entities (**Bulgaria, the Czech Republic, Latvia, Lithuania, Montenegro, Northern Macedonia, Poland, Romania, Serbia, the Slovak Republic, UK-Scotland**) report that this function is performed jointly by the professional body, the judges and the Ministry of Justice. Conversely, in 14 states or entities, only one supervisory and control authority is competent. This may be the professional body (the **Netherlands**), or the judges (**Bosnia and Herzegovina, Croatia, Denmark, Ireland**) or the Ministry of Justice (**Albania, Iceland, Italy**) or other (**Cyprus, Hungary, Malta, Portugal, Sweden, UK-Northern Ireland**). For the most part, these figures are similar to those from the previous year.

In practice, the supervision system is often supported by the analysis of statistics or by inspections. According to UIHJ sources, in 2009, a specific commission was established in **Portugal**: the Commission for the Efficiency of Enforcement Procedures (following a reform in 2014, it became the Commission for the Monitoring of Judicial Officers). The aim is to set up a system for monitoring enforcement and collecting data that can be used to make recommendations on the efficiency of the system and the training of enforcement agents.

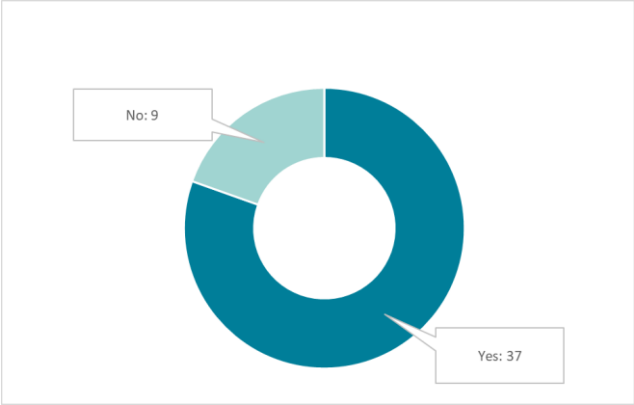
3.1.2. Purpose of the supervision process

Figure 21: Existence of a specific mechanism for enforcing court decisions against public authorities (Q181)



While less than half of the states or entities that replied to the questionnaire have a specific system for monitoring and controlling decisions against public authorities (21 states or entities in 2022, compared with 18 in 2020, 19 in 2018 and 17 in 2014), most of them (37 states or entities, compared with 33 in the previous exercise) have a system for controlling the way in which the enforcement procedure is conducted by the enforcement agent.

Figure 22: Existence of a system for monitoring the way in which the enforcement procedure is conducted by the enforcement agent (Q182)



In 2022, 9 states/entities (compared with 11 in 2020, 9 in 2018, 13 in 2012 and 10 in 2014) have neither a specific mechanism for enforcing and supervising judgments against public authorities, nor a system for monitoring the way in which the enforcement procedure is conducted by the enforcement agent (**Andorra, Denmark, Estonia, Greece, Ireland, Italy, Malta, the Netherlands, Israel**). If we confine ourselves to the Council of Europe member States or entities, this figure is constantly decreasing.

Conversely, 19 states or entities have both types of provisions in their legal arsenal (**Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, France, Georgia, Germany, Republic of Moldova, Poland, Portugal, Serbia, the Slovak Republic, Spain, Ukraine, UK-Northern Ireland, UK-Scotland**). Over the period 2012-2022, there has been a general increase in the number of states concerned, compared with previous years (16 states or entities in 2020; 17 in 2018, 13 in 2012 and 2014).

Furthermore, 18 states or entities (compared with 17 in 2020, 18 in 2018, 20 in 2012 and 19 in 2014) only have a system for monitoring the way in which the enforcement procedure is conducted by the enforcement agent (**Albania, Cyprus, the Czech Republic, Finland, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Monaco, Montenegro, Northern Macedonia, Norway, Slovenia, Sweden, Switzerland, Türkiye, UK-England and Wales**). The reverse is true in only two countries (**Romania and Morocco**).

3.2. Discipline

According to the Enforcement Guidelines, "*breaches of laws, regulations or rules of ethics committed by enforcement agents, even outside the scope of their professional activities, should expose them to disciplinary sanctions, without prejudice to eventual civil and criminal sanctions*"²⁶. It is added that "*an explicit list of sanctions should be drawn up, setting out a scale of disciplinary measures according to the seriousness of the offence. Disbarment or "striking off" should concern only the most serious offences (the principle of proportionality between the breach and the sanction should be observed)*"²⁷.

²⁶ Guidelines, point 80.
²⁷ Guidelines, point 82.

These provisions require us to consider the nature of the sanctions imposed on enforcement agents, and not just the disciplinary procedure.

Figure 23: Disciplinary proceedings initiated against enforcement agents and sanctions imposed (Q187, Q188)



3.2.1. Number of disciplinary proceedings initiated

The number of disciplinary proceedings initiated and, *a fortiori*, the number of disciplinary sanctions pronounced²⁸ against enforcement agents may appear to be a useful and enlightening indicator, particularly when these data are correlated with the number of professionals in service. However, it should be treated with caution. Firstly, the number of proceedings may indicate that a given society is more inclined to take legal action or that disciplinary bodies are more distrustful. Secondly, the number of proceedings may be linked to the existence of quality standards in the state or entity in question. In this sense, quality standards can help litigants to define concepts (professional ethics and professional inadequacy) and can be used to justify proceedings in the event of a breach.

At most, there were notable fluctuations compared with previous years in some states, either upwards (e.g., in **Armenia**: 59 proceedings initiated in 2022, compared with 22 in 2020; in **Belgium**: 66 proceedings initiated in 2022, compared with 48 in 2020; in **Georgia**, 16 proceedings initiated in 2022, compared with 2 in 2020, 3 in 2018 and 99 in 2014); in **Türkiye**: 2157 proceedings initiated in 2022, compared with 912 in 2020, 1922 in 2018 and 2656 in 2014, or downwards (e.g., in **Poland**: 69 proceedings initiated in 2022, compared with 122 in 2020 and 89 in 2018; **Portugal**: 5 proceedings initiated in 2022, compared with 26 in 2020, 120 in 2018 and 320 in 2014; **Romania**: 29 proceedings initiated in 2022, compared with 43 in 2020).

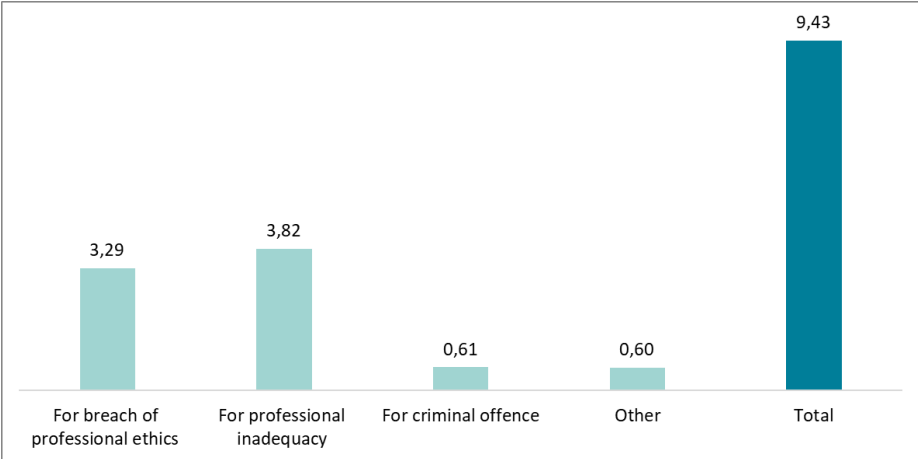
This type of comparison - between successive reference years - of the number of proceedings initiated in a given state is interesting in that it allows to observe, for example, how professional practices have changed or the impact of legislative reforms. However, it is severely limited by the fact that not all member States systematically communicate the relevant data for each reference year.

Based on the average number of disciplinary proceedings initiated in 2022 per 100 enforcement agents in the 30 states or entities that were able to provide statistics, the main grievance relates to professional inadequacy, followed by a breach of professional ethics and the possible existence of a criminal offence.

The situation was identical in 2020. However, there has been a very significant increase in this number compared with the previous year (9,43 proceedings initiated on average per 100 enforcement agents in 2022, compared with 4,48 in 2020). However, the difference in the states or entities that completed the questionnaire means that no definitive conclusions can be drawn.

²⁸ The discrepancy between the number of disciplinary proceedings initiated and the number of disciplinary sanctions imposed is a key factor. Many proceedings are unfounded or based on facts unrelated to any disciplinary fault (e.g. proceedings relating to the principle of enforcement itself or the principle of the court decision and proceedings requesting deferment of enforcement and payment).

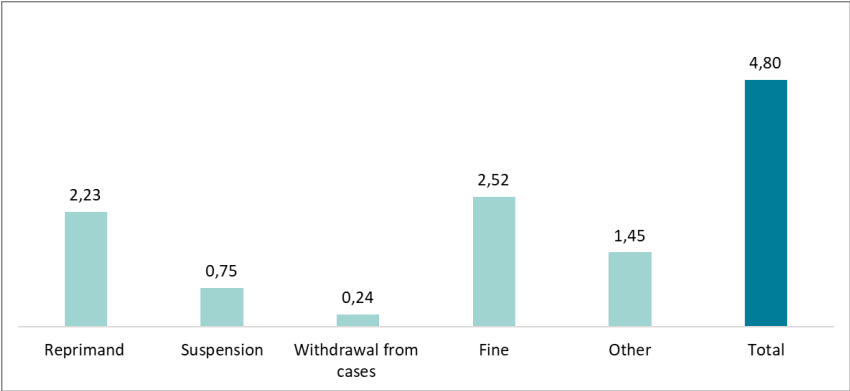
Figure 24: Average number of disciplinary proceedings initiated per 100 enforcement agents (Q187, Q169)



3.2.2. Number of disciplinary sanctions imposed

When we consider the average number of disciplinary sanctions imposed in 2022, we find, in descending order: fines, reprimands, suspensions and withdrawal from a case. In 2020, the average number of reprimands was higher than the average number of fines. Similarly, the average number of disciplinary sanctions imposed per 100 enforcement agents was 3 in 2020, whereas it is 4.80 in 2022. Here again, however, the difference in the states or entities that provided information in response to this question means that no definitive conclusions can be drawn.

Figure 25: Average number of disciplinary sanctions imposed per 100 enforcement agents (Q188, Q169).

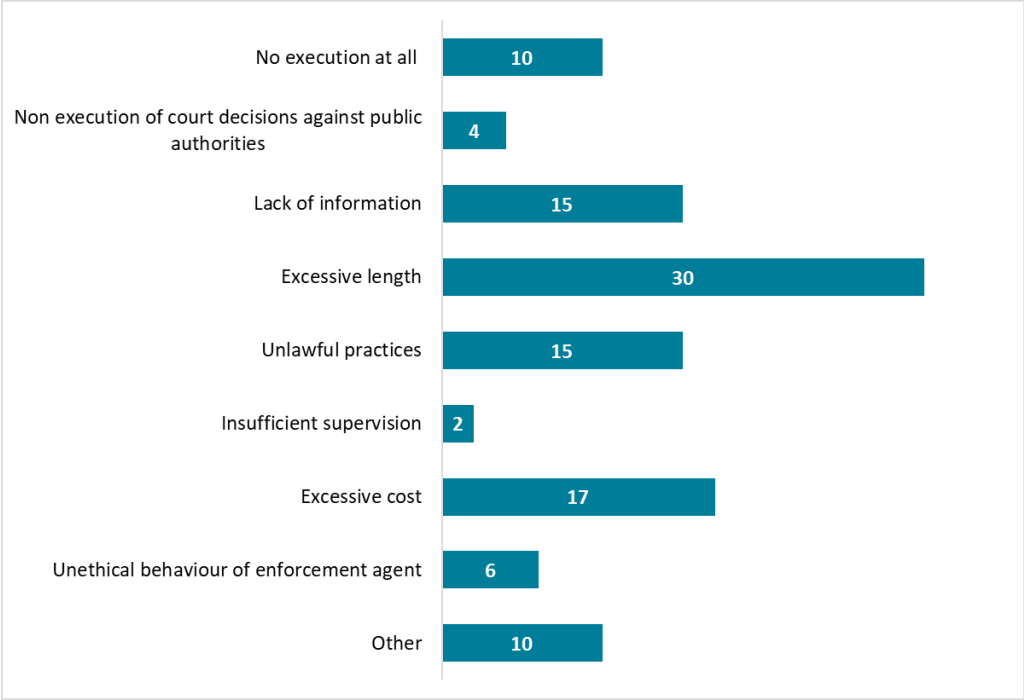


In 2022, the number of disciplinary sanctions imposed varies from zero (the **Czech Republic, Estonia, Luxembourg, Monaco, Montenegro, Sweden, Switzerland**) to 128 (**Türkiye**). However, it is possible to refine the analysis by taking into account the number of enforcement agents in the 30 states or entities concerned. In this case, for every 100 active enforcement agents, there are : less than one disciplinary sanction in 10 states or entities (the **Czech Republic, Estonia, France, Italy, Luxembourg, Monaco, Montenegro, Portugal, Sweden, Switzerland**); between 1 and 5 disciplinary sanctions in 9 states or entities (**Belgium, Bosnia and Herzegovina, Bulgaria, Finland, Northern Macedonia, Poland, Romania, Serbia, Türkiye**) ; between 6 and 10 in 8 states or entities (**Armenia, Azerbaijan, Georgia, Latvia, Lithuania, Republic of Moldova, the Netherlands, the Slovak Republic**); followed by **Slovenia** (around 11 sanctions), **UK-Northern Ireland** (around 17 sanctions) and **Andorra** (around 33 sanctions).

3.3. Complaints

Like the number of disciplinary proceedings initiated against an enforcement agent, the number of complaints is an interesting statistic, but it is not sufficient in itself to assess the effectiveness of the enforcement service. This information must be put into context. As indicated in relation to disciplinary proceedings, the number of complaints should not be interpreted uncritically as a sign of a lack of competence or integrity on the part of enforcement agents, since it may be linked to the existence of quality standards or reflect an increased propensity to take legal action in certain states. Furthermore, not all complaints brought to the attention of the competent authorities are well-founded.

Figure 26: Users' main complaints about enforcement procedures (Q183)



As in 2018 and 2020, "excessive length of the enforcement procedure" was the main reason for complaint in 2022 (30 member States/entities and one observer country out of 46 responding). This high figure - which can be linked to the abundant case law of the European Court of Human Rights in this area - is stable overall compared with previous years (34 states or entities in 2012 and 2010; 32 in 2014; 33 in 2018; 30 in 2020). The second most frequent ground for complaint - "excessive cost of the enforcement procedure" - varies slightly: 17 states or entities report facing this problem in 2022, compared with 18 in 2020, 19 in 2018, 22 in 2014 and 17 in 2012.

Furthermore, over the period 2010-2022, there has been an increase in complaints relating to "lack of information" (15 member States/entities in 2022, compared with 10 in 2010). One explanation for this is undoubtedly greater awareness of this issue among litigants. However, while this increase was gradual until 2018 (12 states in 2012, 14 in 2014, 17 in 2018), there has been some stability over the last two years (14 in 2020). In the same vein, an increase in complaints can be noted since the last reference year regarding alleged "illegal practices" (16²⁹ in 2022, compared with 12 in 2020; 14 in 2018; 12 in 2014; 14 in 2012) or regarding "non-execution of court decisions against public authorities": 5 states (4 member States/entities and one observer country) in 2022, 2 in 2020 and 2018 or 6 in 2014 and 2012. The same applies to the issue of "failure of enforcement agents to act ethically" (6 member States/entities in 2022, compared with 5 in 2020). On the other hand, the following grounds have decreased or remained stable compared to previous years: "no execution at all" (12 states (10 member

²⁹ There are 15 member states/entities and one observer country.

States and two observer countries) in 2022 , 12 in 2020, 2018 and 2014; 13 in 2012); "insufficient supervision" (2 states in 2022, 3 in 2020, 2 in 2018, 1 in 2014 and 5 in 2012).

In terms of "other" grounds, the trend is upwards: 11 states (10 member States/entities and one observer State) in 2022, 5 in 2020, 9 in 2018, 8 in 2014 and 10 in 2012.)

II. Enforcement in criminal matters

The CEPEJ deliberately omitted to include the penitentiary system in its evaluation of the judicial system, this being the responsibility of other Council of Europe bodies (*adde*, the SPACE projects - Annual Penal Statistics of the Council of Europe³⁰). For this reason, this chapter is limited to some data directly related to the operation of the courts.

In almost all countries, the enforcement of criminal judgments is the responsibility of a public body. However, there is great disparity not only between the competent bodies, but also in the rate at which fines are recovered.

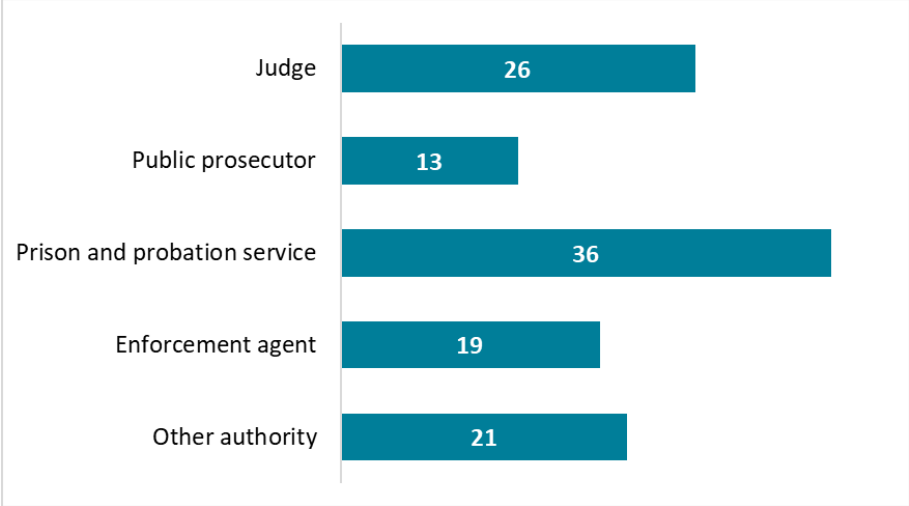
1. Authorities in charge of the enforcement of judgments in criminal matters

In 38³¹ states or entities (36 member States/entities, **Israel** and **Morocco**) out of the 48 that replied, enforcement is entrusted to the prison administration. Other authorities may be involved, such as a judge entrusted with a special competence for enforcing criminal judgments (26 member States/entities), an enforcement agent (19 member States/entities), a public prosecutor (13 member States/entities and **Morocco**) or other authorities such as the police, a specialised entity of the Ministry of Justice or, exceptionally, a bailiff in 21 member States/entities and one observer country (**Belgium, Cyprus, Finland, Ireland, Lithuania, Malta, Republic of Moldova, Monaco, the Netherlands, Northern Macedonia, Norway, Poland, Serbia, Slovenia, Spain, Sweden, Switzerland, Ukraine, UK-England and Wales, UK-Northern Ireland, UK-Scotland** and **Israel**). Although these figures have changed slightly since the previous two years, the same distribution of the responsible authorities is observed in terms of the number of states or entities concerned in 2018, 2020 and 2022.

³⁰ M. F. AEBI, E. COCCO, L. MOLNAR and M. M. TIAGO, *SPACE I -2021 Prison Populations*, PC-CP(2021)11, 2022; M. F. AEBI and Y. Z. HASHIMOTO, *SPACE-II Persons under the supervision of probation agencies*, PC-CP (2021)12, 2022.

³¹ For 36 states/entities in 2020, out of the 49 that responded.

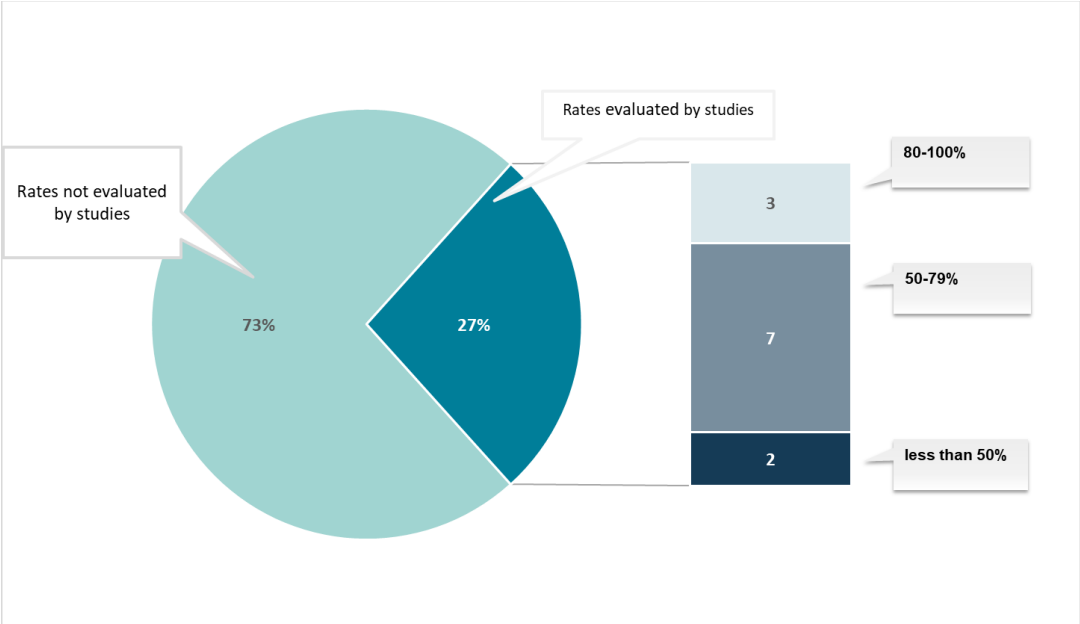
Figure 27: Authority in charge of the enforcement of criminal decisions (Q189)



2. Recovery rate of fines decided by criminal courts

It should be noted that during the current exercise, only 12 member States/entities and one observer country carried out studies on the effective rate of recovery of fines decided by a criminal court: **Estonia, Finland, France, Georgia, Iceland, Ireland, Latvia, Poland, Sweden, UK-England and Wales, UK-Northern Ireland, UK-Scotland and Morocco**. Most of these studies are carried out annually. As in the previous year, **Finland, UK-England and Wales and UK-Scotland** reported a recovery rate of 80% to 100% (very high) for fines decided by the criminal courts (by way of comparison, in 2018 only **UK-Scotland** made such a statement). In **Estonia, France, Georgia, Latvia, Poland, Sweden and UK-Northern Ireland**, the recovery rate in 2022 was between 50% and 79% (moderate). In addition, three countries (**Iceland, Ireland and Morocco**) report a rate below 50%³², whereas in 2020 there were two (**Iceland and Morocco**). By way of comparison, in 2014 there were four states in this situation (**Albania, Latvia, Poland, the Russian Federation**) and in 2012 no state declared such a rate.

Figure 28: Effective recovery rate of fines decided by a criminal court (Q190, Q191)



³² The same was true in the previous financial year, when **Belgium and Iceland** were involved.

III. Trends and conclusions

It is difficult to draw general trends from the data collected by the CEPEJ over the last twelve years, as not all states or entities participating in the evaluation cycles answer all the questions for each exercise. Nevertheless, some main lessons can be drawn.

The organisation of the profession of enforcement agent, the legislation governing the performance of enforcement procedures and the modalities of supervision of enforcement activities all contribute - to varying degrees - to the effective enforcement of court decisions, which, in the light of Article 6 of the European Convention on Human Rights, may constitute a relevant indicator of the proper administration of justice.

Over the period 2010-2022, the overall trend in the number of enforcement agents is downwards, to an average of 4,91 agents per 100 000 inhabitants.

In addition, the status of enforcement agents varies widely between Council of Europe member States and observer countries. In some cases, judges are involved in the enforcement procedure, but more often their role is limited to overseeing the procedure. However, a clear trend has been noticeable since 2006: the proportion of states resorting to public agents is decreasing, while the proportion of states establishing only private agents or at least providing for a mix of statuses is increasing.

In addition, it is essential that enforcement agents receive appropriate and rigorous training. In this respect, it is noteworthy that the proportion of countries where specific initial training exists is constantly increasing.

Entry examinations and initial training are becoming genuine European standards in the field of enforcement. Without reaching the same proportions, the provision of compulsory continuing training is also progressing steadily and now concerns around 61% of member States/entities.

It should be emphasised that it is necessary to provide enforcement agents with adequate qualifications to enable them to carry out the enforcement procedure in an efficient and reasoned manner, while respecting fundamental rights and individual freedoms. This initial and continuous training is all the more necessary given that, in very many states or entities, enforcement agents carry out several "ancillary" activities alongside their two main activities, which are the enforcement of court decisions and the service of judicial or extrajudicial documents. The multidisciplinary nature of these professionals is therefore becoming a European standard. Similarly, there has been a clear trend towards centralising the function of enforcing court decisions³³.

In support of their task of enforcing court decisions and other enforceable titles, there is a trend towards giving enforcement agents increasing access to information enabling them to locate debtors and their assets.

Moreover, it is consistent that the control of such activities should not only concern compliance with procedures with regard to the law, but also the appropriateness of acts taken by enforcement agents. To this end, the Guidelines on Enforcement adopted by the CEPEJ are unanimously recognised as a reference among European practitioners³⁴.

³³ *Adde*, CEPEJ, Good practice guide on enforcement of judicial decisions, aforementioned, point 12.

³⁴ CEPEJ, Guidelines on enforcement, *supra*; CEPEJ, Good practice guide on enforcement, *supra*.

Similarly, in Europe, the variation between 2010 and 2022 clearly shows that the trend is towards conceiving a system for supervising and controlling the activities of these professionals, as well as developing a system for monitoring performance.

All in all, the data collected during the current exercise and compared with those recorded during previous evaluation cycles show that the national laws of the Council of Europe member States are increasingly complying with the principles enshrined in 2003 Recommendation Rec(2003)17 of the Committee of Ministers and detailed in the Guidelines on enforcement adopted by the CEPEJ in 2009.

In this context, new communication technologies open up countless prospects. The data collected since 2020 show that the use of these technologies is already well established in the states or entities that have been approached, with regard to the various aspects of national enforcement law. While there are dangers (such as dehumanisation), the deployment of these technologies - whether in terms of enforcement agents' training, searching for information on assets or the actual conduct of civil enforcement proceedings - can undoubtedly help to make enforcement more effective.