Judicial systems of the Eastern European countries

Analysis of data by the European Commission for the Efficiency of Justice (CEPEJ)

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Introduction

One of the main functions of the European Commission for the Efficiency of Justice consists in assessing justice systems of the Member States of the Council of Europe. This activity results *in fine* in identifying European standards in the field of justice which consequently become the basis for comparative analysis carried out by the CEPEJ. Put differently, the evaluation scheme which the Commission resorts to is a "*live instrument*" fostering the establishment but also the development and the strengthening of core principles related to quality of justice, stimulating reforms of the national systems initiated in order to comply with the European standards.

The purpose of this work is of a specific nature, namely the study of the judicial systems of the Eastern European countries in the light of the above mentioned standards. The analyses are aimed at demonstrating that despite the particular historical, economic, social, political and cultural background of these States, the latter comply fully with their conventional commitments in the matter of justice. According to the different efficiency and quality indicators used by the CEPEJ, this group of countries is often situated below the European average. On the contrary, the countries of Eastern Europe show the most satisfactory outcomes as concerns the endeavours to reform their justice systems. Moreover, it is noteworthy that since recently, with regard to certain particular parameters, some of these States are very close to the Western European countries and even out run their results.

Admittedly, there are still slight differences between the East and the West of the European continent in the field of justice. Nevertheless, the essential tenets related to the organization of the judiciary and the guarantee of its independence and impartiality are the object of a strong consensus of all Member States of the Council of Europe and present currently what we can call an "*acquis conventionnel*". With regard to the other aspects of the requirement for justice of quality, more specific and complex, there is no doubt as to the determination of the Eastern European States to keep progressing and reducing the delay imposed by the history.

The study is based on data provided by the European Commission for the Efficiency of Justice (hereinafter the CEPEJ) in the Judicial System Evaluation Report 2012. This includes statistical data related to the quality and efficiency of judicial systems for 2010 that were submitted by the Member States of the Council of Europe for CEPEJ analysis[1]. In contrast to the report developed by the CEPEJ concerning judicial systems of all Member States of the Council of Europe, this study focuses on judicial systems in 8 countries of Eastern Europe (post-soviet countries) only - Azerbaijan, Georgia, Armenia, Latvia, Lithuania, Estonia, Russia and Ukraine.

The analysis carried out in the study is based on a very clear comparative approach. Moreover, it compares the quality and efficiency indicators in the Eastern European countries themselves, and partially the same indicators with those of other (Western European) Member States of the Council of Europe. This analysis will show the main development trends of the judicial systems in the Eastern European countries, as well as identify (in comparison with their Western European counterparts) their weaknesses, and thus become a basis for improving the judicial systems of these States. This bilateral comparative approach to the study of judicial systems in Eastern Europe is very important, because, in contrast to the Western European countries, the Eastern European States have only recently joined the Council of Europe as members of this organization. Accordingly, it appears relevant to construe the situation of their judicial systems in the light of the analysis of more than a 50-years'-worth of experience of the Western European countries in the implementation of supranational European standards and principles of quality and efficiency of justice.

[1] This study is based on the data collected during the preparatory work carried out by the CEPEJ's Working Group on Evaluation of Judicial Systems (CEPEJ-GT-EVAL). All the data sent in by member States, which were used as the basis of this report, are available on the CEPEJ website at www.coe.int/CEPEJ. They should be read in conjunction with national replies, which are also freely available and include descriptions of judicial systems and explanations which help to understand more about some of the data and trends identified.

Chapter 1.

Demographics and levels of national wealth

Social and economic indicators contribute to the evaluation of the judicial systems of Member States in a global perspective. Namely, they allow analyzing how national judiciaries are affected by the overall economic and social context of the respective States. Thus, such indicators enable us to carry out a comparative evaluation of the overall performance of different countries with regard to their population and geographical size and, accordingly, to draw the relevant conclusions. This is particularly important in respect of countries with different sizes and populations, such as Ukraine, Russia, Lithuania, Latvia, Georgia, Estonia, Azerbaijan and Armenia. Indeed, within a comparative study of countries with considerably different socio-demographic characteristics, for example Russia and Azerbaijan, specific factors such as state territory and its population density should be taken into account in the analysis of certain indicators, namely the number of courts, prosecutors and lawyers per capita, *etc.*

As for the Eastern European Members of the Council of Europe, we can observe a relative uniformity concerning their economic development, which, as a whole, remains rather low compared to their Western European neighbours. Indeed, if we compare the economic indicators of Ukraine, Russia, Lithuania, Latvia, Georgia, Estonia, Azerbaijan and Armenia, such as income per capita and average income, we find that, in spite of the differences, they are generally below the Western European average. At the same time, it is noteworthy that among the Eastern European countries under consideration, the best economic performance is observed in the Baltic States (the average GDP per capita is higher than EUR 10,000), while the least satisfactory situation is noticed in the three Caucasian countries (the situation in Azerbaijan being more positive than in its Caucasian neighbours, as the GDP per capita in this country is EUR 5,885, *i.e.* two times higher than in Georgia and Armenia).

The relative stability of the economies and the financial markets of the Eastern European countries is also demonstrated by the stability of the national currency. Thus, in the States under consideration, the variations of the exchange rates between January 1, 2011 and January 1, 2013 did not exceed 7%. Nevertheless, it should be indicated that in 2014, there was a significant devaluation of the Ukrainian hryvnia (UAH) and the Russian ruble (RUR), which revealed the economic, financial and political fragility of these countries by that time.

Chapter 2.

Budgets of judicial systems: funds allocated to the operation of courts, public prosecution and legal aid

General budgets allocated to judicial systems in the Eastern European States differ from each other significantly and can be analyzed only by means of a relative comparative approach. This is due to the fact that in different Eastern European countries the budgets of judicial systems consist of various components. For example, in contrast to most of the countries under study, the judicial budget in Georgia does not include the costs of the public prosecution and the prison system services which may result in the wrong impression of an extremely low funding of the judicial system in this State.

Table 2.1. Public budget allocated to courts, legal aid and public prosecution in 2010, in €

States/entities	Total annual approved public budget allocated to all courts with neither prosecution nor legal aid	Total annual approved public budget allocated to legal aid	Total annual approved public budget allocated to the public prosecution system	Total annual approved budget allocated to all courts and legal aid	Total annual approved budget allocated to all courts and public prosecution	Total annual approved public budget allocated to all courts, public prosecution and legal aid
Armenia	11 285 536	294 140	4 496 722	11 579 676	15 782 258	16 076 398
Azerbaijan	40 315 230	345 054	40 007 281	40 660 284	80 322 511	80 667 565
Estonia	26 797 340	2 982 213	9 135 614	29 779 553	35 932 954	38 915 167
Georgia	16 214 854	1 080 548	7 333 463	17 295 402	23 548 317	24 628 865
Latvia	36 919 820	842 985	15 913 545	37 762 805	52 833 365	53 676 350
Lithuania	50 567 945	3 906 105	29 555 000	54 474 050	80 122 945	84 029 050
Russian Federation	2 912 743 823	105 836 124	934 551 021	3 018 579 947	3 847 294 844	3 953 130 968
Ukraine	264 262 150	NA	115 165 081	NA	379 427 231	NA

A chronological comparison of the budgets granted every year to the judicial systems of the Eastern European States allows carrying out a reliable analysis of the variations observed in respect of these budgets. For example, it is possible to notice that the judicial budget of Azerbaijan was doubled between 2010 and 2012. On the contrary, the respective budgets of Estonia, Latvia, Lithuania and Russia had been affected by considerably less variations. However, in respect of these States, we can also see a relative increase of the budgetary funds allocated to the operation of the judicial systems. Only the figures provided by Armenia and Georgia prevent from making definite conclusions on the evolution of the judicial budgets because there are no reliable statistical data.

It is also necessary to pay attention to the percentage of the judicial budget within the national budget of a particular country. The average weighted share of the judicial budget in the national budget of the Member States of the Council of Europe is 2.2%. In the Eastern European countries, the percentage of the judicial budget within the national budget is not uniform, and varies from 3.2%, as in the Ukrainian budget, to the lowest percentage, as in the Azerbaijan's budget, where the share of the judicial budget does not exceed 1.2% of the national budget.

Similar heterogeneous figures characterize the Eastern European countries when analyzing the internal structure of their judicial budgets. Thus, the average budgetary expenses for the operation of courts,

public prosecution and legal aid are 49.2% of the general judicial budget (Table 2.2.), and these figures vary from 30.1% in Georgia to 52.3% in Ukraine. However, as we have noted above, such differences in the percentage of expenses for the operation of courts in the general judicial budget of the Member States may be due to the different structure of the judicial systems in these countries.

Table 2.2. Budgetary elements included in the whole justice system

States/entities	Courts	Legal aid	Public prosecutors services	Prison system	Probatioonal services	Council of the judiciary	Judicial protection of juveniles	Functions of the Ministry of Justice	Refugees and asylum seekers services	Other
Armenia	+		+							
Azerbaijan	+	+	+	+		+		+		
Estonia	+	+	+	+	+		+	+		
Georgia	+		+			+		+		
Latvia	+	+		+	+		+	+		+
Russian Federation	+	+	+	+	+	+	+	+		+
Ukraine	+	+	+	+	+	+		+	+	

Further analysis of the internal structure of the judicial budgets does not show any uniformity as concerns the approaches related to the allocation of funds for the operation of courts, public prosecution and legal aid. To make the data representative, the study is based on the amount of funds allocated for a particular field of judicial activities per capita. Thus, on average, the Member States of the Council of Europe allocate EUR 35 per capita for the operation of judicial systems. The amount of funds allocated per capita for the operation of the judicial systems in Eastern Europe is quite low, ranging from EUR 3.7 in Georgia to EUR 23.3 in Russia. These data show an overall low economic development in the Eastern European countries.

Similar conclusions can be drawn with regard to the share of funds allocated for the operation of courts in relation to the GDP per capita, which is quite low compared to the Western European States. At the same time, it is noteworthy that the total amount of funds allocated for the operation of courts in the Eastern European countries grows on a continuous basis.

The analysis of the structure of the budget allocated for the operation of courts also reveals significant differences in the States' approach in allocating funds for particular items such as salaries of judges; introduction of new technologies in the operation of courts; construction of court buildings and infrastructure maintenance; and advanced training of judges. It should be noted that the most laudable actions in this respect are those of the Azerbaijan authorities which significantly increased expenditures for the operation of courts (in particular, for the introduction of modern technologies, as well as the construction and the modernization of the infrastructure). Besides, the funds allocated by Armenia for the advanced training of judges are quite significant (in percentage terms) if compared with a similar expenditure item in other Eastern European States.

In turn, the issues of planning and adoption of the judicial budget are dealt with in a quite similar way in various Eastern European countries. Thus, almost in all countries under the study, the determination of the judicial budget is entrusted to the Ministry of Justice while its approval is, according to the law, of the competence of the legislative power.

Moreover, we may find similarities in the budget allocation approach at the lower level. Indeed, in a particular court, the funds are allocated by the senior judicial authorities (the President of the Court or the collective supervisory authority).

The average annual budget allocated for the operation of the public prosecution bodies in the Member States of the Council of Europe is EUR 11.4 per capita. At the same time, the situation is not homogeneous and varies from one State to another. Thus, the Eastern European States allocate significantly less amount of funds for the operation of the public prosecution services than the Western European States, which, as in respect of other indicators, can be explained by differences in the level of economic development in these groups of States. Indeed, the expenditures in this matter do not exceed EUR 8.7 per capita in Russia and EUR 2 per capita in Armenia and Georgia. Note that the amount of budget funds allocated to the public prosecution bodies in Eastern Europe grows every year, which is not common to all European countries. However, this increase is less common in the Baltic States (in Lithuania,

prosecution costs were even reduced by more than 11%), and is most noticeable in the Russian budget, where the expenses for public prosecution increased in 2010-2012 by 28%.

As for legal aid expenditures, which, in a broad sense, are intended to provide citizens with access to justice, it should be noticed that the average value for all Member States of the Council of Europe is EUR 8.63 per capita. Here, akin to other judicial expenditure items in the Member States, the leaders are the Western European countries (primarily, the Nordic countries). As for the Eastern European countries under study, the situation is uneven as well. Thus, in terms of financing, the most significant legal aid is provided by the Baltic States (for example, the Lithuanian government on average spends EUR 1.51 per capita for this budget item), whereas the judicial budgets in the Caucasian States are characterized by the lowest expenditures for legal aid per capita. For example, expenditures for legal aid provided by the Azerbaijani budget are only EUR 0.05 per capita. At the same time, it is noteworthy that the budget funds allocated for legal aid grow rapidly in these countries (Azerbaijan and Georgia). Indeed, legal aid expenditure items were increased in the Azerbaijani and Georgian budgets by more than 32% within two years (2010 - 2012).

The aggregate shares of judicial budgets intended to finance respectively the operation of courts and the public prosecution services confirm the results mentioned above. Thus, the expenditures for these elements of the judicial system per capita allow concluding that the Eastern European countries have a lower level of expenditures if compared to Western Europe. Moreover, the countries under study show mixed results as well. Indeed, the Baltic States and the Russian Federation allocate more funds for the operation of courts and public prosecution than the Caucasian States, where the consolidated budget items for the operation of courts and public prosecution do not exceed EUR 11.5 per capita. At the same time, note that the 'lagging States' make the most intense efforts to bring budget expenditures to the proper level. For example, the budget funds allocated for the operation of courts and public prosecution were increased in Azerbaijan by more than one-third within two years (2010-2012).

The above trends are confirmed by the analysis of the total expenditures for the operation of courts and legal aid (excluding public prosecution services). Indeed, the expenditures for the operation of courts and legal aid in the Eastern European countries are less significant than in Western Europe. Also, here the leaders are the Baltic States and the Russian Federation, where the funds allocated from the judicial budget for these expenditure items are significantly higher than the funds allocated by the Caucasian States for similar expenditure items. At the same time, the analysis of changes affecting the total expenditures for these aspects of the operation of the judicial system for a certain period also suggests that major efforts are made by those States, where the expenditures are most negligible. For example, in Azerbaijan – where per capita expenditures for the operation of courts and legal aid are the lowest – the government made serious endeavors that resulted in an increase by almost a half during the reporting period.

Finally, the analysis of aggregate expenditures of the entire judicial system (*i.e.* funds allocated for the operation of courts, public prosecution and legal aid) determines the average European level of expenditures per capita to the amount of EUR 60.6. However, here, as in the analysis of previous indicators, similar conclusions can be drawn. Namely, the total amount of funds for the operation of the judicial system (per capita) is less significant in the Eastern European countries than in Western Europe; the leaders among the Eastern European countries are the Baltic States and Russia, while the Caucasian States and Ukraine allocate the least amount of funds for the operation of judicial systems; and, finally, changes in the budget of the Caucasian States within two years (2010-2012) indicate the desire of these countries to reach the level of their neighbours (the example of Azerbaijan is indicative, as the judicial budget in this country was increased by almost a third).

Analysis of budgetary allocations to the judicial system in a longer period (2004-2012) also confirms these trends. Indeed, we can observe the growth of judicial budgets in the Eastern European States in the long run (the only exception being Armenia). Moreover, despite the fact that judicial budgets in the Eastern European States are uneven each year, they are far ahead of inflation rates and, for the most part, outrun the growth of judicial budgets in the Western European countries.

Breakdown of the judicial budget in the Eastern European States according to major expenditure items (operation of courts, public prosecution and legal aid) generally follows the overall trends in the Member States of the Council of Europe: 65% for the operation of courts; 25% for public prosecution; and 10% for legal aid. At the same time, note that in the Eastern European countries the share of the judicial budget for public prosecution is more significant than in Western Europe (an average of about 30%). Most likely, this is explained by the fact that historically public prosecution played (and to some extent continues to play) a very important role: during the Soviet era, public prosecution combined various functions such as investigation, law enforcement and support of charges in a criminal trial.

Chapter 3.

Access to justice in the countries of Eastern Europe

Access to justice is ensured through the provision of legal aid, which exists in almost all Member States of the Council of Europe. Legal aid may cover both, in full or partially, the trial expenditures and the expenditures related to the provision of other legal services. In all European countries, this aid may be granted in respect of lawyer's services both in criminal and civil proceedings. Legal advice (which is to be distinguished from legal representation ensured in the frame of a trial) also falls into the category of legal aid and is available in all Member States (the only exception is the Republic of Azerbaijan).

In criminal matters, all European countries provide the accused with a free lawyer. On the contrary, in some States, victims do not benefit from free lawyer's services: in Russia and Georgia, such assistance is not publicly-funded and is available on a fee basis only. Besides, legal aid outside court proceedings (for example, within administrative procedures) is not granted in all Eastern European countries: such legal aid is provided only in Armenia, Georgia and Lithuania.

As for the bodies responsible for resolving the issue of whether a person deserves legal aid or not, the approaches in the Eastern European countries differ. Thus, in Armenia, Azerbaijan, Estonia, and Ukraine, the decision is taken by the court. By contrast, in Georgia, Latvia, Lithuania, and Russia, the judicial authorities are not the only one to be involved in the process. Note that in all States (except for Russia, Georgia, Ukraine, and Azerbaijan), the relevant authorities can refuse to provide such aid if the case is not worthy of it.

The legal aid provision conditions are based on various criteria that help determine whether a person falls into the category of those who have the right to receive such aid. For the most part, this relates to the income level of the person requesting legal aid. In particular, this approach is used by the Russian, Georgian and Lithuanian legislators.

Also, in different States, there are ways to be exempt from paying court fees, which simplifies access to justice. Thus, in Estonia, Lithuania, and Azerbaijan, there are separate categories of cases (*e.g.* within employment and family law), where trial participants are exempt from court fees.

Such a way to facilitate access to justice as insurance against legal costs is also of a particular interest. Private insurance systems that insure against unforeseen legal costs do not exist in all Eastern European countries. They are present only in Armenia, Latvia and Russia.

In addition to statistics on the legal aid budget already discussed in the previous chapter, we also need to refer to figures on the number of cases, in which legal aid is provided. This number is calculated per 100,000 citizens. Data for the Eastern European countries are quite controversial, as the number of cases granted with legal aid varies significantly. Thus, the lowest amount of legal assistance was provided in Armenia, while the most extensive aid was granted in the Baltic States.

As for the size of legal aid expressed in financial terms, it can be concluded that its level varies slightly from one Eastern European country to another, and does not exceed EUR 200. At the same time, the size of legal aid is strikingly different from the amount of legal aid provided by the Western European countries, where it is several times higher. In turn, the number of cases, in which legal aid is granted (per 100,000 citizens), varies greatly from one State to another (regardless of the region) and does not allow drawing concrete conclusions.

The common point (with rare exceptions) of all Member States of the Council of Europe (including the Eastern European States) concerns the court fees which are collected from trial participants (parties, crime victims, *etc.*). The level of income from such fees varies significantly from one State to another and depends on many factors (number of cases, their complexity, structure of the court fee system, *etc.*). In this respect, it is interesting to analyze statistics that show what part of the total judicial budget is supported by such fees and charges. The situation here is not definite, including in the Eastern European countries. For example, in Ukraine, Russia, Azerbaijan, and Lithuania, such fees and charges constitute not more than a tenth of the total judicial budget, while in Latvia, Estonia and Armenia, they make up a significant part of the judicial budget revenues.

Chapter 4.

The relationship between judicial bodies and citizens: fundamental rights of litigants and other trial participants, as well as issues of privacy

According to the ECHR, litigants are granted basic human and civil rights which safeguard within the proceedings is the primary responsibility of judicial bodies. In practice, these rights are guaranteed by: various ways to provide litigants with information about the course and the nature of a trial; special rules for particularly vulnerable trial participants; actions of individuals (*e.g.* prosecutors), *etc*. These forms of protection of the litigant rights and the rights of other trial participants in the Eastern European countries started to develop more extensively after these countries joined the Council of Europe. Among other commitments, they had to comply with the European standards in the field of justice.

Some Eastern European countries have websites, where citizens can find all necessary legal information and perform some procedural actions in practice by downloading certain forms and legal documents. Another area of raising awareness among trial participants is the provision of information on the approximate time- frame of legal proceedings. However, the obligation to provide litigants with information about the approximate duration of any procedural action or trial as a whole do not exist in all Eastern European countries: this duty has been enshrined most fully in the legal systems of Azerbaijan, Armenia, Latvia, and recently Lithuania.

Most Member States of the Council of Europe also have special rules governing the procedure for informing victims of crime. Armenia and Latvia are a few exceptions to this rule.

Special rules are developed to protect particularly vulnerable persons (victims of rape and acts of terrorism; minor trial participants; people with disabilities, *etc*.). In some Eastern European countries (Russia and Latvia), such persons participate in trials through audio and video conferences. The participation of minors in a trial is also characterized by special regulations (anonymous participation) in some Eastern European countries. For example, in Lithuania and Russia, such persons can get special assistance during a trial. Moreover, in Russia, special rules are used for the participation of minors in the proceedings as a witness (anonymity). Some forms of procedural protection of ethnic minorities, according to which foreign languages can be used in a trial on a par with the national language (Lithuania and Ukraine), are also of particular interest.

Special rules developed to protect the most vulnerable categories of persons are very diverse and vary from one State to another. They are mainly related to the following issues: provision of information to these persons; special rules for their participation in a trial (case hearings); and other special mechanisms (*e.g.* the creation of a fund to compensate crime victims for their damages). However, if compared to the Western European countries, a hallmark common to all Eastern European States is that there is only quite a small number of these special procedural elements. Note that in countries such as Armenia, Latvia, Russia, and Ukraine, special rules for the protection of particularly vulnerable persons are the least developed. At the same time, it can be seen that Armenia has special institutional structures for the protection of certain categories of persons, and in the Russian Federation, despite the weak development of procedural remedies for such persons, there is still a significant number of special categories of persons.

A special role in protecting the rights of trial participants is played by prosecutors. This is true not only for the Eastern European States, but for all Member States of the Council of Europe as a whole. For example, in all Eastern European countries (except for Armenia and Latvia), the prosecutor is entrusted with a duty to protect the rights of crime victims. Virtually in all legal systems, the prosecutor's actions can be appealed to, including his/her decision to deny and suspend criminal proceedings.

Another element in the procedural protection of rights of trial participants is related to compensation procedures that in particular allow crime victims (the only exception is Armenia) to expect the recovery of damages caused by a crime. In Eastern European countries, victims of crime and their families most often receive compensation from a special State fund (the only exceptions are Georgia and Ukraine, where recovery of damages is possible only through a civil suit against a person who committed a crime).

It must be recalled that in accordance with the ECtHR case law, another source of violations of the litigants' rights is the breach of procedural law and fair trial requirements by judicial authorities themselves (often through excessive length of proceedings, non-enforcement of court decisions, wrongful arrest or wrongful conviction, *etc*.). Almost in all Member States of the Council of Europe, the reparation of damages caused during the proceedings is ensured through compensation from public funds. However, note that many Eastern European countries do not provide compensation on individual grounds in contrast to most Member States of the Council of Europe. For example, in Armenia, Estonia, Georgia, Latvia, and Ukraine, trial participants cannot receive compensation on the grounds of excessive length of proceedings and non-enforcement of court decisions. Of all Eastern European countries, only Russia and Azerbaijan have compensation procedures that allow litigants to recover their damages at the government's cost on all these grounds.

At the same time, note that all Eastern European countries offer opportunities of filing complaints against failures in the operation of judicial bodies that lead to the violation of the litigants' rights. There is no single approach to this issue.

In some cases, litigants may file these complaints to the appropriate court that violated their rights, or to a higher court (Estonia, Lithuania), as well as to any other authorities (*e.g*. in Azerbaijan you may complaint to the ombudsman against court actions) or only to external non-judicial bodies (*e.g.* the Ministry of Justice), as in Russia.

Another way to improve the situation concerning litigants' rights is assessing the level of citizens' satisfaction with the quality of judicial systems. Primarily, we talk about surveys among litigants, court staff and other judicial workers on the quality of judicial services ensured by public authorities. Note that such surveys are carried out with mixed results in almost all countries of Eastern Europe (except for Armenia). The fullest evaluation of the quality of the judicial system takes place in the Russian Federation and the Republic of Azerbaijan, as these countries conduct surveys among almost all citizens (both citizens at the national and local level, and those, who deal directly with the legal services (parties to the proceedings, victims, witnesses, *etc*.)) and judicial officers themselves (judges, prosecutors, lawyers, *etc*.) on the level of their satisfaction with the quality of judicial systems. In Ukraine, such assessment is the least effective, as the surveys are rare, and mainly concern only the satisfaction of the parties to the proceedings. The Baltic States as a whole conduct high quality and extensive surveys on the satisfaction of various agents with the services of judicial systems, which generally even corresponds to the level of most Western European countries.

Finally, it is worth noticing that according to our findings, the level of assessment of judicial systems in the Eastern European countries is higher than that in Central Europe. For example, in most Balkan States and some countries of Central Europe, such surveys are either not organized or limited and ineffective, and, as a consequence, their results do not allow drawing reliable conclusions about the quality of judicial systems.

Chapter 5.

Courts in the countries of the Eastern Europe

The analysis of judicial systems of the Eastern European countries over a certain period allows us to characterize the quality of the judiciary in these States and their structural changes due to reforms. This analysis is primarily based on specific indicators such as the number of various courts at different levels and legal entities established in a particular country, as well as variations in their number over a certain period. Note that these figures relate to quite even elements of the judicial system of any State, which enables us to have stable data: in fact, the creation or abolition of a court is quite a complex process that involves a variety of legislative, executive and judicial authorities. As a result, changes in the number of first instance courts (both of general and special jurisdiction) are rare and insignificant. The only meaningful change is a serious decrease in the number of first instance courts in Georgia (more than 50% between 2008 and 2012), which is due to a major reorganization of the judicial map by means of merging of 30 first instance courts. In Russia and Ukraine, the changes over the same period were minor and resulted in a small decrease in the number of first instance courts (Table 5.1.). Only in Azerbaijan, the number of courts over the same period slightly increased, while the general trend in Europe was the reduction in the number of courts, which was partly due to the improvement of modern communication equipment and transport.

Table 5.1. Number of 1st instance courts as legal entities and number of all the courts as geographic locations from 2006 to 2010

States/entities	1st instance courts of general jurisdiction (legal entities)			Specialised 1st instance courts (legal entities)			Total number of 1st instance courts in 2010	% of specialised 1st instance courts in 2010	All the courts (geographic locations)		
	2006	2008	2010	2006	2008	2010			2006	2008	2010
Armenia	17	16	16	1	1	1	17	5,9%	21	20	27
Azerbaijan	85	85	85	19	19	18	103	17,5%	112	112	111
Estonia	4	4	4	2	2	2	6	33,3%	22	22	22
Georgia	66	61	40	NAP	NAP	NAP			69	64	43
Latvia	34	34	34	1	1	1	35	2,9%	41	42	48
Lithuania	59	59	59	5	5	5	64	7,8%	67	67	67
Russian Federation	9 846	10 082	9 978	82	82	92	10 070	0,9%	NA	NA	NA
Ukraine	679	726	720	54	54	NAP				783	768
Minimum	4	4	4	1	1	1	6		21	20	20
Maximum	9 846	10 082	9 978	82	82	92	10 070		112	112	768

As for the total number of courts, the data are quite heterogeneous and do not allow drawing reliable conclusions. This is not only due to the different sizes of population of the States, but also to the different number of functions attributable to the first instance courts. Similar statement can be made regarding the number of first instance specialized courts, the number of which is also different and does not allow concluding to any general trends.

At the same time, the number of courts per capita (per 100,000 people) is more informative for a comparative study. The number of courts per capita in Europe is different. For example, the number of courts of general jurisdiction per capita in the Russian Federation (6.5 per 100,000 people) is many times higher than the average number in other Eastern European countries. On the contrary, in Estonia and the Caucasian States, the number of courts per capita is the lowest (less than 1 per 100,000).

The figures are more homogeneous with regard to the total number of courts (both of general jurisdiction and of special jurisdiction). Generally, they range from 1 to 2 per 100,000 inhabitants (2.1 in

Russia), but in the Caucasian States the figures are still below the average (0.6 in Georgia). The number of first instance courts for certain categories of cases (civil and criminal) confirms these figures. Indeed, the number of courts of various jurisdictions remains below the average in all Caucasian States and, on the contrary, it is quite high (even with respect to the European average) in the Baltic States and Russia.

The number of first instance courts responsible for examining the so-called minor cases varies from one State to another, depending on the level of financial evaluation of the case insignificance. For example, in the Czech Republic, minor cases examined by first instance courts include claims for the amount equal to or less than EUR 398, while in Romania the claims of up to EUR 45,351 are considered insignificant. As a consequence, the number of cases examined by first instance courts depends on this criterion as well. In most Eastern European countries, the criterion of the insignificance of the claim is not used. The exceptions are the Baltic States, where this criterion is equal to the European average.

The use of modern communication technology by courts significantly changed their activities and operation. In general, the introduction of these technologies helps improve the availability of legal services to the citizens and enhances the level of protection of their rights. This is done by equipping judicial staff with modern means of communication, as well as by the creation of electronic case management systems and systems for digital exchange of information and documents between the trial participants and the court. The situation with the use of these means in court is ill-defined but generally allows us to create a positive image for the Eastern European States (in comparison with Western Europe).

For example, courts and judges in all Eastern European States are provided with electronic means of communication, software, and Internet and e-mail access. In this regard, the only exception is Ukraine, where at the moment not all judges are provided with this equipment.

The situation is less clear with regard to the use of modern electronic equipment in the case-processing and management of judicial activities. For example, some modern means of communication (*e.g*. videoconferencing) are not used in Georgia and Armenia, and in other States their use is limited (Russia and Ukraine), while the Baltic States resort to these means more extensively.

The use of modern means of communication for the purpose of communication between the trial participants and courts is also uneven. Thus, the resort to modern equipment is least developed in Ukraine, where it is limited to the creation of court websites and publishing of certain forms of procedural documents at these websites. In Georgia and Armenia, the situation concerning modern means of communication is more developed, since the processing of certain procedural documents is digital (Armenia) and some videoconferencing tools are available (Georgia). Azerbaijan and Russia use almost all modern means of communication known to judicial systems, although these means are not developed to the fullest extent. Here again, the most exemplary are the Baltic States that have digital document management systems (DMS), modern means of communication available to the trial participants through the court websites, as well as opportunities for the processing of procedural documents and advising on them directly at the court website.

Note that the trends in the use of modern technology in the Eastern European courts are also divergent. For example, in the Baltic States, as well as in Russia and Ukraine, there are trends of intensive implementation of these means in the operation of courts. In Azerbaijan, the implementation of modern technology in courts is slower, while in Georgia and Armenia such implementation can be assessed as unsatisfactory.

Today, the means of assessing the quality of court activities and their efficiency are quite widespread mechanisms used to improve the quality of the operation of courts. For example, Azerbaijan, Russia, Georgia, Estonia, and Latvia have quality standards for judicial systems in common. Note that at the European level, this approach to improve the quality of judicial systems is used unevenly and in many Western European countries there are even no such quality standards. This indicates a high level of development of judicial systems in these Eastern European countries. However, in Ukraine, there is no system that evaluates the quality and efficiency of the judicial system on a regular basis.

There are many standards and indicators with regard to the quality of judicial systems. They include: standards for the length of proceedings; standards for the number of closed (examined) cases; standards for the number of suspended cases; standards for the number of cases submitted for consideration; and indicators of productivity of judges and other court staff. The analysis of judicial systems in Eastern Europe related to this issue shows that the results are divergent. For example, Ukraine and, surprisingly, Latvia do not have any of the above standards. In Armenia and Azerbaijan, there are three of the above mentioned

categories of standards. Both Lithuania and Estonia have four types of standards, and Russia has all of these standards. At the same time, note that in some Eastern European countries (*e.g.* Azerbaijan and Georgia), the quality and efficiency of judicial systems are evaluated according to their own criteria. The approach of the Estonian authorities is of a particular interest, because such standards are developed by staff of the Ministry of Justice in co-operation with the parties concerned – judges and court personnel.

Finally, note that there are indicators of individual productivity of each judge (not the court as a whole). These indicators were established in the legal systems of the Caucasian countries, as well as in Lithuania, Estonia and Ukraine. Only the Russian judicial system does not use them.

It is noteworthy that one of the most important tools for assessing the quality of courts is the monitoring. In almost all Member States of the Council of Europe, including the Eastern European countries, courts draw up annual reports on their activities that are then made publicly available. In particular, these reports consider such information as the amount of cases received by a certain court; the number of decisions taken; the number of pending cases; data on the length of proceedings; and other information. Also note that instead of lagging behind the countries of Western Europe, the Eastern European States in some way even surpass them in this regard. Indeed, in the Baltic States, as well as in Russia, these annual reports are the most complete, while in other Eastern European countries they are less detailed, but still meet European standards.

Several countries have some peculiarities in the preparation of annual reports on activities of the court. For example, in Estonia, there are also reports on different categories of cases, on the ratio of the first instance cases to appeals, on delays in proceedings, *etc*. In Armenia, these reports are prepared in electronic form (online).

Almost all States prepare separate reports on delays in proceedings. Such reporting mechanisms exist in most Eastern European countries as well. The only exceptions are Ukraine and Armenia, where instead of delays in delivery of justice, the reports examine the length of proceedings. In Azerbaijan, reports on delays in delivery of justice are prepared only for certain categories of cases (civil and criminal).

Even Eastern European States have no uniform approach to the selection of authorities responsible for the development of court performance standards. For example, in Azerbaijan and Lithuania, such standards are set by legislative and judicial authorities together. In Estonia, these standards are developed jointly by executive authorities and senior court officials, while in Ukraine they are prepared by executive authorities only.

The approach to setting performance standards for the judges themselves (not the courts) is more homogeneous. For example, in Azerbaijan, Armenia and Lithuania, such standards are set jointly by legislative and judicial authorities. In Georgia and Ukraine, such standards are set by judicial authorities. In Russia, despite the existence of performance standards for the judges themselves, there are no specific targets as for the number of cases or the time for their examination.

The approach of determining bodies responsible for the evaluation of the court efficiency is quite homogeneous in the Eastern European countries. For example, in Azerbaijan, Armenia, Georgia, Estonia and Lithuania, this evaluation is performed by the High Council of Justice, or any similar authority. Only in Latvia, this evaluation is carried out by the Supreme Court, and in Russia – by several authorities at the same time.

The results of the court efficiency evaluation in Eastern Europe reveal several general trends: the stable number of first instance courts (except for Georgia); the *(add)* intensive introduction of modern technology and means of communication in judicial systems; and the strengthening of the monitoring over the quality and efficiency of courts.

Chapter 6.

Alternative Dispute Resolution

The use of alternative means of dispute resolution is developing quite actively in all Member States of the Council of Europe (including the Eastern European countries). Even though not all States apply the same kinds of alternative dispute resolution, the main forms are: *mediation*, *i.e*. an optional form of private non-judicial assistance to disputing parties in finding a solution; *conciliation*, *i.e*. a procedure aimed at finding solutions satisfactory to both parties through their mutual concessions; and *arbitration*, *i.e*. a final dispute resolution by a third (impartial) party through adoption of a decision binding on disputing parties.

Unlike in the Western European countries, where the use of alternative means of dispute resolution has long been a common practice, the situation in Eastern Europe regarding the use of these means is uneven. For example, in the Baltic States, as well as in Russia, these types of dispute resolution are implemented everywhere. On the other hand, in Ukraine and some Caucasian States – except for Georgia, where the practice of resorting to such means of dispute resolution is also quite developed – the situation is rather unsatisfactory. None of the above means is applied in Azerbaijan.

Four out of six Eastern European countries do not use such methods of alternative dispute resolution as mediation (Ukraine, Azerbaijan, Armenia and Latvia). In countries where it is used (Lithuania and Russia), the situation with the authorities responsible for implementing this type of alternative dispute resolution is similar. Indeed, here both judicial bodies, private mediators, and other authorities have an opportunity to participate in this procedure. The only difference between these two countries in the selection of the bodies responsible for carrying out the mediation is that in Russia prosecutors can participate in the implementation of the above proceedings, while in Lithuania it is forbidden.

Moreover, these two countries have a similar approach to the selection of case categories, in which mediation can be applied. For example, both in Lithuania and Russia, mediation is used in civil disputes, domestic proceedings and employment dismissals. In turn, both in Russia and Lithuania, this type of dispute resolution is not used in administrative or criminal trials, which is quite consistent with the public and legal nature of the proceedings.

There are no data on the number of mediators in Russia. Whereas in Lithuania their number increased almost 6 times within the space of 6 years reaching the amount of 47 mediators in 2012. At the same time, this number is still far from the figures that can be seen in the Western European countries (Table 6.1). Similarly, the application of legal aid in this type of alternative proceedings was permitted by the Lithuanian legislation only in 2014, which once again confirms that such procedures are only at their nascent stage in the Eastern European countries.

Table 6.1. Judicial mediation in civil and commercial cases in 2010

Court annexed mediation 22 States/entities	**Private mediator 26 States/entities**	**Public authority 9 States/entities**	**Judge 13 States/entities**	**Public prosecutor 1 State/entity**
Belgium	Albania	Bosnia and Herzegovina	Albania	Croatia
Croatia	Belgium	Finland	Croatia	
Denmark	Bosnia and Herzegovina	Germany	Denmark	
Finland	Bulgaria	Hungary	Finland	
Germany	Croatia	Malta	Germany	
Greece	Estonia	Montenegro	Iceland	
Hungary	Finland	Portugal	Italy	
Ireland	France	Serbia	Lithuania	
Lithuania	Germany	Spain	Monaco	
Malta	Hungary		Norway	
Monaco	Ireland		Russian Federation	
Netherlands	Italy		Serbia	
Romania	Lithuania		Sweden	
Russian Federation	Luxembourg			
Serbia	Netherlands			
Slovenia	Norway			
Spain	Poland			
Sweden	Romania			
Switzerland	Russian Federation			
Turkey	Serbia			
UK-England and Wales	Slovakia			
UK-Northern Ireland	Slovenia			
	Sweden			
	The FYROMacedonia			
	UK-England and Wales			
	UK-Northern Ireland			

In turn, arbitration is used as an alternative method of resolving disputes in nearly all Member States of the Council of Europe, including the Eastern European countries. (The exception is Azerbaijan, because no statistical data are currently available). Moreover, Georgia and Latvia have special laws regulating arbitration proceedings.

Note that alternative dispute resolution is at its nascent stage in Eastern Europe, as evidenced by both the completed (Latvia) and upcoming reforms (Azerbaijan).

Chapter 7.

Judges in the countries of the Eastern Europe

The number of judges per capita in Eastern Europe varies significantly from one State to another, but in general it is at a fairly low level if compared to the countries of Central Europe. (The European average is 20.98 judges per 100,000 inhabitants.) However, as a whole, this number is higher than in the Western European countries. This can be explained by the lack of a culture of dispute resolution in courts in some Eastern European countries. At the same time, in some Western European countries the number of judges is also quite low, but here it is rather due to other factors, namely the need to reduce public expenditure, which is made through an optimization of judicial systems (in particular, by reducing the number of judges), as well as the wide use of lay judges in some countries of Western Europe.

The lowest number of judges per capita can be found in the Caucasian States where it ranges from 5 to 7 per 100,000 inhabitants. In turn, in Russia, Ukraine and the Baltic States, this number is much higher ranging from 17 (in Ukraine and Estonia) to 20-25 judges per 100,000 inhabitants in the remaining States, which corresponds to the European average.

Specific attention should be paid to the growth in the number of judges in some Eastern European countries. For example, in Azerbaijan and Armenia – where the level of the number of judges per capita is quite low – we can notice an increase over the past six years. In Armenia, it is justified by a reduction of the population, while in Azerbaijan it is a consequence of the real desire of legislative authorities to increase the number of judges. By contrast, in Georgia, where the number of judges is insignificant, it decreased over the same time period. In Latvia and Estonia, the number of judges also decreased, whereas Lithuania and Ukraine show a tendency of growth in their number, which is partly due to the population decline (in Lithuania). In turn, in Russia, no clear trend can be detected, which is partly explained by changes in the statistical calculations. In general, note that changes in the number of judges per capita in the Eastern European countries are not significant (except for Armenia and Lithuania, where the variation in the number of judges can be described as substantial as the increase in the number of judges is higher than 30% and 18%, respectively).

The distribution of the number of judges between courts of first and second instance does not show any special features, as almost in all Member States of the Council of Europe more than 2/3 of the judges are judges of first instance, while other judges are second instance judges or Supreme courts judges. Only in Lithuania and Russia, there are no accurate data to determine the ratio of judges of first and second instance, because any judge may act as both first and second instance magistrate. Another striking feature in this regard can be seen in Lithuania, where the number of Supreme courts judges in relation to the number of judges of the first and second instances is quite high.

One of the characteristics of certain Eastern European countries is the limited use of professional judges sitting occasionally. Moreover, in Lithuania and Ukraine, there is no such form of official duties at all.

Likewise, the resort to lay judges (associated judges and magistrates) in Eastern Europe is also limited, which is associated, for the most part, with the totalitarian past of these countries, as they have not yet become accustomed to the use of lay judges, who are more independent of any government agencies. The leaders among the Eastern European countries in this respect are the Baltic States. For example, in Estonia, their number per capita (per 100,000 inhabitants) corresponds to the European average (62.3), while in Russia the number of such judges is the smallest of the European States (0.4) and limited to the area of trade (commercial) disputes.

The approach to the participation of citizens in the administration of justice as associate judges in the Eastern European countries is also used unevenly. For example, in the Baltic States, there are no such opportunities. Moreover, in 2009, Latvia refused such a form of citizen participation in the administration of justice. In Russia, Georgia and Azerbaijan, jurors are used, but at the same time public authorities are suspicious of this form of justice administration. In particular, it is expressed in calls for its abolition or reduction of its use in trials for certain categories of cases. In fact, even in these countries, the participation of citizens in the administration of justice is limited to the category of very serious criminal cases, and is a novelty for them. For example, in Azerbaijan, the opportunity of using this form of justice administration

appeared in 2000 after the enactment of the new Criminal Procedure Code, and in practice its use in this country continues to be limited due to the lack of special laws and regulations. Moreover, both in Azerbaijan and Russia, the use of this form of justice administration is not a rule, and it is applied only at the request of the defendant, which also limits the number of trials with a jury. In Georgia, the participation of citizens has long been limited to processes examined by the Tbilisi City Court, and only recently began to be applied in other courts.

The number of associate judges per capita in Eastern Europe is not homogeneous. For example, in Georgia, due to the limited use of this form of justice administration, the number of jurors per 100,000 citizens is equal to 0.3, while in Russia this number corresponds to the European average (22).

In conclusion, we may say that the overall number of judges in the Eastern European countries is lower than in the countries of Central Europe, but still higher than in the Western European States. In general, the number of judges here rarely exceeds the European average. The number of judges in these countries per capita changes gradually, and in Azerbaijan and Ukraine the increase in the total number of judges is associated with the ongoing reforms in these countries. Lay judges, as well as professional judges sitting occasionally are hardly ever used here.

Chapter 8.

Non-judge staff in the countries of the Eastern Europe

Statistical data related to the non-judge staff in courts are difficult to assess. This is due to the fact that their number varies depending on what functions these employees are granted, as well as whether the judges themselves perform any administrative tasks in the judicial system, and whether any administrative responsibilities are delegated to entities external to the judicial system (*e.g*. private companies).

Akin to the general trend, there are not unified statistics in the Eastern European States. For example, in the Caucasian States, the number (per capita) of judicial officers, who are not judges, is fairly low (about 20 per 100,000 inhabitants), and much lower than the European average (65 per 100,000 inhabitants). In turn, in the Baltic States, as well as in Russia and Ukraine, the statistics are quite consistent with the European average.

If we draw a distinction between these staff according to their specialization – direct judge assistants, administrative staff and technical staff – the situation is not much different from the European average. Thus, in Azerbaijan, Russia, Latvia, and Lithuania, about half of the staff belongs to the first category (specific indicators range between 40% and 65%), while the other judicial officers, who are not judges, fall within the category of administrative and technical staff. The situation is significantly different only in Estonia, where the ratio of direct judge assistants to administrative and technical staff is opposite. Indeed, here, only 23% of the staff belongs to the first category, while the administrative and technical staff constitutes ¾ of all members of the judiciary. Armenia and Ukraine do not keep these records at all.

Data on the gender ratio of non-judge staff are given quite rarely. And this applies not only to the Eastern European States, but to all Member States of the Council of Europe, which is surprising, as issues of gender equality are quite relevant, especially in the Western European countries. In the Eastern European States, statistics on this issue exist only in Georgia, Estonia and Lithuania. These countries are characterized by the complete compliance with the Europe-wide statistical values, according to which the overwhelming majority of non-judge staff is women. Only in Georgia, we can see some parity in the gender ratio of judicial personnel.

The number of non-judge staff per one judge is indicative as well. In almost all Member States of the Council of Europe, it is two employees per judge. These figures in Eastern Europe are quite consistent with the Europe-wide trends.

On the contrary, indicators such as number of judges per capita (per 100,000 people) and number of non-judge staff per capita vary from one State to another. The average European figures are 20.9 per 100,000 citizens for judges and 65.4 per 100,000 citizens for non-judge staff. As in previous cases, the lowest results are shown in the Caucasian States. Indeed, in Azerbaijan, Georgia and Armenia the number of judges does not exceed 7 per 100,000 people, while the number of non-judge staff is around 25 per 100,000 citizens. In Russia and Ukraine, these figures are close to the European values. Thus, the number of judges is equal to 18.3 and 17.1 respectively, and the number of non-judge staff is 52.2 and 72.1 respectively. Finally, in the Baltic States, the figures are even higher and quite consistent with the Europe-wide trends.

As to the delegation of functions for the implementation of certain types of technical and administrative activities in judicial systems to external private enterprises, note that this trend is new to judicial systems of the Eastern European States. Basically, these are purely technical activities: support for technical equipment (computers and the Internet); courthouse security; housekeeping, *etc*. While in most Eastern European countries as well as in the Member States of the Council of Europe as a whole, this kind of outsourcing is possible, there are still countries that do not use the above methods (Ukraine and Armenia).

Chapter 9.

Court efficiency and compliance with fair trial standards

The issue of court efficiency and compliance with the principles of a fair trial are closely related, as the level of the former determines the extent of the latter. And since the fair trial principles express a fundamental human right enshrined in Article 6 of the ECHR, the issue of court efficiency is of paramount importance.

One aspect of the effective administration of justice and the operation of the court is its promptness or the requirement for the adoption of decisions within a reasonable time. This component of the basic human right to a fair trial has been repeatedly discussed in the case law of the ECtHR. Moreover, the majority of cases considered by the Strasbourg Court concerns specifically issues of a fair trial, 10% of all cases sent to this Court are related to the terms of case consideration by national courts, while about 15% of cases refer to non-enforcement of court decisions.

The problem of inefficient judicial systems is vital for the Eastern European States. This is especially true for Ukraine and Russia, where the number of complaints from citizens is quite large and for the most part they are associated specifically with the issue of non-compliance with court decisions, as well as other aspects related to the operation of judicial systems. This demonstrates the need to improve judicial systems in these States, and reveals citizens' distrust of the national authorities or, at least, uncertainties regarding the resolution of their problems by the national judicial bodies.

Violations of the principle of case consideration within a reasonable time are quite frequent both in Russia and Ukraine. Indeed, the ECtHR found at least 50 violations of Article 6 of the European Convention on Human Rights by these States for the period of 2011-2013. Moreover, at the European level, only Ukraine has such serious problems of non-compliance with court decisions that the ECtHR had to acknowledge more than 2,000 violations only in 2013. According to statistics, in Russia, the number of cases of non-compliance with court decisions decreased due to the development of special procedures at the national level, but the number of violations on this ground is still quite high (more than 30 violations in 2013).

The problems of non-compliance with court decisions in Ukraine and Russia are so significant that a large number of cases are finally resolved by means of conciliation between the parties (by friendly settlement or unilateral declaration). Thus, more than 1,000 complaints against Ukraine about violations of Article 6 of the European Convention on Human Rights already sent to the ECtHR were struck off the list of cases following the conciliation of the parties. A part of such complaints filed against Russia was resolved in a similar way.

Court efficiency is assessed using special indicators and common criteria that allow us to conduct a comparative analysis of various States and measure the degree of *(add)* efficiency of their judicial authorities. To do this, we need to use the so-called 'clearance rate' that helps determine the percentage ratio of the received cases to the cases examined by the court over a certain period. To calculate the efficiency level, the number of resolved cases is divided by the number of incoming cases for the same period. Then the result is multiplied by 100. Thus, the final figure shows the court efficiency in percentage terms, namely its ability to cope with the influx of cases. Another indicator of the court efficiency is the 'case turnover ratio'. This indicator is the ratio of the number of cases resolved within a certain period to the number of unresolved cases at the end of the same period. Finally, on the basis of the results obtained after calculating the turnover ratio, we determine the disposition time by dividing the number of days in a year by the turnover ratio.

These calculations are needed to facilitate a comparative analysis of efficiency of different judicial systems. As a consequence, based on the figures obtained, we can measure the efficiency level of judicial systems in a comparative manner.

First, let us examine the operation of the Eastern European courts with regard to the category of civil and administrative cases.

The so-called clearance rate in almost all Member States of the Council of Europe is the same and quite high (the European level is 100.4%). That is, in almost all countries, courts examine as many cases as they receive. The best results in respect of this efficiency indicator are achieved by the Baltic States, where the clearance rate is above 100%, *i.e*. courts in these States have the capacity to resolve more cases than they receive. Thus, in general, the situation in Eastern Europe is quite positive because almost no unresolved cases pile up in the courts.

In turn, the calculated disposition time for civil and administrative cases in the Eastern European courts can also be considered quite effective. The leaders here and on the Europe-wide scale are Azerbaijan, Georgia, Lithuania, Russia, and Ukraine, as it takes no more than 40 days to hear civil and administrative disputes in these countries. Only in Latvia and Armenia, this time is much longer than in other States considered here (167 and 205 days, respectively). However, this calculated disposition time corresponds to the European average (253 days).

Thus, the Eastern European States, as a whole, show more efficient results than the countries of Western Europe. Indeed, the judicial systems in countries such as Azerbaijan, Estonia, Lithuania, Russia and Ukraine are considered the most effective.

Changes in time efficiency demonstrate trends in the improvement of court performance. For example, when comparing court efficiency in 2010 with values detected in 2012, we found that the performance of the Eastern European countries corresponds to the European average.

Indeed, in most Eastern European States, the clearance rate improved between 2010 and 2012. Moreover, in Latvia, it improved by 11.5%. At the same time, the figures related to the calculated disposition time are less clear. Thus, while in most Eastern European countries they remained stable with a small positive (Ukraine) or slightly negative offset (Latvia, Lithuania, and Armenia) – *i.e*. with a slight decrease or increase in the disposition time, respectively – in other countries the situation changed dramatically. For example, in Russia and Azerbaijan, the situation deteriorated significantly (*i.e*. the time needed to consider cases of this category increased over the period under study), while Estonia, in contrast, became a European leader in reduction of time required for consideration of cases.

Statistics on the number of civil cases considered by first instance courts per capita (per 100,000 inhabitants) are uneven. Indeed, the number of received and resolved cases varies greatly, not only from one Member State of the Council of Europe to another, but also between the Eastern European States. This is evidenced by the fact that the European average is 2,500 cases, while the lowest rates do not exceed 200 (Finland), and the maximum borders with 6,000 cases (Andorra). In the Caucasian States, it is still possible to find a certain homogeneity of indicators, as here the number of received and considered cases per 100,000 inhabitants is small (less than 1,000 received and considered cases in Georgia and Armenia, and just over 1,000 in Azerbaijan). In other countries, no such homogeneity can be found: here the number of received and considered cases per 100,000 inhabitants varies from 1,200 in Estonia to almost 5,000 in Russia. These heterogeneous figures show differences in the jurisdiction of the first instance courts that consider civil cases, as well as some sociological features of the Eastern European States.

The comparison of the number of received and considered cases enables us to identify solutions allowing courts reducing their backlogs of unconsidered cases. It must be recalled that if the number of considered cases is higher than that of received ones, then this judicial system is regarded as quite effective. The performance of first instance courts in Eastern Europe in respect of civil cases is quite commendable, as in all courts the number of resolved cases exceeds the amount of cases received. The only exception is Russia, where, besides the fact that the caseload is very important, the amount of received cases exceeds the number of cases resolved, which indicates unsatisfactory performance of the first instance courts with regard to civil cases. By contrast, in Estonia and Latvia the efficiency of the first instance courts is so high that the number of considered cases is greater than the amount of cases received by several hundred.

In turn, the comparison of the number of non-litigious civil (and commercial) cases received and considered by first instance courts does not, in our view, play a significant role in the comparative analysis of judicial systems in the Member States of the Council of Europe. The fact is that this category of cases is so special that the number of received and resolved cases per capita depends not so much on the effective operation of courts, but on the wishes of national legislators. This is evidenced by statistics on the number of such cases per capita (per 100,000 inhabitants). Indeed, the number of received and considered cases of this category per 100,000 inhabitants ranges from less than 100 in Denmark to more than 10,000 in Poland.

On the contrary, such an indicator as the clearance rate is interesting, and the analysis of its variations from year to year determines the effectiveness of the efforts made by a certain State to improve the efficiency of its judicial system. Thus, the assessment of the clearance rate evolution over the last six years (2006 to 2012) indicates the heterogeneity of the clearance rate in Georgia, where in different years it ranges from more than 90% to almost 140%; in Estonia from more than 95% to more than 110%, and in Latvia from only 75% to more than 110%. Such changes are most commonly due to ongoing reforms of judicial systems. In other Eastern European countries, clearance rates evolve more gradually and remain, as we have already noted, at a fairly high level, which indicates the high efficiency of judicial systems in these countries.

The most commendable are the results of the disposition time analysis in the Eastern European countries. Indeed, civil cases (both litigious and non-litigious) are considered faster than in Western and Central Europe. Thus, in Russia, Azerbaijan, Georgia, Ukraine and Lithuania, the average time for consideration of a litigious civil case does not exceed 88 days, whereas the European average is of 246 days. In Estonia and Armenia, this period is equal to 167 and 168 days, respectively, and only in Latvia (252 days) this time is almost equal to the European average. Non-litigious civil cases are resolved in almost all European countries much faster than litigious cases. Among Eastern European countries, only in Ukraine this kind of civil matters is resolved slower than litigious civil cases.

Fairly balanced indicators can be found in administrative legal proceedings as well.

The clearance rate in this category (*i.e*. the ratio of incoming cases to the cases resolved) in almost all Member States of the Council of Europe is similar: the European average for the number of incoming cases is equal to 400, while the average for the number of cases resolved is 393. In Georgia, Ukraine, Latvia, and Estonia, the number of cases received does not exceed the number of resolved cases in this category, which means that administrative courts of these States not only cope with the case flow, but also can reduce a backlog of unconsidered cases. In other Eastern European countries, the situation is not contentious, as the clearance rate is close to 100%. For example, in Lithuania it is 98%, in Azerbaijan – 96%, and in Armenia – 94%.

Changes in clearance rates over the last six years (2006-2012) are uneven. The figures are uneven in Armenia and Lithuania, where the clearance rates in different years range from 65% to almost 130%. The results are not very satisfactory in Ukraine and Latvia, where for several years the clearance rates were not high and significantly exceeded the 100% value only in the last year, which indicates a large backlog of cases and an urgent need to lessen the burden of administrative courts in this regard. Only in Estonia – in the absence of figures for other countries – the number of received and considered cases is balanced, which reflects the effective work of administrative courts in this country in a long run, rather than a reaction to an urgent need, as in Ukraine and Latvia.

The time needed to consider administrative cases differ from one Eastern European State to another. Thus, in Russia and Ukraine, the time for consideration of administrative cases does not exceed 100 days. In Azerbaijan, Estonia and Lithuania, the time ranges from 100 to 200 days, while in the remaining States (Georgia, Armenia and Latvia), these terms do not exceed one year.

Statistical data on the effectiveness of criminal justice are presented depending on the gravity of criminal offences that are divided into serious offences and misdemeanours/minor offences also including crimes not punishable by imprisonment.

The European clearance rate in this category is quite high: the average is more than 100%, which means that the number of received and resolved cases is almost the same, and there are virtually no delays in the proceedings and backlogs of unresolved cases. In Azerbaijan, Georgia, Armenia and Ukraine, this figure is more than 100%, while in other countries it is a little bit below 100%. (The worst situation is in Latvia and Estonia, where these figures are equal to 95.8% and 94%, respectively). If we compare figures for specific categories of criminal cases, the differences will be more significant. For example, in the Baltic States, figures for minor offences fall below 90% (in Estonia, the figures relating to this category of criminal cases are equal to 85.3%), which testifies for low efficiency of criminal justice systems in this category of cases, and existing backlogs.

The situation with the time needed to consider criminal cases in Eastern Europe also seems quite positive: in all Eastern European countries, the time for consideration of criminal cases is below the European average (146 days). Criminal cases are resolved in Russia most promptly (36 days), Georgia (46 days), Estonia (51 days), Azerbaijan (56 days), Lithuania (72 days), and Ukraine (79 days). The disposition

time is higher only in Armenia (103 days) and Latvia (130 days). However, even in these States the figures are below the European average. If you compare the time needed to consider certain particular categories of criminal cases, the situation will not change significantly. Indeed, only in Latvia the time needed to resolve serious offences (196 days) is slightly above the European average (189 days).

Comparison of figures on clearance rates for criminal cases and time for their consideration between 2010 and 2012 suggests good overall trends in the Eastern European countries. For example, as for the clearance rates, we can see some stability in Azerbaijan, Armenia, Latvia, Lithuania and Ukraine. If we look at the figures for particular categories of cases, we can note meaningful differences in these countries. For example, in Armenia, the clearance rate for serious offences increased in 2012 as compared to 2010 by 58.6%. Conversely, in Estonia and Georgia the clearance rate decreased in 2012 as compared to 2010 by more than 30%, and in respect of minor offences in Estonia this figure decreased by more than 60%, resulting in a backlog of misdemeanours and minor offences.

As for the time needed to judge criminal cases, the situation is also heterogeneous and varies from one Eastern European State to another, as well as for certain categories of criminal cases. Thus, in the Baltic States and in Ukraine, the time for consideration of criminal cases was reduced. At the same time, differences in time needed to resolve various categories of criminal cases are significant. For example, in Estonia, while the overall result is commendable (-15.4%), *i.e*. the time of consideration decreased, the data on categories of criminal cases are radically opposite: the time needed to consider serious offences decreased by 48.6%, while for misdemeanours and minor offences the time increased by more than 50%. A similar situation can be observed in Armenia, where the time for consideration of serious offences was reduced and for misdemeanours and minor offences it was extended, while the overall result is still negative (32.2%). The same extension of time for consideration of cases can be seen in Georgia (27.7%).

In our opinion, studies concerning the total number of criminal cases considered by courts of different instances in the Member States of the Council of Europe are of no particular interest. The fact is that their number varies greatly from one country to another and does not demonstrate any comparable trends. Moreover, the comparison of the distribution of criminal cases between courts of first and second instance and supreme courts cannot be effective as well, since, except for countries with a small area and population, the number of cases resolved by first instance courts is always higher than the number of second instance cases, and the number of cases resolved by second instance courts is smaller than the amount of cases examined by the Supreme Court.

We also believe that the proportion of cases involving serious and minor offences that are received by first instance courts has a questionable value. Figures related to this issue are so diverse that it is impossible to identify any common trends and, ultimately, they depend on the legislator's choice for allocation of jurisdiction among the courts of different instances.

In turn, the figures on the clearance rates and time for the resolution of criminal cases by first instance courts only confirm the above trends. Thus, in all Eastern European countries, the clearance rate in such courts is not less than 90%, and in some of them (in the Caucasian States and Ukraine) it exceeds 100%. The time for consideration of criminal cases by first instance courts is more than satisfactory. Indeed, it rarely exceeds 200 days, and in countries such as Azerbaijan, Georgia, Ukraine, Lithuania, Estonia, and Russia, it is even less than 100 days.

The overall efficiency of judicial systems can be determined by combining the figures on civil, administrative and criminal disputes. The clearance rate in the Eastern European courts for all categories of cases is equal to, or greater than 100%, which generally characterizes their work as highly effective.

The analysis of the clearance rate and time for resolution of cases of different categories (litigious divorce cases; employment dismissal cases; insolvency cases; robbery; and intentional homicide) leads to interesting conclusions and displays some problems in the operation of judicial systems.

For example, the clearance rate in the Eastern European courts in respect of divorce cases can be regarded as satisfactory. Indeed, in all countries it is virtually equal to, or more than 100%; only in Azerbaijan and Armenia it is just below 100% (99.1 and 96.9%, respectively), and in Estonia it is close to 90% (91.7%).

The situation with employment dismissal cases is even better. Here, the clearance rate everywhere (except for Azerbaijan and Estonia) exceeds 100%, and in Latvia and Lithuania it is even higher than 120%. Moreover, even in Azerbaijan and Estonia the rates are close to 100% (99.9% and 96.7%, respectively).

The situation is radically opposite for bankruptcy (insolvency) cases. Indeed, only Georgia presents a 100% clearance rate. The worst results are in Latvia and Armenia (75.7% and 67%, respectively), whereas the other Eastern European countries are still above 90%. Nevertheless, note that the European average on the clearance rate for this category of cases is also low (87.2%).

The clearance rate for robbery in general is satisfactory. In almost all States it is above 100%. The only exceptions are Armenia (81.3%) and Georgia (94.7%).

Finally, the figures for homicide are quite clear. For example, we can reveal a trend in the Caucasian States, where the clearance rate is low (it is around 90%), which indicates a backlog of unresolved criminal cases in this category. On the other hand, in the Baltic States, the clearance rate for this category of cases is much higher than 100%, while in Russia and Ukraine, it is approximately 100%.

The time needed to consider different categories of cases by the Eastern European courts is quite consistent with the European average.

Thus, the time for consideration of divorces is far below the European average (191 days). The exceptions are Ukraine, where these cases are resolved for about 400 days, and Latvia, where the period of consideration is a bit more than 220 days. In Estonia, this time is equal to the European average (193 days).

The situation is similar, when we speak about employment dismissal cases. In the majority of the Eastern European States, the time needed to consider such cases is below the European average (256 days). The only exception is Estonia, where this time is 316 days.

With regard to bankruptcy (insolvency) cases, the trend is opposite, as the time for consideration of these cases exceeds the average significantly (675 days). In Armenia, the situation can be described even as an emergency, since the time needed to consider these cases is more than 2,600 days. On the contrary, in countries such as Georgia and Estonia these figures are not critical.

The data on the time for consideration of cases involving robbery are uneven as well. Thus, in Azerbaijan, Estonia, Georgia, Lithuania, Russia, and Ukraine, the time for consideration of this category of cases is below the European average (207 days). Only in Armenia is this time above the average (290 days).

Finally, the time needed to consider cases involving intentional homicide in general corresponds to the average performance (202 days). Only in Latvia and Armenia, are these figures a little bit higher (215 and 243 days, respectively).

Thus, the statistics for 2012 related to certain categories of cases suggest the fairly effective work of the courts in Eastern Europe.

Let us examine changes in this statistics with reference to the previous period (*i.e*. in comparison with 2010).

The clearance rate for divorce cases underwent almost no changes during the period under study in any of the Eastern European States. Minor improvements were noticed in Georgia, Azerbaijan, Latvia, Lithuania, Armenia, Russia, and Ukraine. These minor changes indicate a stable efficiency level regarding the amount of cases in this category. However, the analysis of changes over a longer period shows random changes in the clearance rate for this category of cases in Armenia, Azerbaijan, Estonia, and Georgia.

The situation with labour disputes is less positive. Here, changes in the clearance rate are more apparent and negative. Thus, in all Baltic States, Russia and (but not significantly) Azerbaijan, the clearance rate for this category of cases decreased over the period under study.

As for criminal cases (robbery and intentional homicide), the relatively stable clearance rate over the period between 2010 and 2012 was observed only in the Baltic States, Ukraine, Azerbaijan, and Russia. Conversely, the clearance rate for this category of cases in Armenia and Georgia underwent strong negative changes, *i.e*. the efficiency (especially in Georgian courts) of examining this category of cases decreased over the period under study.

Changes in time for the consideration of different categories of cases for the period between 2010 and 2012 also allow us to identify dramatic fluctuations which are common to judicial systems that are being reformed.

For example, while the time needed to consider cases involving divorces in some countries is relatively stable each year (Armenia, Russia and Azerbaijan), in other States (Georgia, Lithuania and Latvia) it can be defined as spontaneous, because it changes (in a negative or positive way) by more than a third, or even a half.

To improve the efficiency of justice administration (disposition time and court loads), it is necessary to offer a more widespread use of alternative means for dispute resolution. Another way to resolve these problems can be both fast-track and simplified procedures for dispute resolution.

The approach of the Member States of the Council of Europe to the use of fast-track litigation in order to increase court efficiency is almost identical. For example, almost all States resort to fast-track procedures in civil proceedings (the only exceptions are Denmark, Finland and Ukraine). The approach to the use of such procedures in criminal trials is also similar: among the Eastern European States, these procedures are not used in criminal trials except for Latvia and Ukraine. In administrative proceedings, the picture is less clear, although they still can be used in most States. However, such procedures are not applied in administrative matters in Azerbaijan and Ukraine.

The situation is similar with summary proceedings that are usually cheaper and shorter than ordinary ones. Thus, in civil trials, such summary procedures for judicial examination exist in almost all Member States of the Council of Europe, and in absolutely all Eastern European countries. In criminal proceedings, the situation is identical. Only in administrative proceedings is there no single solution in both the Member States of the Council of Europe as a whole and in the Eastern European States in particular. For example, summary administrative proceedings are used only in Russia, Armenia, Estonia, and Georgia.

Finally, agreement-based proceedings, in which the parties can discuss certain aspects related to the course of proceedings (*i.e*. set the time frame for submission of documents to the court or determine the date of hearings and sessions through negotiations), do not exist in all States, but at the same time they are quite reliable means of improving the efficiency of judicial systems. Among Eastern European countries, such ways to enhance the court efficiency are known only in Estonia and Lithuania.

Chapter 10.

Prosecution in the countries of the Eastern Europe

In the Member States, the approach of judicial systems to the role of public prosecution is different in each case. However, all Member States have a common aspect of the prosecution service – that is, the support of criminal prosecution in criminal proceedings. Also, in most States, public prosecution carries out certain functions in civil and administrative proceedings. However, there are significant differences from one State to another regarding the powers of public prosecution and its functional independence, which complicates the comparative analysis in respect of this institution.

While the total number of prosecutors varies from one State to another, and depends on the territory of a country and the size of its population, the number of prosecutors per capita is an interesting indicator for a comparative analysis. Thus, the European average for the number of prosecutors per 100,000 inhabitants is 11.8. In some cases, the number of prosecutors in the Eastern European countries exceeds the average more than two times. Thus, in Ukraine, Latvia, Lithuania, and Russia, this figure equals more than 20 prosecutors per 100,000 inhabitants. Only in Armenia, Azerbaijan and Estonia, is the number of prosecutors roughly equal to the European average. Note that this number of prosecutors per capita is the hallmark of judicial systems in Eastern Europe, where in addition to judicial functions in a trial, they also exercise some law enforcement and even investigative functions.

At the same time, in the Eastern European countries, the number of the prosecutor's office staff, who are not prosecutors (per one prosecutor), is lower than in Western Europe. Indeed, while the average number is 1 non-prosecutor per 1 prosecutor, in the Eastern European countries this number is below 1. This indicates a balance in the total number of the prosecutor's office personnel (both prosecutors and non-prosecutors) between the Western and Eastern European countries.

This is also evidenced by the number of non-prosecutors per capita (per 100,000 inhabitants). In the Eastern European countries, their number is below the European average (14). This figure is higher than the average only in Latvia (19.2) and Lithuania (17.4).

The prosecutor's functions in criminal proceedings are quite similar in all States. For example, the common function of all prosecutors in the Member States of the Council of Europe is to present the case in court, as well as to appeal against the decisions of the lower courts in criminal proceedings. Also, in most Member States of the Council of Europe and in all Eastern European countries, prosecutors conduct or supervise police investigations. The exceptions in this regard are Russia and Azerbaijan, where the prosecutor cannot request the judge to order specific investigation measures, as well as Armenia, where the prosecutor cannot conduct investigation. In Armenia – by contrast with other countries – the prosecutor also cannot bring charges. In almost all countries (except for Ukraine), the prosecutor has the authority to propose a sentence to the judge.

Conversely, the approach to the prosecutor's role in the supervision of the enforcement procedure differs among the different countries. Thus, in Latvia, Russia, Ukraine, Lithuania, and Georgia, the prosecutor supervises the execution of a judgment in criminal proceedings, while in Azerbaijan, Armenia and Estonia he/she does not have these powers. In almost all countries (including all countries of Eastern Europe), prosecutors have the right to discontinue a case without needing a decision by a judge. In turn, not all countries provide the possibility for the prosecutor to end the case by imposing or negotiating the penalty with the defendant. For example, it is impossible in countries such as Azerbaijan, Armenia, Lithuania, Russia and Ukraine.

Despite the fact that in most Member States of the Council of Europe the prosecutor's role is not limited to criminal proceedings, his/her functions in civil and administrative proceedings vary from one State to another. According to the general rule characterizing the Eastern European States (except for Georgia and Estonia), prosecutors can be involved either in civil or administrative proceedings. Basically, they have jurisdiction to protect the public interest in any legal proceedings. This is the situation in Armenia, Azerbaijan, Georgia, Russia, and Ukraine. The prosecutor's participation in civil proceedings of the Eastern European countries is also different in each country. For example, the prosecutor is involved in domestic proceedings in countries such as Latvia, Lithuania, Russia, and Ukraine.

The intensity of the prosecutor's work varies from one State to another. Nevertheless, here we can identify a trend that is common to the Eastern European countries. Thus, while the European average is of 452 cases (first instance) initiated by one prosecutor, in the Eastern European countries this figure is much lower. However, it is worth noticing that all Eastern European countries are characterized by a fairly high number of prosecutors per capita, which may explain the low number of cases considered by a prosecutor in Eastern Europe.

The number of cases considered by prosecutors per capita (100,000 inhabitants) is different in each case. Moreover, there is no single trend, even in the Eastern European countries, although the number of cases initiated by prosecutors in most States is relatively small. Thus, while the European average exceeds 3,400 cases initiated by prosecutors or addressed to prosecutors by citizens per 100,000 inhabitants, in Azerbaijan, Armenia, Latvia, Georgia and Russia, the number of cases considered by prosecutors per 100,000 inhabitants is even less than 1,000. These figures meet the European average only in Estonia and Lithuania.

In contrast to courts, the clearance rate for cases considered by prosecutors is low at the European level, which indicates a lower efficiency rate. The European average is 90%, but no general trend can be identified in respect of the European countries or even with regard to the Eastern European States. Indeed, in Lithuania, for example, the clearance rate is only 59%, *i.e*. prosecutors cannot cope with the flow of cases, and consider a smaller number of cases than they initiate or receive. In contrast, the clearance rate in Russia is 129%, which is more than commendable.

The indicators such as the number of cases brought by prosecutors to trial (both per one prosecutor and per 100,000 inhabitants) confirm the above data: namely, their number, if compared to the European average, is low, just as the number of cases considered by prosecutors.

Chapter 11.

Status and career of judges and prosecutors

The issues related to the status and career of judges are of core importance for the fundamental rights and freedoms of citizens in the field of justice administration. Indeed, parameters such as salaries, procedures for selection and appointment of judges, and their qualifications are essential to ensure the impartiality and the independence of this profession. For example, the ECtHR has repeatedly drawn the attention to the importance of the issues relating to the appointment of judges due to their impact on the independence of the latter.

Despite the diversity of procedures of appointment of judges in various European States, it is still possible to identify general trends in this matter. Indeed, in most Member States of the Council of Europe, judges are appointed to the office, at least, after going through a competence exam. Also, often, to pass this exam, candidates must meet the requirements for work experience in the legal profession. This approach to the appointment of judges is used in Armenia and Estonia. However, in most Eastern European countries, the approach to the appointment of judges is somewhat different. Indeed, when appointing candidates as judges, their experience in the legal profession is taken into account in the first place. The selection is carried out through exams or procedures for evaluating the candidate's qualification.

Among the bodies responsible for the appointment of candidates in the European countries, the most popular is the approach, according to which they are appointed by an institution consisting of both judges, and persons who are not judges, but with a certain degree of independence from public authorities. Thus, Azerbaijan, Estonia, Latvia, Lithuania, Georgia, and Russia have a special body endowed with the responsibility of appointment and selection of candidates for judicial office. This approach is consistent with the European standards of judicial independence.

The situation is similar with regard to prosecutors. For the most part, prosecutors, in the same manner as judges, are appointed according to the results of exams, as well as depending on the professional experience of candidates. The bodies responsible for the appointment of prosecutors, as in the case of judges, consist of both prosecutors and representatives of other public authorities. Nevertheless, due to the lesser need of independence of prosecutors from the executive authorities, in some countries the latter play a more important role in the procedure of appointment of prosecutors (in particular, to senior posts).

The prosecutor's status varies from one State to another. In Estonia and Georgia, prosecutors are subordinated to the Minister of Justice, *i.e*. the executive branch, which in general does not contradict the basic principles of organization of the judiciary. Yet in most Eastern European countries, prosecutors have a certain degree of independence in relation to other authorities.

The professional training of judges is compulsory in most Member States of the Council of Europe. Indeed, according to the general trend, the appointment of judges is preceded by the professional training that exists in all Eastern European countries.

Continuous training courses, *i.e.* the requirement to undergo training after the appointment, also exist in most States. Although the approach of various States to this issue is less homogeneous, in most countries the continuous training is compulsory, with rare exceptions. These exceptions are Russia and Georgia, where the continuous training is optional. At the same time, the continuous training for holding a special judicial post (*i.e*. the consideration of special categories of cases) is mandatory only in Azerbaijan, Armenia, Estonia and Lithuania. Moreover, the continuous training for holding any administrative positions in the judiciary and courses to improve computer skills are optional in most States (*i.e*. non-binding).

The initial mandatory training is required for prosecutors as well. Only in a few countries, such training is optional, and among the Eastern European States, it is optional only in Latvia. Continuous training courses, *i.e*. the requirement to undergo training after the appointment, are not compulsory in Latvia and Lithuania, whereas in other States they are mandatory. As in respect of judges, the continuous training of prosecutors for holding any administrative positions and courses to improve computer skills are optional in most States (*i.e.* non-binding).

With regard to the institutions responsible for the training of judges and prosecutors, the approach of most States involves the establishment of a special body for both initial and continuous training. Only a few countries have created specialized institutions intended exclusively for the training of either judges or prosecutors. This choice was made in Azerbaijan and Ukraine. Other countries have a common institute for both judges and prosecutors.

The issues of salaries paid to judges and prosecutors are also essential in order to ensure their independence and impartiality. According to statistics, in almost all Member States of the Council of Europe, the salaries of judges and prosecutors at the initial stage of their careers are above the national average wage, and the salaries of judges are higher than both the national average wage (the European average is 2.3 times higher) and the salaries of prosecutors (the European average is 1.8 times higher), which is basically due to the fact that the independence of judges is an imperative. Armenia is one of the rare countries where the salaries of judges are below the national average wage: indeed, the salaries of judges here are only 0.4 (*i.e*. 40%) of the average wage in the country. In all other Eastern European countries, the ratio of the salaries of judges to the national average wage is close to 2:1 (*i.e.* the salaries of judges are about two times higher than the national average wage).

As we have noted above, the salaries of prosecutors are lower than those of judges, but in general they still remain above the national average.

At the same time, the divergence in monetary values of the salaries of judges and prosecutors in different European countries is significant. Obviously, in the Eastern European countries, the salaries of judges and prosecutors are considerably lower than in Western Europe, which, of course, is due to the level of socio-economic development in these countries. Moreover, the differences between the States are so large that the average figures are almost irrelevant.

In general, changes in the salaries of judges over the last four years (2008-2012) are characterized by their growth in most European countries (the only exceptions are Russia and Latvia, where the salaries of judges were reduced). In Azerbaijan, the growth in the salaries of judges was significant during this period (37.6%), but however this growth was not as high as the growth of the average wage in the country.

If you look at the salaries of judges and prosecutors at the end of their careers, the situation is made worse in respect of the national average wage. Indeed, in most European countries (Eastern European States are not an exception in this respect), the average gap between the salaries of judges (prosecutors) and other citizens increased 4 times for judges and 3.4 times for prosecutors. The only unchanged example is Armenia, where the salaries of judges at the end of their career remain below the national average. Note that the salaries of prosecutors at the end of their career – as in the beginning – are lower than the salaries of judges, and that the salaries of both categories of public service employees remain much higher in the Western European countries than in Eastern Europe. Finally, the comparison of salaries in the beginning and at the end of the career indicates their natural increase with regard to the length of service. Thus, in Europe, the average salary of a judge at the end of his/her career is 1.87 times higher than at the beginning.

As for the salaries of judges of the Supreme courts in the Member States of the Council of Europe, we can find some patterns here as well. Thus, their salaries are about two times higher than the salaries of the first instance judges in all States (only in Lithuania and Armenia, this difference is smaller, and the salary of the Supreme courts judges is about 1.5 times greater than the salary of judges of lower courts). It is also natural that the salary of judges of the Supreme courts is above the national average wage. The situation is the same with the salaries of prosecutors at the Supreme courts.

In addition to the salary, the status of judges and prosecutors does not require any special privileges (*e.g*. reduced taxation level). Indeed, the presence of privileges such as public-funded housing (Georgia, Russia, and Ukraine) is just an exception. At the same time, in most European countries (in all Eastern European countries), judges are entitled to receive special seniority pensions.

The term of office of judges and prosecutors is set quite rarely, in other words, it is unlimited. Even in Georgia, after the Constitutional Reform of 2013, judges are appointed for an indefinite period, whereas before they were appointed for a 10-year period. The only exception is Ukraine, where the term of office for both judges and prosecutors is limited. In Latvia, the term of office for judges is limited, while for prosecutors it is unlimited. On the contrary, in Azerbaijan and Estonia, the term of office for prosecutors is limited, whereas judges are appointed for life (Table 11.1.).

Table 11.1. Terms of office of judges and prosecutors in 2010

States/entities	Terms of office of judges			Terms of office of prosecutors		
	Undetermined	If renewable, length	Probation period	Undetermined	If renewable, length	Probation period
Armenia	Yes			Yes		NAP
Azerbaijan	Yes		5	Yes	5	5
Estonia	Yes		3	Yes	5	NAP
Georgia	Yes		3	Yes		1
Latvia	No	3	6 months	Yes		from 3 till 7 months
Lithuania	Yes		NAP	Yes		2
Russian Federation	Yes		NAP	Yes		6 months
Ukraine	Yes		5	No	5	1

Almost all States set the retirement age for judges. The latter varies from one State to another (63 to 75 years old). Note that in the Eastern European countries, the average retirement age is less than 70 years old: only in Russia and Latvia it is 70 years old, while in the other Eastern European countries it is lower and corresponds to the European average (68 years old). At the same time, it is lower than in the Western European countries, which is likely due to the low level of overall life expectancy in the Eastern European countries. The situation is similar, when we speak about the retirement age of prosecutors: only in Russia, their retirement age is higher than the European average.

In some countries (Russia), the office of a judge or a prosecutor can be extended beyond the retirement age by the decision of a special body. In others, the service (*e.g.* at the Supreme courts) is limited to a certain age and cannot be extended.

It is noteworthy that in accordance with the irremovability principle, judges cannot be transferred to another position without their consent. This rule applies in particular in Russia. In other Eastern European countries, this rule is not so absolute: for example, in Georgia, a judge may be transferred to another position if the "interests of justice" require it.

The issues of gender parity among judges and prosecutors originally acquired importance in Western Europe. However, the Eastern European States also have taken a number of measures aimed at equal gender representation in the judiciary and public prosecution. For example, in Armenia, there are a number of measures intended to equalize the representation of women in the judiciary and bring it to a level of parity with men.

Note that in Europe as a whole the number of men in the judiciary is significantly higher than the number of women. This imbalance concerning the relatively small number of women is observed mainly at the level of the first instance courts. Indeed, in lower courts, the number of male judges is about two times greater than the number of females (Table 11.2.). However, the situation here is far from being homogeneous. For example, while in the first instance courts of Armenia the number of women is four times less than that of men, in the Baltic States, we can observe an inverse proportion, since women greatly outnumber men in these countries. This trend is confirmed in the second instance courts. On the contrary, even in the Baltic States (except for Latvia), there are still more men than women in the Supreme courts, which can be explained by the fact that the judges of the Supreme courts are older magistrates, who were appointed in the era, when the measures to promote gender equality in the judiciary system did not exist or, at least, when they were ineffective.

Table 11.2. Number of male and female professional judges per category of courts (first instance, second instance and Supreme Court)

States	Professional judges sitting in first instance courts		Professional judges sitting in second instance courts		Professional judges sitting in Supreme courts	
	males	females	males	females	Males	females
Azerbaijan	388	36	122	13	35	6
Armenia	128	37	28	60	14	3
Georgia	86	77	25	27	13	6
Lithuania	221	415	74	20	29	8
Estonia	49	114	18	24	16	3
Latvia	65	233	27	98	16	3

In general, the leaders among the Eastern European States in the promotion of women in the judiciary are the Baltic States, where females account for 60 to 77% of the total number of judges. In Eastern Europe, the worst situation with gender equality is in Azerbaijan, where female judges constitute only 10%.

Similar figures can be observed in relation to senior posts. Indeed, the gender composition of the judiciary is also reflected in the gender composition of court presidents (chairmen). Thus, in all Caucasian States and, to a lesser extent, in Russia, the overwhelming majority of court presidents (this applies to courts of all levels) are males. However, this situation with gender equality in senior posts is consistent with the European average. Thus, in the Member States of the Council of Europe, most court presidents are men. On the contrary, the Baltic States show relative gender equality in senior posts of the judicial system, with an advantage towards women.

Note that depending on the court level (first instance, second instance, and Supreme courts), gender equality regresses as the court hierarchy increases. Indeed, according to statistical data, the number of women holding senior posts in the judicial system decreases as the court hierarchy grows: *i.e*. there is an inverse proportion – the higher the judicial body, the lower the number of female judges holding senior posts. As noted above, this is due to the fact that Supreme Court judges are older magistrates, who attained recognition through their appointment to senior posts in higher courts at the end of their careers. As a consequence, the composition of the governing bodies of higher courts is quite natural, since the older generation of judges is mainly represented by males (due to the absence or ineffectiveness of a gender policy at the time when they were appointed as judges). Thus, this situation with gender equality in senior posts of the European judicial systems will change with the new generations.

The study of gender equality in public prosecution is complicated due to the lack of statistical data for a number of the Eastern European States. Nevertheless, it is possible to notice that in general at the European level, women are better represented in public prosecution than in the judiciary. However, while the situation is more than satisfactory at the lower level, where we can see some parity, it gets worse (quite possible that it is due to the above reasons) as the prosecution hierarchy increases. Data of the Baltic States (Table 11.3) reveal a more than satisfactory situation with gender equality in senior posts of public prosecution. The worst situation with gender equality is in the Caucasian republics, where the "leader" is Azerbaijan (women represent only 4.4% of the total number of prosecutors).

However, the situation with gender equality in senior posts of public prosecution is pretty bad even at the European level: the European average shows that a vast majority of senior prosecutors are males. Due to the limited amount of data on gender equality in senior posts of public prosecution, it is not possible to establish any general trends (no data was available for the Caucasian States). However, it should be emphasized that the situation with gender equality is satisfactory in the Baltic States and unsatisfactory, for example, in Russia, where at the lower level of public prosecution the number of men is four times greater than the number of women. Nevertheless, even in this country, although it may sound strange, the situation with gender equality among senior prosecutors is a little bit better at the higher levels of public prosecution (Table 11.3). For example, the number of women holding senior posts at the second instance of public prosecution in Russia is satisfactory (women account for more than 40%). Conversely, the number of women holding posts at the highest instance in this country is lowered to 23.71%.

Table 11.3. Number of male and female public prosecutors per category of courts (first instance, second instance and Supreme Court)

States/entities	Public prosecutors in first instance Courts		Public prosecutors in second instance Courts		Public prosecutors in Supreme Courts	
	Males	Females	Males	Females	Males	Females
Armenia	214	16	87	11	47	3
Latvia	82	172	35	45	23	33
Lithuania	310	250	112	70	53	39
Russian Federation	13149	10299	3638	3504	526	441

The issues of the career progression and appointment of judges are of paramount importance, as these issues are related to the independence and impartiality of justice. In more than a half of the Member States, the upward move in career is within the competence of the bodies responsible for the appointment of judges. Among the Eastern European States, this principle is applied in Armenia, Georgia, Estonia, Latvia, Lithuania, Russia, and Ukraine. Azerbaijan has a separate body that is responsible for the career progression of judges – the Judicial Council.

Similarly, in most Member States of the Council of Europe, the authority responsible for the appointment of prosecutors is also responsible for their career advancement. In all Eastern European countries (except for Georgia), the same body has both responsibilities.

Another important feature of the status of judges and prosecutors is the possibility / impossibility of combining any activities with the functions of a judge or a prosecutor. These status features are also aimed at the independence and impartiality of the judiciary.

Note that despite the various options for limiting the combination of judicial functions with other activities, we can identify some common approaches to this issue. For example, in all Eastern European countries, as well as in most Member States of the Council of Europe, judges can combine their functions with teaching (mostly at academic level) both on a paid basis and free of charge. The approach to research and scientific activities and cultural activities is similar. However, there are certain limitations for the latter type of activities in some Eastern European countries: thus, in Azerbaijan and Georgia, judges can exercise activities in the field of culture only without remuneration, whereas in countries such as Latvia and Lithuania these activities are completely prohibited.

The legislator's approach to the right of judges to exercise political functions is also uniform. In almost all Member States of the Council of Europe, judges are prohibited from participating in the political life of the country. The same approach is applied to the exercise of arbitration functions by judges and prosecutors, *i.e*. settlement of disputes out of court. Judges are prohibited from performing these activities in almost all Member States of the Council of Europe.

The prosecutor’s status in terms of combining his/her direct duties with other activities is almost the same as the status of judges. Prosecutors can be involved in teaching, as well as scientific and research activities in all Eastern European countries. The approach to the activities of prosecutors in the field of culture is somewhat different: in Russia, Estonia, Ukraine and Armenia, these activities are expressly permitted; in Azerbaijan, they can be performed without remuneration; and only in Lithuania and Georgia they are prohibited. Finally, akin to judges, prosecutors cannot intervene in the field of politics and arbitration.

The judge disqualification option is one of the aspects of the judge’s status and a guarantee for the protection of rights of trial participants. All European countries have procedures for disqualification of a judge, which indicates a high level of development of judicial systems in European countries.

Another important issue related to the status of judges is their liabilities, as well as the control over the quality of their work.

One of the forms of judicial liability and control over the quality of work is the assessment of the quality and efficiency of judicial activities. This form of measuring the qualification of judges is normally used only at the time of their appointment. Nevertheless, there is also a practice of assessing the qualification of judges. This approach exists only in Azerbaijan (partly) and Estonia and is quite rare, since it can be a tool of pressure on judges and can adversely affect their independence and impartiality, in particular, when the

assessment concerns the quality of individual judicial activities instead of the qualification of judges (prosecutors)

The judicial liability itself is often expressed in the form of disciplinary liability, which may be imposed for violation of judicial ethics; failure to perform duties; violation of the law; or commission of a crime. Since the disciplinary proceedings against judges (prosecutors) can break the principles of judicial independence, statistics on the use of these procedures may indicate the level of judicial independence of the authorities that have jurisdiction to impose disciplinary sanctions. The European average is 64 disciplinary proceedings per year. Of course, the more appropriate data for the comparison are the number of disciplinary proceedings per certain number of judges, since the total number of procedures should be correlated with the total number of judges in a particular country. Nevertheless, we can identify a general trend in the Eastern European States showing that the total number of disciplinary procedures does not exceed the European average. The only exception is Ukraine (quantitative data for Russia are not available), where this amount exceeds 340 disciplinary procedures.

The number of disciplinary proceedings per certain number of judges (100) helps find more reliable average data (3.2 disciplinary proceedings per 100 judges). Nevertheless, we see that the largest number of disciplinary proceedings was initiated in the developed Western European countries (Norway, UK). This is due to the form of such proceedings. In particular, it depends on what body has the jurisdiction to examine disciplinary cases against judges. Among the Eastern European States, the largest number of disciplinary proceedings is found in Lithuania (7.8 per 100 judges).

The approach to the individuals, who may initiate disciplinary proceedings against judges, is varied. In some Eastern European countries (Russia, Lithuania, and Georgia), disciplinary proceedings can be initiated by citizens, as well as by higher-level officials (prosecutors, presiding judges, *etc*.). In other States (Armenia, Azerbaijan), this can be done by a special body responsible only for disciplinary proceedings or for other issues related to the organization of the judiciary, and by representatives of executive authorities. Less frequently, in addition to these bodies, this right is also granted to an ombudsman (Estonia, Georgia). Only in Ukraine, the opportunities for the initiation of disciplinary proceedings against judges are not limited, which possibly explains the large number of disciplinary proceedings in this country. In general, when compared with other European countries, the opportunities for the initiation of disciplinary proceedings against judges are quite open in the Eastern European States.

The number of sanctions imposed on judges in the various European countries is quite small: the European average is 24. In all Eastern European countries, the number of sanctions does not exceed this figure, and in Estonia no sanctions at all were imposed on judges in 2012. The only exception is Ukraine, where the number of sanctions imposed on judges in 2012 was 161. A reprimand is the main type of disciplinary sanction, and this applies to both Eastern and Western Europe. In the Eastern European countries, there is a set of quite varied and fairly mild sanctions: warnings (Georgia, Latvia).

The number of sanctions per 100 judges is a quite typical indicator, and the European average here is quite low (1.2 sanctions per 100 judges). Armenia is a country, where the amount of such sanctions is not only the highest in Europe, but also exceeds the average several times (12.8). The number of sanctions imposed on Ukrainian judges is also quite high (2.1).

The number of sanctions imposed on judges is fairly stable from year to year in almost all Eastern European countries. The only exception is Ukraine, which is due to the creation of the High Judicial Qualification Commission of Ukraine (2010), the functioning of which was limited to only a few months in 2010 and fully developed only in the following years (2011 and 2012). In other States, it is difficult to identify any definite trends due to negligible amounts of sanctions imposed.

The choice of bodies entitled to impose sanctions on judges is fairly uniform: in most States, these powers are given either to a body responsible for general issues of organization and regulation of the judiciary – the Judiciary Council or to a specialized body responsible solely for the consideration of disciplinary cases against judges – a disciplinary court or a body. Thus, Azerbaijan, Georgia and Armenia established Judiciary Councils with disciplinary powers against judges. In Estonia, this jurisdiction is shared by the higher courts and a special disciplinary body. In Latvia, this jurisdiction is also given to a special disciplinary body. In Lithuania, this body (Judicial Ethics and Discipline Commission) is even provided with guarantees of independence and self-government. In Russia, these powers are given to qualification panels of judges.

In contrast to the disciplinary liability of judges, which requires special rules and procedures due to the demanding requirements for independence, disciplinary liability of prosecutors is simplified. This can be explained by the fact that in most States prosecutors are integrated into a hierarchical structure, where disciplinary proceedings are often initiated with the participation of higher bodies.

The number of disciplinary proceedings initiated against prosecutors is quite low, as in the case of judges. The average performance for 2012 does not exceed 30 disciplinary proceedings. In most Eastern European countries, the number of these proceedings is equal to the European average. Yet it is worth paying attention to Azerbaijan and Lithuania, where their number exceeds the European average 2.5 times (88 and 87, respectively), as well as to Ukraine, where, as in the case of disciplinary liability of judges, the number of disciplinary proceedings initiated against prosecutors is extremely high, if compared with the European performance (565).

These conclusions are also supported by statistics that examine the number of disciplinary proceedings per certain number of prosecutors (per 100). The highest number of disciplinary proceedings is found in Latvia and Azerbaijan (11.3 and 8.2, respectively), which exceeds the European average (0.6) several times. The other Eastern European countries also keep up with these figures: Armenia (6.9); Georgia (4.7); Ukraine (4.5); and Latvia (4). Only in Estonia, the figures are equal to the European average (0.6).

As in the example with judges, the main ground for sanctioning prosecutors is professional incompatibility, rather than violation of ethical principles. This trend is confirmed at the level of the Eastern European States. Indeed, in Azerbaijan, Ukraine, and Lithuania, the main ground for the initiation of disciplinary proceedings against prosecutors is professional incompatibility. Moreover, even in Georgia and Estonia, disciplinary proceedings against prosecutors are also initiated on the basis of professional incompatibility.

The number of disciplinary proceedings initiated against prosecutors varies slightly from year to year (for the six-year period between 2006 and 2012). However, in some Eastern European countries (Azerbaijan, Lithuania, and Ukraine), the number of disciplinary proceedings against prosecutors is still characterized by noticeable changes (103%, 203% and - 66%, respectively).

Despite some differences, the choice of bodies responsible for the initiation of disciplinary proceedings against prosecutors is fairly uniform and varies slightly from one State to another. In most Eastern European countries, this jurisdiction is given to the higher authority (usually, the Prosecutor General). In Estonia, this power is also assigned to the representatives of executive authorities. Only in Lithuania and Russia, in addition to the higher authorities, this power is also assigned to citizens. In Lithuania, this possibility has been introduced with the reform of the Public Prosecution Service Act in 2012 (Table 11.4.).

Table 11.4. Authorities responsible to initiate the disciplinary proceedings against judges

States/entities	Citizen	Court	Higher court or Supreme Court	Judicial council	Disciplinary court or body	Ombudsman	Parliament	Ministry of Justice (executive body)	Other	Total number of authorities
Armenia				+						1
Azerbaijan				+						1
Estonia		+	+						+	3
Georgia	+	+	+	+	+	+		+	+	8
Latvia		+	+					+	+	4
Lithuania	+	+	+	+						4
Russian Federation	+	+						+		3
Ukraine									+	1

The number of disciplinary sanctions imposed on prosecutors is slightly different from the number of similar sanctions imposed on judges. However, in the Caucasian States, the amount of such sanctions exceeds the European average (25 sanctions). Thus, in 2012, there were 89 sanctions in Azerbaijan and 33 in Georgia. Nevertheless, as in the case with judges, the highest number of disciplinary sanctions was imposed on prosecutors in Ukraine (591). The main type of disciplinary sanctions imposed on prosecutors is a reprimand.

Changes in the number of disciplinary sanctions imposed on prosecutors for a certain period (2006-2012) are insignificant. The most important quantitative changes can be observed in the countries with the highest number of disciplinary sanctions, namely in Azerbaijan (110%) and Ukraine (66%).

The approach to the choice of bodies responsible for imposing disciplinary sanctions on prosecutors is varied, yet it allows us to identify a number of common features. For example, in most Eastern European countries, these powers are given at least to a body superior to the prosecutor at fault (usually, the Prosecutor General). This is the approach applied in the Caucasian States, Lithuania, Latvia, Russia, and Ukraine. Moreover, in some of these countries, in addition to the Prosecutor General, disciplinary sanctions may be imposed on prosecutors by executive authorities (Azerbaijan) and senior prosecutor (Latvia, Ukraine, and Russia). With respect to this issue, only Estonia is unlike other Eastern European States: here, disciplinary sanctions are imposed on prosecutors by an independent disciplinary body.

In conclusion, it is noteworthy that the status of judges has the greatest guarantees of independence. This can be seen especially in the reforms carried out in the Eastern European countries, where the following has been achieved in recent years: establishment of professional training schools for judges; creation of judicial councils that are partially responsible for the regulation of the judiciary (codes of ethics); and resort to independent disciplinary bodies that ensure the quality control and professionalism of judges. In recent years, the Eastern European countries have also increased the salaries of judges and prosecutors, which also contributed to an increase in the level of their independence and reduced corruption that literally remains the main problem in Eastern Europe. Finally, note that the unresolved problems still include gender inequality in judicial systems of the Caucasian States. However, there is no doubt that this issue, which stems from the cultural traditions of the region, will be eventually resolved, as the general trend for all States today is an increase in the proportion of women among judges and prosecutors.

Chapter 12.

Lawyers in the countries of the Eastern Europe

The high number of lawyers per capita (per 100,000) corresponds to the high level of legal culture among the population and indicates the high number of conflicts resolved through legal means. As a consequence, the low number of lawyers per capita in the Eastern European countries, as compared to Western Europe, is quite natural. This is due to the lack of culture of dispute resolution through legal proceedings in these countries, as well as to the long restriction of the rights of citizens (including property rights) during the Soviet period.

The Eastern European countries are not characterized by uniformity in the total number of lawyers, which is due to differences in the size of the population of the European States. Accordingly, the main comparisons should be made on the number of lawyers per capita. Thus, the general trend in the Eastern European States consists in a low number of lawyers per capita in comparison with the European average (165 lawyers and legal advisers per 100,000 inhabitants). For example, in the Caucasian and Baltic States, as well as in Russia, the number of lawyers per capita is significantly lower than the average figures. Only Ukraine presents quite high figures, but they should be interpreted with caution, as they relate only to legal advisers (Table 12.1.).

Table 12.1. Absolute number of lawyers and legal advisors, number per 100.000 inhabitants and number per professional judge

States/entities	Total number of practicing lawyers (without legal advisors)	Number of legal advisors	Number of lawyers and legal advisors	Number of practicing lawyers (without legal advisors) per 100 000 inhabitants	Number of lawyers and legal advisors per 100 000 inhabitants	Number of practicing lawyers (without legal advisors) per professional judge	Number of lawyers and legal advisors per professional judge
Armenia	1 129			34,6		5,1	
Azerbaijan	761	NAP		8,5		1,3	
Estonia	788			58,8		3,5	
Georgia	NA		3 470		78		14,8
Latvia	1 360	NAP		61,0		2,9	
Lithuania	1 660	NAP		51,2		2,2	
Russian Federation	65 602			45,9		2,0	
Ukraine	NA		102 540		224		11,6
Maximum	65 602		102 540	61,0	224	5,1	14,8
Minimum	761		3 470	8,5	78	1,3	11,6

These conclusions are also confirmed by the comparison of the number of lawyers and legal advisers per judge. Indeed, the figures in the Eastern European States are also below the European average (17 per judge).

Quantitative changes for the six-year period demonstrate the main trends in the Eastern European States on this issue. These trends are quite positive, since, in the period under study, in all Eastern European countries, the number of lawyers and legal advisers increased, indicating that the population gets used to the practice of resolving conflicts in the legal field. Moreover, in countries such as Estonia, Azerbaijan, Latvia, Lithuania and Armenia the number of lawyers increased by more than 20% in the period under study. This quite meaningful increase in the number of lawyers can be explained by the intense reforms undertaken by the Eastern European States. By contrast, some Eastern European States such as Russia are characterized by relative stability in the number of lawyers, but the overall trend of increasing this number can be seen here as well (7.4%).

In almost all European countries (including Eastern Europe), legal profession requires preliminary studying at the university and passing of relevant exams. In some countries (Russia and Ukraine), there are also requirements for continuous training as the carrier progresses. In almost all Eastern European countries (except for Azerbaijan), when a lawyer works in particular specialized areas of law, he/she must receive specialized professional training.

In most European countries, organizational activities related to the legal profession are carried out by self-governing bodies that are independent of the government – bar associations. While in most countries the professional organization of lawyers' activities is performed at the national level, Ukraine has independent bar associations at the regional and local level.

In some States, the legal profession is characterized by monopoly on representation in court in order to ensure the highest quality of legal services provided to clients. However, some countries do not resort to this approach and clients can be represented in court freely (Estonia) in all types of proceedings. Since the majority of violations of fundamental rights and freedoms occurs in criminal proceedings, which is due to the possible deprivation of liberty, in most European countries (including Eastern Europe), a client must be represented in criminal proceedings by a lawyer. Thus, in the Eastern European countries (except for Estonia), the accused can be represented in criminal proceedings only by a lawyer. Some countries have special rules providing for compulsory representation in court by a lawyer, when the case amount exceeds a certain level, or when an appeal or cassation is filed, *i.e*. for the second and higher instances (Georgia and Azerbaijan). However, these rules of procedural representation were most likely adopted to limit the number of complaints and to lessen their load on courts.

In most European countries, the lawyers' fees are set freely. However, in some Eastern European States, the lawyers' fees are determined either by the law or by both the law and decisions of bar associations. These countries are: Armenia, Estonia, Georgia, Russia, and Ukraine. One of the problematic aspects is the provision of information to clients about the amount of the lawyers' fees. For example, note that in Armenia, Lithuania, Russia, and Ukraine, clients often have difficulties in knowing the specific fees of a lawyer.

The quality standards for the legal profession, as well as control over them, are important aspects related to the protection of the rights of trial participants. As a consequence, these aspects of the lawyer's status exist in almost every European country. The only exception among the Eastern European countries is Russia, as this State has no quality standards for the legal profession. In most States, such quality standards are determined either by the National Bar Association, or, at least, with its participation (*e.g*. Ukraine). However, in most Eastern European countries, these standards are defined with the participation of the Parliament (Armenia, Azerbaijan, and Latvia).

The quality of the legal profession is maintained by disciplinary proceedings and sanctions imposed on lawyers. However, this statistics should be used with caution, as their relevance depends on the total number of lawyers in a country. In turn, the statistics on the grounds for the initiation of disciplinary proceedings are very interesting. Thus, according to the European indicators, most disciplinary proceedings are initiated due to the breach of legal ethics. Only in Azerbaijan, a major amount of disciplinary proceedings are initiated in connection with the professional incompetence of a lawyer.

It is worth paying attention to one feature of disciplinary proceedings initiated against lawyers in the Eastern European countries. While here, as in other European countries, the grounds for the opening of disciplinary proceedings may include professional impropriety, breach of legal ethics, and commitment of a crime, in most Eastern European countries (except for the Baltic States), it is impossible to file a complaint in connection with unreasonable lawyers' fees. This fact has quite negative impact on ensuring the rights of persons represented by a lawyer, since, according to statistics, the main complaints of the citizens against lawyers are due to a discrepancy between the services provided and the lawyer's fees.

Note that in most countries, disciplinary proceedings are initiated at least by bar associations or similar self-governing organizations. In all Eastern European countries, disciplinary liability of lawyers is set by such bodies.

The statistics on the number of disciplinary proceedings per certain number of lawyers (per 1,000 lawyers) is quite interesting. In some Eastern European States, these figures correspond to the European average (42.8 disciplinary proceedings per 1,000 lawyers). On the contrary, in Lithuania, Estonia and Azerbaijan, this amount is 50-60 disciplinary proceedings per 1,000 lawyers. In Russia and Armenia, the figures are lower (about 20), while in Latvia and Ukraine, they do not exceed 5. This variation in the figures indicates either the limited value of such statistics, or the serious differences in the systems of disciplinary liability of lawyers in the Eastern European countries. In our view, here we can talk about the limited value of this statistics.

The variation in the figures is also noted in relation to changes in the number of disciplinary proceedings for a certain period (2006-2012). For example, in some Eastern European countries, changes in the number of disciplinary proceedings initiated against lawyers remain insignificant (Latvia and Lithuania). On the contrary, in Russia and especially in Estonia and Azerbaijan, changes in the number of such proceedings are quite substantial. In fact, in the last two countries, the number of disciplinary proceedings initiated against lawyers increased during this period several times.

Total number of sanctions imposed on lawyers per annum (2012) has a relative value, since this number depends on the number of lawyers in a country. Moreover, the variation in the number of sanctions imposed on lawyers is estimated in thousands of times, which prevents from making a qualitative comparative analysis. Note that the number of sanctions imposed on lawyers in the Eastern European countries in 2012 is lower than the European average (166 sanctions).

Much more revealing are the data on sanctions per number of lawyers, allowing for a qualitative comparative analysis. In all Eastern European countries, the number of sanctions per 1,000 lawyers is around the European average (12.4 sanctions per 1,000 lawyers): 24.4 in Azerbaijan, 18.4 in Lithuania, 16.8 in Armenia, and 14.6 in Georgia. In comparison with other European countries, the figures in the Eastern European countries seem to be more moderate. The exception is Ukraine, where less than one (0.4) sanction is imposed per 1,000 lawyers.

In conclusion, we may say that the general trend in the European countries is the increase in the total number of lawyers in all States. This trend is most prevalent in the Eastern European countries, where originally the legal culture did not contribute to the resolution of disputes through the courts, which resulted in the low number of lawyers in these States per capita. Today, the Eastern European States have to catch up with their Western counterparts. As a result, the growth in the number of lawyers in the Eastern European countries is more intense than in Western Europe. Other features of the status and legal regulation of the legal profession in the Eastern European countries are consistent with the basic requirements and principles of a fair trial enshrined in the documents of the Council of Europe.

Chapter 13.

Execution of judgments

Execution of judgments in Eastern Europe, without exaggeration, is a sore spot in some Eastern European countries (primarily Russia). This is evidenced by the intense ECtHR case law.

The main problem here arises from the failure to execute judicial decisions adopted in civil and administrative proceedings, since the execution of judgments in criminal proceedings is ensured by public authorities and is carried out in their interest – these decisions are usually executed flawlessly. On the contrary, in civil and administrative proceedings, the execution of judgments often depends on trial participants. As a consequence, the problems with failure to execute judicial decisions, by virtue of their nature, are related to these types of proceedings.

In the European countries, judgments are executed in civil and administrative proceedings by a special category of servants, who are most frequently referred to as bailiffs. In various countries, they have different names and status. Even in the Eastern European countries, the approach to the organization of this profession is not uniform. For example, in Russia, Azerbaijan and Ukraine, bailiffs are representatives of the State power. On the contrary, in the Baltic States, they are of a civil nature, *i.e.* they are not government officials, which does not preclude State regulation and organization of their profession. In Armenia and Georgia, they have a mixed status. Note that countries, where bailiffs have a private status, most frequently apply stricter rules to them (presence of specialized vocational education, passing of exams, *etc*.).

The bailiff position requires special powers and competence. This is necessary to ensure the high-quality execution of judgments, as well as their uniform enforcement throughout the country. In most Member States of the Council of Europe, bailiffs must have a diploma of higher legal education and receive some special bailiff training. In other words, they are required to have almost the same knowledge and skills as judges and prosecutors. In almost all East European countries (except for Russia), bailiffs at least must pass exams or receive professional training. This approach is consistent with the European practice, since such requirements exist in the majority of the European countries. Moreover, note that countries that do not use this approach to the regulation of the bailiffs' profession show an increasing tendency towards establishing mandatory exams and training.

The structural organization of this profession is often carried out at national level which fosters the consolidation of a uniform approach to the determination of competencies and skills of bailiffs, as well as to the determination of other common standards for the organization of the profession. This approach is used by most European countries, including Eastern Europe (except for Ukraine). However, in certain countries, including Eastern Europe (Azerbaijan), in addition to the national level of regulation and organization of this profession, there are also sub-national levels of organization. Moreover, in Ukraine, bailiffs are organized not only within a single national and regional structure, but also have separate rights of self-organization even at the local level.

The number of bailiffs varies greatly from one country to another, not least due to the different number of inhabitants, courts and disputes settled by various judicial instances. As a result, the largest number of bailiffs in the Eastern European countries is in Russia (18,625). The amount of bailiffs in Ukraine is a little bit smaller (5,661). In the Baltic and Caucasian States, their number is much less than in these two countries.

There are also no common trends of changes in the number of bailiffs in the Eastern European countries. Thus, for the six-year period (2006-2012), the number of bailiffs in the Baltic States decreased, and, on the contrary, in the Caucasian countries, it showed some growth. This is not least due to the reforms undertaken and constant improvement of judicial systems in the Caucasian countries. Note that this trend is observed in Russia as well. As a matter of fact, Russia and Armenia show the strongest growth in the number of bailiffs during this period: namely, the number of bailiffs in Armenia increased over this period almost two times (from 225 to 393), and in Russia, their number grew by almost 30% (from 18,625 to 24,244). These large changes in the number of bailiffs in Armenia are caused by a change in the status of bailiffs in the period between 2010 and 2012.

The number of bailiffs per capita is a more interesting indicator, since it allows for a more productive comparative analysis. The number of bailiffs per capita (100,000 inhabitants) varies from one State to another, but these differences are not as strong as in the case with general data related to the number of bailiffs. It is also interesting that the total number of bailiffs in Eastern Europe corresponds to the European average (6.8 bailiffs per 100,000 inhabitants). Moreover, in Russia (16.9), Ukraine (13.3), and Armenia (13), these figures are even higher than the European average. In Azerbaijan (5.6) and Latvia (5), they are only slightly below the average. Only in Lithuania (3.9) and Estonia (3.8), the figures are much below the average.

It can be concluded that these variations are explained by differences in the status of bailiffs. Indeed, in countries, where bailiffs have a public and legal status, *i.e*. they are public officials (Russia), their number is higher than in States, where they are private actors.

Most Member States of the Council of Europe have performance standards for bailiffs. Moreover, these standards are developed and implemented in a growing number of States. Currently, they exist in all Eastern European countries. These standards contribute to the uniform enforcement of judicial decisions throughout the country and guarantee the rights of trial participants (primarily, their equality before the law). They contain quality standards, general tenets framing the procedures of execution of judgments, their duration, and principles of ethics (professionalism, efficiency, *etc*.). For the most part, they are represented by codes of ethics and similar documents (for example, Azerbaijan and Georgia). Most of these bailiff performance standards exist in the States, where bailiffs have a private status. As to the States, where the execution of these functions is carried out by public officials, the latter are bound by the principles encompassed within the relevant governmental acts. Today, the general trend consists in the consolidation of numerous principles concerning the efficiency of their work, in addition to their legal regulation.

The approach to the choice of a body responsible for the monitoring and the regulation of bailiffs is not uniform both at the European level and in Eastern Europe. Indeed, in some States, the body that regulates and supervises the activities of bailiffs is the Ministry of Justice (Armenia, Georgia, Russia, and Ukraine). In other States, in addition to the Ministry of Justice, the regulation and the monitoring are ensured by other structures: with the participation of the judiciary (Azerbaijan); with the participation of bodies representing this profession (Estonia); and in other States, in addition to the Ministry of Justice, regulatory authorities include both the judiciary and bodies representing bailiffs (Latvia and Lithuania).

The supervision and regulation of the activities of bailiffs mean both the control over the bailiffs' compliance with the law and the ability to express requirements in respect of their activities. Note that most frequently these functions in the States, where bailiffs are officials accountable to public institutions (for example, in Russia), are regulated and controlled usually by the Ministry of Justice. In contrast, in the countries, where bailiffs have a private status, their activities are often controlled by a self-regulatory body.

The main violations of professional quality standards imputable to bailiffs are related to the excessive length of enforcement proceedings. The ability to challenge the actions of bailiffs on this ground exists in all Eastern European countries (except for Ukraine and Lithuania). In some Eastern European countries, citizens can challenge the actions of bailiffs in connection with their unlawful practice (Armenia, Estonia, Latvia, and Lithuania). The less frequent is the ability to challenge: the excessive cost of enforcement proceedings (Ukraine); non-compliance with court decisions, when the defendant is a public authority (Azerbaijan); insufficient provision of information to trial participants (Estonia, Lithuania, and Russia); and non-compliance with court decisions in general (Russia and Latvia).

The number of disciplinary proceedings initiated against bailiffs is quite different, and it varies both from one European country to another and from one Eastern European State to another. A major contrast can be observed with regard to data from Ukraine and, in particular, from Russia. Indeed, while in most Eastern European countries the number of disciplinary proceedings does not exceed the European average (1,040), in these countries their number is several times higher (21,427 in Russia and 8,884 in Ukraine). Moreover, in contrast to these States, both in the Baltic and in the Caucasian countries, disciplinary proceedings against bailiffs account for only several dozens.

However, this statistics should be estimated quite carefully. Indeed, if we look at the number of disciplinary proceedings brought against a certain number of bailiffs (per 100 bailiffs), it is evident that even in some Western European countries (110.4 procedures per 100 bailiffs in the Netherlands) this number is slightly different from Ukraine (146.4) and Russia (88.4). And yet, in some Eastern European countries, the number of disciplinary proceedings initiated against bailiffs is above the average (16). This is true for Ukraine, Russia, and Georgia. Despite the fact that such different figures do not allow for firm conclusions, we believe that the too high figures in Russia and Ukraine show that citizens are dissatisfied with

enforcement proceedings. This is also confirmed by the number of applications from citizens of these States to the ECtHR which is considered by the applicants as the only way to get a fair decision with regard to violations of their rights and freedoms. This distrust of citizens in the national system and, in particular, the judgment execution system is also relevant for Turkey, where the number of disciplinary proceedings brought against bailiffs, as well as the number of complaints sent to the ECtHR in this respect, are quite high. In other words, we can find a relationship between trust in the judicial system (the system of executing judgments in particular) and the number of disciplinary proceedings brought against bailiffs, as well as the number of complaints sent to the ECHR on this basis.

The above figures are somewhat different as concerns the number of sanctions imposed on bailiffs. Indeed, while in all Eastern European countries (including Ukraine) the number of sanctions is low, in Russia it is quite consistent with the large number of initiated disciplinary proceedings (14,055). In other words, in Ukraine, despite the large number of disciplinary proceedings brought against bailiffs, only a few of them lead to actual punishments. As a consequence, it is no surprise that the number of sanctions per certain number of bailiffs (per 100 bailiffs) is the highest in Russia, while in Ukraine (despite the high number of disciplinary proceedings) it compares with quite low figures of other Eastern European countries (Table 13.1.).

Table 13.1. Number of sanctions pronounced against enforcement agents in 2010

States/entities	Total number	Reprimand	Suspension	Dismissal	Fine	Other
Armenia	22	15		6		1
Azerbaijan	10	2	3	5		
Georgia	21	20			1	
Latvia	10	8	0	0	2	0
Lithuania	4	3	1	0		0
Russian Federation	8458	8026	5	65		362
Ukraine	1473	979		7		487

Only a small number of States have particular systems of execution of judgments, in which respect the defendant is a public authority. It is interesting that most Eastern European countries (except for Russia) have no such systems. This fact can be explained by the totalitarian past of these countries, as during the Soviet era there was a predominant concept, according to which the executive had immunity with respect to decisions of the judiciary – the latter in this sense was subordinate to the former.

The monitoring system for the execution of judgments exists in most European countries (including Eastern Europe). It exists in all Eastern European States, except for Armenia and Estonia. Such systems, in particular, monitor the time needed to execute judgments and the level of efficiency of judicial systems in a comparative manner. For example, the time needed to execute judgments from the date of notifying the defendant debtor of the need to return the debt is very short in the Baltic and the Caucasian States (1 to 5 days). Due to the lack of data on Ukraine and Russia, we can conclude that the judgment execution systems in the Eastern European States are still quite effective in comparison with other European countries.

Expenditures for the execution of court decisions, or rather the plaintiff's ability to determine their exact cost, are also an important indicator of the quality and effectiveness of the systems of execution of judgments. In almost all Member States of the Council of Europe, the cost of proceedings for the execution of judgments is regulated by law, and their exact amount, as a consequence, is pre-definable for the plaintiff.

The execution of judgments in criminal law, *i.e.* the execution of sentences, has a number of specific features. Indeed, the execution of judgments in criminal proceedings in almost all countries is carried out by public and legal structures. However, their number, nature and purpose vary greatly from one State to

another, and there is no uniform approach to this issue, even in the Eastern European States. Thus, in a number of Eastern European States, the execution of sentences falls within the joint jurisdiction of judges and prison and probation services (Azerbaijan and Estonia). In most Eastern European countries (Armenia, Georgia, Russia, Ukraine, and Latvia), the enforcement proceedings involve prison and probation services (sometimes in cooperation with other authorities). In Lithuania, in addition to prison and probation services, sentences are also executed by prosecutors.

Some European countries conducted a study on the execution of judgments related to the imposition of fines. It is commendable that the small number of countries in the Council of Europe that conducted such studies includes Eastern European countries as well (Azerbaijan, Estonia and Russia).

The general trends in the Member States, including the Eastern European States, on this issue are: the overall growth in the number of bailiffs, the introduction of compulsory training and exams for bailiffs, and the development of quality standards and professional ethics.

Chapter 14.

The notarial system

The various functions of a notary can guarantee stability in legal relations and, therefore, reduce the number of trials. As a consequence, notaries are directly related to the efficiency of judicial systems, and the quality of justice.

Today, notaries exist in all Member States of the Council of Europe. In most of them, notaries are private operators that have no direct hierarchical subordination to public authorities. Nevertheless, the control and legal regulation of notarial activities are carried out by public authorities in a more or less intense manner. Only in some Eastern European countries, their subordination to public authorities is so great that they can be defined as public entities under the direct control of public authorities. These countries include Ukraine and Azerbaijan.

The number of notaries in a country depends primarily on the size of its population. Other factors may also affect their number (*e.g*. competence, powers of notaries), but they are of secondary importance. This statement is confirmed by statistical data, according to which the biggest number of notaries in the Eastern European countries can be found in Russia and Ukraine (*i.e*. countries with the largest populations).

A steady growth in the number of notaries in the Eastern European countries can be considered as a positive trend. Indeed, while Europe shows no uniform trends, the number of notaries in the Eastern European countries – as well as representatives of other legal professions – increases more and more. For example, for the period between 2010 and 2012, the Caucasian States can be defined as the leaders in the growth of the number of notaries, which of course is explained by the intensive reforms of their judicial systems. In Azerbaijan, this trend also strengthens by the transition of notaries from public to private status. In turn, in the Baltic States, as well as in Russia and Ukraine, their number is quite stable. In these States, we can observe either a moderate growth (Russia, Ukraine, Lithuania, and Latvia) that corresponds to the Europe-wide trend of the growth in the number of notaries (2.3%), or a slight decrease in the number of notaries (Estonia).

It is quite difficult to carry out a comparative analysis of the number of notaries per capita due to differences in the status of notaries, as well as due to differences in their jurisdiction from one State to another. However, note that despite the discrepancies between the States in the number of notaries per capita (per 100,000 inhabitants), the majority of Eastern European countries still comply with the European average (7.5 notaries per 100,000 inhabitants). For example, in Lithuania (8.9), Estonia (7.4) and Latvia (6.1), these figures are close to the European average. In the Caucasian States, they are lower, but the significant increase in the number of notaries suggests that this gap will soon be narrowed. In Ukraine, their number is as much as two times greater than the European average while in Russia the number of notaries is slightly below the average.

As we have already noted, one of the main factors affecting the number of notaries is the scope of their functions, as, logically, the more functions they perform, the greater their number per capita. The number of notarial functions varies greatly from one State to another. In this regard, note that in the Caucasian States, notaries, in addition to their conventional functions related to the authentication of deeds, provide services of legal advice, perform individual actions in civil proceedings, and other activities. As a consequence, an increase in their number is even more necessary. Their number should be brought at least to the level of the Baltic States, where notaries also have fairly broad functions. On the contrary, the number of notaries in Ukraine seems excessive, which does not correspond to their rather limited set of functions.

In most European countries, control over the notarial activities is carried out by the Ministry of Justice. Another quite popular solution is to create a professional organization of notaries that partly takes over the functions of control and (self-) regulation of notarial activities. In Eastern European countries, the issue of control over notarial activities is different in each case. Here, we see countries where the choice is made in favour of the State control by the Ministry of Justice (Armenia, Azerbaijan, and Ukraine). In other Eastern European countries, the control by the Ministry of Justice is combined with the control exercised by a professional organization (Georgia, Estonia, and Latvia). In Russia and partly in Lithuania, the control by the judiciary is added to these forms of supervision over notaries.

Chapter 15.

Court experts

The concept of an expert in judicial systems is very diverse, and in different States it has a completely different meaning. However, their impact on the trial and the resolution of a court case is so significant that the law of the Council of Europe – and especially the ECtHR case law – require a single concept of a court expert. So, the following types of experts in the judicial system of the Member States are defined: technical experts with a certain type of scientific knowledge; expert witnesses, who provide information to the court to support one party or another; and, finally, legal experts, who help judges make a decision.

Not all European countries have all three kinds of experts. However, all of them (including Eastern Europe) have the first type – a technical expert. The second type of experts (expert witnesses) also exists in most European States and among all Eastern European countries it is absent only in Ukraine. Finally, the third type of experts (legal experts) exists in several European countries but among the Eastern European States it can be found only in Russia and Estonia.

The procedure for appointing an expert is also not uniform in the European States. More often, one becomes an expert for the needs of a particular case and therefore, in a particular case, an expert is chosen by the judge, or parties to a trial or, less frequently, by representatives of the Ministry of Justice. Only in exceptional cases, some countries choose full-time experts, *i.e*. persons appointed as experts for a long time, and involved as such in various trials. Among the Eastern European States, this choice is made only by Armenia. Finally, with regards to the appointment of experts, it is worth noting that among the Eastern European States only in Azerbaijan, Ukraine and Georgia experts are appointed not by court (usually by representatives of the Ministry of Justice and other authorities), while in most European countries, on the contrary, judges are responsible for the appointment of an expert. For example, in Russia, experts are chosen partly by special bodies responsible for forensic examination.

The number of accredited (technical) experts per capita varies greatly from one State to another. While the European average is approximately 50 experts per 100,000 citizens, the minimum and maximum values vary from 1 (in Russia) to 250 (in Turkey) experts per 100,000 citizens. When there are no data for individual Eastern European States (in particular, the Caucasian States), most of them are still characterized by a low number of experts per capita.

The number of (technical) experts per judge is more revealing, since differences between States in these figures are less significant. For example, while the European average for the number of experts is 1.5 experts per judge, in most States, these figures range from 0.5 to 5 experts per judge. However, even here, the Eastern European countries show lower figures (0.1 to 0.7).

Most European countries resort to legal regulation of experts, and in particular, procedural rules for the activities of experts. Among the Eastern European States, the only exception is Latvia, although this country also has some standards for the activities of experts. Most often, such legal regulation is set by laws in the Criminal Procedure Code. In particular, legal regulation of the expert activities suggests the regulation of the time for forensic expert assessment, as well as rules for the preparation of a report by an expert, and submission of this report to the court. However, some States do not use so precise regulation of the expert activities (for example, neither Russia nor Ukraine has statutory deadlines for the forensic expert assessment, and in these countries they are set by the courts).

Chapter 16.

Court interpreters

According to Article 5 of the ECHR, all proceedings against trial participants shall be carried out in a language which they understand. Despite the fact that this provision refers rather to criminal proceedings, the right of trial participants for free translation into the language they understand is guaranteed by Article 6 of the ECHR. However, these rules that are uniform for all Member States of the Council of Europe contain no common standards and regulations regarding the work of court interpreters.

It is obvious that all States use court interpreters, but in some countries (*e.g*. Russia), court interpreters have no formal status. They are particularly necessary today, because, due to the massive migration of population caused by globalization and availability of transport, numerous national minorities emerged in various States. Another fact that is common to the Eastern European States is that they were once united in a single sovereign State and had massive and illegitimate displacements (deportations) of people that resulted in the formation of quite numerous national communities.

In most Member States of the Council of Europe, the activities of court interpreters are regulated by law. This is also true for all Eastern European countries (the only exception is Estonia). Moreover, in the Caucasian countries, as well as in Lithuania, they have an official status.

Not all European countries regulate the quality of court interpreters within a legal framework. Among the Eastern European States, such regulation exists in Georgia, Latvia, Lithuania, and Russia. Moreover, in some countries (Russia), they are required to pass an exam to prove their proficiency in the language from which / to which they translate. In other States, the activities of a court interpreter require a corresponding diploma (Azerbaijan). Moreover, in Russia, these activities require definite experience of working as an interpreter.

In the Member States of the Council of Europe, court interpreters are mostly chosen by the courts. Except for Ukraine, all Eastern European States entrust judges with the appointment of court interpreters. In Ukraine and in a small number of other Eastern European countries and countries of Central Europe, court interpreters are most frequently chosen by the Ministry of Justice.

Their purpose also varies, depending on whether they are assigned to make translation in any particular case (*ad hoc*), or they are full-time court interpreters. The approach of various European States to this issue is different, although most of them appoint court interpreters for interpretation within any particular case. Moreover, in Armenia, Estonia and Georgia, they are chosen from a list of court interpreters that is also created by the courts themselves. In Latvia and Lithuania, there is a list of full-time court interpreters that is also determined by the courts, rather than the Ministry of Justice.

Conclusions

Statistics on the efficiency and quality of judicial systems in the Member States of the Council of Europe are varied. Moreover, differences in the structure and principles of judicial systems do not allow for a full comparative analysis, and conclusions in absolute terms. A similar statement can be made when analyzing judicial systems of the Eastern European countries (Armenia, Azerbaijan, Georgia, Lithuania, Latvia, Estonia, Russia and Ukraine), and this is despite the fact that until recently these States had a single judicial system, as well as public order within the USSR. Indeed, just recently, these countries had single judicial institutions with similar functions, structure and characteristics: public prosecution with both investigative and judicial functions; weakness of civil proceedings due to the dominance of the State in economic life, and undeveloped horizontal economic relations; and *de facto* a centralized judicial system, despite the federal structure of the Soviet Union. Today, the statistics discussed in this paper demonstrate that these States no longer show any unity in the organization of the judiciary, and this is despite common standards and principles of legal order that existed in the past.

The main difference between the Eastern European States lies between the Baltic States and all the other ones. Indeed, the Baltic States have more advanced judicial institutions than other Eastern European countries, and various efficiency and quality indicators applied to their judicial systems rather correspond to their nearest Western European neighbours than the Eastern European States. Such differences are understandable. The Baltic States are members of the European Union, and therefore must comply with supranational regulations (including that related to the judicial systems of the Member States) of this integration association, and not only of the Council of Europe. Nevertheless, the Law of the Council of Europe has higher standards of quality and efficiency of judicial systems. As a consequence, the above analysis has shown that the study of the judicial systems of the Eastern European countries in the future should be limited to the Caucasian States, Russia and Ukraine. If possible, the analysis of judicial systems in these countries should also be supplemented with figures and statistics related to the judicial system of Moldova, since, in our opinion, they are relatively comparable with the data on the above States.

However, even among these States, there is no unity in the quality and efficiency of their judicial systems. Indeed, a comparison of judicial systems of the Eastern European countries using overall effectiveness and quality indicators revealed that the least satisfactory results were found in the Caucasian States. However, this does not mean that these countries show the worst quality and efficiency coefficients of all Member States of the Council of Europe. Moreover, this conclusion triggered serious and intensive reforms of judicial systems in these States, which is, in particular, demonstrated by the most intensive increase in the quality and efficiency of the judiciary in these countries.

However, even though there was the collapse of the USSR's judicial system in the Eastern European States, one must not think that their proper systems became so different that they now have nothing in common.

Thus, the very fact that they are all Member States of the Council of Europe shows that the organization and operation of judicial systems in these countries are also subject to general standards and principles set at the supranational level. In other words, while the fall of the Soviet Union led to the differently-directed development of judicial systems in these countries, today there is also a trend towards the harmonization of independent judicial systems under the influence of supranational international law.

There are many examples showing the harmonization of judicial systems in the Eastern European States under the Law of the Council of Europe and, above all, under the ECtHR case law.

For example, in accordance with the European justice standards, today all Eastern European countries have created legal aid systems aimed at the improvement of citizens' access to justice. Not all East European countries have legal aid systems that meet the European standards, but the progress and ongoing reforms reflect the desire of these countries to bring their legal aid systems into accordance with their Western European counterparts.

An overall increase in the number of courts in the Eastern European countries (except for Georgia) differentiates these States from Western Europe, but this fact should still be seen as a positive trend. Indeed, in Western Europe, we see a decline in the number of courts, due to the development of modern communication technologies that provide quick access to justice, and eliminate the need for a large number

of courts. Conversely, the delay of the Eastern European States in this regard, as well as the growth in the number of legal disputes in these countries require the increase in the number of courts that will allow them to catch up with their Western European counterparts.

The aspects in the development of judicial systems in the Eastern European countries, such as: the improved provision of information to citizens via the Internet; the increase in the number of practising lawyers; and the regulation of the lawyers' activities are consistent with the main trends found in the Western European States. Similarly, the Eastern European countries have recently begun to develop alternative means of dispute resolution.

Another trend common to the Eastern and Western European countries is the increase in public spending on the functioning of judicial systems. Of course, the financial, and then economic crisis affected somehow the positive trend – thus, some States still show a decrease in the budget expenditures allocated to judicial systems (*e.g*. the Baltic States) – but most of the Eastern European countries (Azerbaijan, Russia, and Ukraine) continue to increase the expenses for their judicial systems. A similar trend can be observed in relation to salaries of the court personnel that, by the way, grow even faster in the Eastern European countries than in Western Europe. However, we should not expect permanence of this trend, as the depreciation of the Russian and Ukrainian currencies, as well as the expected recession, are likely to lead to the saving of public expenditures in these countries, which will affect, in particular, the expenses related to their judicial systems. Finally, note that budget expenditures per capita in the Eastern European countries are quite low as compared to Western Europe. Nevertheless, this fact is rather due to the different level of economic development in these countries than to some cultural, historical or social reasons.

The main differences in judicial systems between the Eastern European and Western European States relate to public prosecution. Nevertheless, despite such differences (for example, the number of prosecutors in the Eastern European countries remains higher than in Western Europe), the trend here also demonstrates that Eastern European States get closer to their Western European counterparts. Moreover, these differences are not significant, if we take into account the fact that even Western European countries have no single model for the organization of public prosecution.

Another trend common to the Eastern and Western European States is the creation of monitoring systems to control the quality and efficiency of the judiciary. Indeed, today, most States analyze the level of the citizens' satisfaction with the judicial services, estimate the quality of judicial systems, and make annual reports on this topic, assess the judicial activities on a regular basis, and create systems to pay for damages to persons affected by the poor quality of services provided by judicial systems, *etc*.

The number of received and actually resolved cases, as one of the main criteria of the efficiency of judicial systems, also indicates a relatively high level of efficiency of the judicial systems of the Eastern European States. Thus, in most Eastern European countries (Azerbaijan, Georgia, Lithuania, Estonia, Russia and Ukraine), as well as in most European countries as a whole, the efficiency of judicial systems with regards to this indicator is satisfactory. A similar analysis can be made in relation to the time for consideration of cases: at least in Azerbaijan, Georgia, Lithuania and Ukraine, these figures are more than satisfactory. And such positive efficiency indicators about the Eastern European judicial systems can be found both in civil, administrative, and criminal proceedings.

Note that in Eastern Europe, the aspects related to the judiciary, such as the appointment of judges, their professional training, the quality requirements for their work, and ethical principles, become more and more similar to the Western European standards and principles. This, in particular, became possible due to the increase in the budget financing of these judicial aspects by the Eastern European States.

Thus, initially, judicial systems of the Eastern European States had common characteristics, but differed significantly from the Western European judicial systems, as they were organized in accordance with socialistic principles. Today, after passing a certain stage of the development of autonomy, the Eastern European States are characterized by the harmonization of their judicial systems, which, in this time, is carried out under the universal principles of human rights and democratic organization of State power, established at the level of the Law of the Council of Europe.

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