

EVALUATION OF THE COUNCIL OF EUROPE'S INDEPENDENCE AND EFFICIENCY OF JUSTICE SUB-PROGRAMME



Final report
20 March 2023

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Evaluation of the Council of Europe's Independence and Efficiency of Justice sub-programme

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List of abbreviations

AI	Artificial intelligence
CCJE	Consultative Council of European Judges
CCPE	Consultative Council of European Prosecutors
CDCJ	European Committee on Legal Co-operation
CDPC	European Committee on Crime Problems
CEPEJ	European Commission for the Efficiency of Justice
CEPEJ SATURN	CEPEJ Steering Group of the Saturn Centre for judicial time management
CEPEJ-GT-CYBERJUST	CEPEJ Working Group on Cyberjustice and Artificial Intelligence
CEPEJ-GT-EVAL	CEPEJ Working Group on evaluation of judicial systems
CEPEJ-GT-MED	CEPEJ Working Group on Mediation
CEPEJ-GT-QUAL	CEPEJ Working Group on quality of justice
CM	Council of Europe Committee of Ministers
CPD	Co-operation Programmes Division
CSO	Civil society organisations
DGI	Directorate of Human Rights and Rule of Law
DIO	Directorate of Internal Oversight
DPC	Directorate of Programme Co-ordination
EaP	Eastern Partnership
the Convention	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)
ECJ	Court of Justice of the European Union
EU	European Union
EU/JP	European Union contributions to Joint Programmes
FGI	Focus group interview
GRECO	The Group of States against Corruption
HELP	Human Rights Education for Legal Professionals Programme
IDI	In-depth individual interview
INGO	International non-governmental organisations
KSP	Key Strategic Priorities
OECD	Organisation for Economic Co-operation and Development
PACE	Parliamentary Assembly of the Council of Europe
PGGII	Support to Further Strengthening the Efficiency and Quality of the Judicial System in the Republic of Moldova
P&B	Programme and Budget
OCHCR	The Office of the High Commissioner for Human Rights of the United Nations
QCE	Quality Control Expert
SWOT	Strengths, weaknesses, opportunities and threats
ToC	Theory of change
ToR	Terms of reference
UN	United Nations
VC	Voluntary Contributions
WG	Working Group

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Executive summary

PURPOSE, OBJECTIVES AND SCOPE

The overall purpose of the evaluation was to assess whether the work under the Independence and Efficiency of Justice sub-programme has contributed to more robust, independent, transparent and accessible judicial institutions and procedures based on the rule of law. Its objectives included determining the extent to which the sub-programme has been relevant, effective and efficient and establishing its impact on the observance of Article 6 of the European Convention on Human Rights (the Convention) in the Council of Europe member states, including on citizens' enjoyment of their right to a fair trial as enshrined in this article. The evaluation reviewed the overall functioning of the three bodies under the sub-programme, namely the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE). It also examined a number of co-operation projects carried out under the sub-programme by CEPEJ and the Co-operation Programmes Division (CPD). The evaluation focused on the period between 2018-2022; however, the impact of the sub-programme was analysed since their establishment.

METHODOLOGY

The evaluation applied a mixed-methods approach to data collection and analysis. In addition to qualitative desk research, three surveys were carried out with different stakeholder groups, including members of the evaluated bodies, sub-programme and other Council of Europe staff, as well as other, such as national authorities or civil society organisations (CSOs). As many as 711 requests were sent and 329 completed surveys received. There were 261 valid survey responses (225 in English and 36 in French). Overall, 84 in-depth semi-structured interviews were conducted with a total of 105 people. Data collection was carried out online and in the field. Beside data collection at the international level, the evaluation team conducted two remote country missions (focused on Spain and Türkiye) and two field missions (in Serbia and Georgia). Four case studies were developed based on the collected material on: (i) the independence, impartiality and competence of justice professionals; (ii) judicial time management; (iii) cyberjustice (with a focus on digitalisation); and (iv) co-operation programmes.

EVALUATION FINDINGS

The sub-programme's objectives correspond to those of the Council of Europe, as set forth in the main documents. They are also clearly aligned with the overarching Rule of Law-Based Institutions programme and the Rule of Law pillar objective. The interventions implemented by CEPEJ, CCJE and CCPE align with the main objectives of the sub-programme, and are highly relevant to the achievement of those objectives. The sub-programme contributes by setting standards for Council of Europe member states' judicial systems, observing their progress based on high-quality data collection, implementing co-operation projects, facilitating co-ordination between member states in the form of experience sharing, and offering targeted expert assistance.

Stakeholders agree that the objectives of the sub-programme are relevant to the needs of member states and are well defined to respond to the identified challenges, such as the backsliding in the independence and impartiality of judges and prosecutors in some jurisdictions, excessive length of proceedings or digitalisation. The produced standards, best practices, guidelines and tools for practical functioning of judiciaries are very relevant, highly appreciated and subject to considerable demand. The expertise and organisation of work – creating a collaborative forum for justice professionals from different justice systems, encompassing intergovernmental activities and expert networks, as well as co-operation programmes – was perceived by stakeholders as unique and was valued highly both in terms of relevance and effectiveness.

Overall, the sub-programme has been successful in delivering its outputs, as well as achieving immediate and intermediate outcomes, as outlined in the Programme and Budget documents for the period 2018-2022. The vast majority of stakeholders expressed positive assessments as to effectiveness. The Covid-19 pandemic affected the functioning of sub-programme bodies, yet it did not significantly decrease their effectiveness in delivering outputs. The input from interviews suggests that the work of CEPEJ, the CCJE and CCPE contributes to greater alignment of standards across Council of Europe member states. The sub-programme's unique expertise and data-driven approach to analysis and reform of justice systems have been identified as positively influencing

effectiveness. The evaluation also shows that the work done by the sub-programme is viewed by stakeholders as an integral part of efforts to establish and strengthen the rule of law. While interviewees generally spoke highly of the quality and effectiveness of interventions and outputs developed in the sub-programme, several factors have been identified as impeding effectiveness. These include limited capacity on the part of the sub-programme bodies to follow up on or monitor how the recommendations are implemented, limited resources for the translation of sub-programme outputs and the need for increasing visibility and dissemination, as well as challenges in communication and co-ordination.

Cases where the sub-programme's effectiveness has been most limited were predominantly linked to external factors, especially the lack of political will at member state level. Interviews confirmed that the lack of political will to implement reforms, either among representatives of state authorities or justice professionals, in some contexts is the most prominent barrier to the sub-programme's effectiveness and impact at member state level. In relation to some countries, there is a perception among interviewees that the Council of Europe, as well as other donors and international actors, have limited avenues for action.

The evaluation shows that the sub-programme created opportunities for member states to strengthen capacity and improve functioning of their justice systems, with examples of countries where reforms have been implemented and positive changes in legislation have been introduced. However, at the same time, interviews and desk research show a worrying trend of democratic backsliding, with independence of judiciaries being challenged in multiple countries across Europe. This makes a case for the sub-programme to be strengthened.

The evaluation has also provided ample evidence of exchanges/linkages between sub-programme bodies and other Council of Europe actors, without allowing for a clear assessment as to how these translate into better effects. Sub-programme outputs have been quoted or referenced across various publications of different Council of Europe bodies. A particular similarity in the substantive remits of CCJE and the Venice Commission has also been identified. The interviewees advocated more co-operation and the need to ensure that the Council of Europe "speaks with one voice" at all times.

The sub-programme's activities were found to be cost-efficient overall, although some overbudgeting was identified in co-operation programmes. The evaluation also revealed that the CCJE and CCPE face strong budgetary and human resource limitations. While they meet their objectives and deliver outputs, this is thanks to the dedication and professionalism of staff and despite budget constraints. The budget also limits the possible range of interventions. Sub-programme outputs are generally delivered on time, although exceptions were noted, mainly due to external factors such as the Covid-19 pandemic or the lack of engagement from member states. The sub-programme management practices were generally assessed positively, although problems with availability of human resources and staff rotation were highlighted.

Information flow and co-operation within the sub-programme and between the sub-programme and other Council of Europe bodies could be improved. There is a need to introduce a governance mechanisms for the sub-programme and a rule of law co-ordination mechanisms at a higher organisational level. The set-up for co-operation programmes should remain as it is now, until it matures enough to be evaluated. CEPEJ should focus on programmes based on its own tools, but the CPD should be able to include them in its programmes, if they were to form a smaller part of a bigger intervention.

As regards impact, the stakeholders generally see the sub-programme affecting the implementation of Article 6 of the Convention positively. This influence is exerted via several channels. The CCJE and CCPE standards guide the interpretation of Article 6 of the Convention, featuring in the European Court of Human Rights (the Court) case law as well as informing legislative reforms in member states. CEPEJ, by providing data and "diagnosis" of judicial systems, helps the member states to identify problems in their justice systems and address them, and creates incentives to change. The co-operation programmes bring the sub-programme standards to the member states and create foundations for change in the longer term. At the same time, the assessment of impact poses challenges, due to a very broad definition of the sub-programme's impact and lack of monitoring across the sub-programme.

CONCLUSIONS AND RECOMMENDATIONS

Overall, the evaluation shows that the sub-programme work is highly relevant and generally effective. There is, however, space for improvement, and potential for increased effectiveness and impact. The CCJE and CCPE require more resources to be able to more effectively respond to present needs and challenges in the independence of justice area. The sub-programme would benefit from improved knowledge management

and systematic monitoring of outcomes and impacts. Stronger internal co-operation within the Council of Europe should help to increase sub-programme effectiveness by facilitating enforcement of the developed standards and tools. A continuation and development of the sub-programme's activities should be supported by the Council of Europe strategically, politically and financially. In the view of the evaluation findings and conclusions, the evaluation team proposes the following recommendations.

Recommendations	Priority ¹
1. Overarching recommendations at the directorate level	
<p>a. The Human Rights Directorate should establish a sub-programme co-ordination mechanism (e.g. a task force) involving representatives of the secretariats of the sub-programme bodies, the Department of Human Rights, Justice and Legal Co-operation standard-setting activities and the Department of Implementation of Human Rights and Justice and Legal Co-operation Standards (including the CPD) to ensure a unified governance structure for the sub-programme and the flow of information. The Directorate of Programme and Budget and the Directorate of Programme Co-ordination could also take part in meetings of this mechanism.</p>	H
<p>b. The Director General for Human Rights and Rule of Law should consider designating a focal point for the rule of law at the level of the Directorate General to facilitate communication and co-ordination and to ensure consistency of messaging, mutual synergies and support between the sub-programme and other relevant Council of Europe bodies working in that thematic area, in particular the Venice Commission and GRECO.</p>	M
<p>c. The Human Rights Directorate should develop a shared working and knowledge management space to include information about available standards and tools per thematic area to facilitate consistent use of sub-programme outputs by other Council of Europe bodies and, as much as possible, actors outside the Council of Europe.</p>	H
<p>d. The secretariats of the CCJE, CCPE, CEPEJ and the CPD should establish a consultation process with the Venice Commission secretariat (and other competent bodies, if appropriate) to consult each other consistently and systematically as a matter of good practice on each thematically relevant draft text that is being prepared, allowing time for comments whenever possible and ensuring consistency between their outputs.</p>	H
2. Recommendations at sub-programme level	
<p>a. The sub-programme reference points, especially the secretariats of sub-programme bodies and representatives of the Co-operation Programmes Division, with the support of the Directorate of Programme and Budget and the Directorate of Programme Co-ordination, should consider reformulating the sub-programme's Theory of Change to define the sub-programme impact in more concrete and measurable terms and reframe the intermediate outcomes so as to better reflect the mandates of the sub-programme's bodies, i.e. a focus on independence and impartiality, on the one hand, and efficiency, on the other.</p>	M
<p>b. More tailored monitoring should be implemented across the sub-programme at the levels of outputs, outcomes and impact. Outcome and impact indicators should be developed for the sub-programme and reported on by all involved parties.</p>	H
<p>c. The CCJE, CCPE, CEPEJ and co-operation programmes should consistently and systematically translate sub-programme opinions and tools into national languages to improve dissemination. The Directorate of Programme and Budget in co-operation with the secretariats of the sub-programme bodies should ensure that some translation budgets are foreseen, while the Directorate of Programme Co-ordination and the Co-operation Programmes Division should consistently earmark translation funds in project budgets.</p>	M
3. Recommendations concerning CCJE and CCPE	
<p>a. The Secretary General should consider proposing to the Committee of Ministers an increase in the CCJE and CCPE budgets to enable more targeted activities, including at member state levels, and increase the number of staff.</p>	H

1. H: high; M: medium.

b.	If proposed by the CCJE and CCPE Secretariat, the Committee of Ministers should approve an increase in the number of CCJE and CCPE plenary meetings to two per year. The increase in the number of meetings should be accompanied by proportionate budget increases.	M
c.	The CCJE and CCPE should intensify their activities to include more in-person events for international and national networks of legal professionals (conditional on point a.).	M
4. Recommendations concerning the CEPEJ Secretariat		
a.	CEPEJ's work should be delineated and focused primarily on the efficiency and quality of justice. Whenever independence and competence of judges and prosecutors is concerned by CEPEJ's work, CEPEJ should co-operate closely with the CCJE or CCPE.	H
b.	CEPEJ should increase engagement and use of its pilot courts network. A more effective incentive scheme for participation could be developed. The verification process conducted every year could be an opportunity to agree specific and select commitments that individual members of the pilot court network could take on board. These could include minimum and voluntary commitments.	M
c.	CEPEJ should consider carrying out a broader assessment of the demand for its services across member states to further develop its co-operation programmes in countries where it currently does not operate. Expanding CEPEJ's co-operation programmes should be accompanied by the allocation of adequate resources.	M
5. Recommendations concerning the Co-operation Programmes Division		
a.	The Co-operation Programmes Division should implement a fitting organisational structure that would reflect both the thematic and geographic dimensions of its work and enable systematic and consistent mainstreaming of sub-programme standards in co-operation programmes. The CPD is thus encouraged to pursue its plans to appoint thematic focal points responsible for certain thematic areas across current geographic units.	H
b.	The Department for Implementation of Human Rights, Justice and Legal Co-operation Standards should introduce a process to ensure that the overlap between co-operation programmes run by CEPEJ and the Co-operation Programmes Division is limited. CEPEJ should be solely responsible for the practical implementation of its tools and guidelines when efficiency and quality of justice and these tools and guidelines are the main focus of the project. If CEPEJ's tools are to be used as part of other projects (which should in principle be done only if there is no CEPEJ programme in the country), the CPD should involve CEPEJ in the design and implementation of programmes in that respect from the start, to ensure synergies and to build on the CEPEJ Secretariat's expertise for the implementation of that specific part.	M
c.	In the absence of the political will of national authorities, the CPD together with all sub-programme bodies should continue implementing strategies for a strengthened engagement with CSOs and justice professionals at national levels to ensure continuous presence and results, looking for new partnerships and innovative forms of engagement.	M

1. Introduction

1.1. PURPOSE AND SCOPE OF THE EVALUATION

The evaluation was commissioned by the Directorate of Internal Oversight of the Council of Europe to Ecorys Polska Sp. z o.o., based in Warsaw, Poland. Ecorys was tasked with evaluating the Council of Europe's "Independence and Efficiency of Justice" sub-programme.

This evaluation examines how the work of the sub-programme promotes the rule of law and the right to a fair trial, as expressed by Article 6 of the European Convention on Human Rights (the Convention). The overall purpose of the evaluation is to "assess whether the work under the [Independence and Efficiency of Justice] sub-programme has contributed to more robust, independent, transparent and accessible judicial institutions and procedures based on the rule of law".²

The evaluation therefore reviews the overall functioning of the three bodies under the sub-programme, namely the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE). It also examines the co-operation activities carried out under the sub-programme.³

The specific objectives of this evaluation include:

- ▶ determining the extent to which the sub-programme was relevant, effective and efficient, "bearing in mind the stated objectives in the Council of Europe Programme and Budget, as well as the theory of change reconstructing the objectives and functioning of the sub-programme",⁴
- ▶ establishing what impact the three evaluated bodies have had in terms of contributing to the observance of Article 6 of the Convention in the Council of Europe member states and to citizens' enjoyment of their right to a fair trial as enshrined in this article.

The specific evaluation questions have been outlined in the evaluation matrix (Appendix 5.4).

Geographically, the evaluation encompasses 46 Council of Europe member states and the work of the Council of Europe in neighbouring countries.⁵

In terms of its temporal scope, the evaluation encompasses the relevance, effectiveness, efficiency and expected results of the justice sub-programme for the period from 2018 to 2022. The impact criterion is assessed from a wider temporal perspective, that is since the establishment of CEPEJ, the CCJE and CCPE. Concerning co-operation programmes, the evaluation focuses on projects initiated in 2018 or later. Since much of that period has been affected by the Covid-19 pandemic, the influence of this health crisis on the implementation is taken into account and explored.

The overall functioning of CEPEJ, the CCJE and CCPE and co-operation activities are reviewed against the backdrop of major administrative shifts that took place in 2020 and 2021. The first moved CEPEJ to a different department from the CCPE and CCJE, while the second led to the creation of a new unit, the Co-operation Programmes Division, in charge of co-operation projects. These shifts provide a rationale for examining the functioning of this sub-programme. The conclusions and recommendations drawn are intended to be used in the strategic thinking around how the sub-programme can operate under this new configuration and whether the current set-up is optimal.

The evaluation aims to contribute to the decision-making needs of relevant stakeholders, and support the Council of Europe's efforts in exploring and optimising the Independence and Efficiency of Justice's sub-programme's work. Therefore, its findings, conclusions and recommendations have been drafted with a view to maximising their utility.

2. Terms of Reference, p. 4.

3. Terms of Reference, p. 14.

4. Terms of Reference, p. 16.

5. For a large part of the evaluation period the Council of Europe had a 47th member state, Russia, which is not encompassed by this evaluation. The neighbouring countries include in particular Morocco and Tunisia, as well as other countries of the Southern Mediterranean and Central Asia. See more information [here](#).

1.2. DESCRIPTION OF THE EVALUATED INTERVENTION

1.2.1. Sub-programme's objectives

The Independence and Efficiency of Justice sub-programme forms part of the rule of law pillar and the broader Rule of Law-Based Institutions programme, whose overarching aim is to “develop a pan-European legal area in which robust institutions and procedures based on the rule of law exist at all levels”.⁶ Before 2020, however, the Independence and Efficiency of Justice programme (as opposed to a sub-programme) constituted a part of the Ensuring Justice sector of the rule of law pillar.⁷

The sub-programme aims to achieve the following impact: member states fulfil their obligations under Article 6 of the Convention and persons enjoy their right to a fair trial as enshrined in Article 6 of the Convention.⁸ Ensuring the right to a fair trial is crucial in the context of the Council of Europe's mission, and is an obligation of its member states in accordance with Article 3 of the Organisation's Statute.⁹ The right to a fair trial and access to justice are preconditions for the full enjoyment of the rights enshrined in the Convention, as only an independent and efficient judiciary may provide effective remedies where those rights are violated.¹⁰ The Independence and Efficiency of Justice sub-programme works towards that goal by assisting member states in ensuring that independent courts deliver quality decisions within a reasonable time following a fair consideration of the issues.¹¹

In line with the sub-programme's Theory of Change (ToC), achieving this final, broadly defined and overarching aim is preceded and preconditioned by the production of various outputs, as well as achievement of several immediate and intermediate outcomes (see Section 2.2.1, Sub-programme ToC). The achievement of these is reliant on the availability of resources; the sub-programme's budget is therefore presented and discussed in Section 2.3 relative to the sub-programme's efficiency.

1.2.2. Sub-programme's interventions

CEPEJ

The European Commission for the Efficiency of Justice was established in 2002 by the Committee of Ministers (CM) with the specific aims of:

- ▶ improving the efficiency and the functioning of the justice system of member states, with a view to ensuring that each person within their jurisdiction is able to enforce their legal rights effectively, thereby generating increased confidence of citizens in the justice system;
- ▶ enabling a better implementation of the international legal instruments of the Council of Europe concerning the efficiency and fairness of justice.¹²

CEPEJ is an advisory body. Its functions include, among others, analysis and evaluation of the functioning of judicial systems in member states, defining problems, advising and assisting member states in implementing changes, and identifying needs for new or amended international legal instruments to be developed by other Council of Europe bodies.¹³ The main areas of CEPEJ's responsibility include:

- ▶ developing tools for analysing the functioning of justice and ensuring that public policies of justice are geared towards greater efficiency and quality;
- ▶ obtaining in-depth knowledge of the time frames of proceedings for reaching the optimum and foreseeable length of judicial proceedings;
- ▶ promoting the quality of judicial systems and courts;

6. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 74, CM(2020)1 Council of Europe Programme and Budget 2020-21 p. 65.

7. CM(2018)1-rev 2 Council of Europe Programme and Budget 2018-19 p. 59.

8. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 74.

9. CEPEJ(2021)11 Final 2022 - 2023 Activity Programme of the CEPEJ, point 3 p. 3.

10. [About the European Commission for the efficiency of justice \(CEPEJ\) \(coe.int\)](#), accessed 30 June 2022.

11. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 74, CM(2020)1 Council of Europe Programme and Budget 2020-21 p. 65.

12. Article 1, Statute of the European Commission for the Efficiency of Justice (CEPEJ), Appendix 1 to the Resolution Res(2002)12 establishing the European Commission for the efficiency of justice (CEPEJ).

13. Article 2, Statute of the European Commission for the Efficiency of Justice (CEPEJ), Appendix 1 to the Resolution Res(2002)12 establishing the European Commission for the efficiency of justice (CEPEJ).

- ▶ developing targeted co-operation at the request of a member or partner state, and promoting among stakeholders in the member or partner states the implementation of the measures and the use of the tools designed by CEPEJ;
- ▶ analysing and developing relevant tools on emerging issues, such as the use of cyberjustice¹⁴ and artificial intelligence (AI), relative to the efficiency and quality of judicial systems;
- ▶ strengthening relations with users of the justice system, as well as national and international bodies.¹⁵

CEPEJ currently undertakes its work through four working groups (WGs): (1) CEPEJ-GT-EVAL – WG on evaluation of judicial systems; (2) CEPEJ SATURN – WG on judicial time management; (3) CEPEJ-GT-QUAL – WG on quality of justice; and (4) CEPEJ-GT-CYBERJUST – WG on cyberjustice and AI. A further WG on mediation (CEPEJ-GT-MED – WG) operated within CEPEJ in the years 2006 to 2007 and 2017 to 2019. After the end of its mandate in 2020, this thematic area is currently covered by CEPEJ-GT-QUAL.¹⁶

One of CEPEJ's main activities is the collection and analysis of quantitative and qualitative data on different aspects of the functioning of judicial systems in member states. The data are available in the dynamic database of European judicial systems, the CEPEJ-STAT.¹⁷ Based on those data and its other expertise, CEPEJ produces the following outputs:

- ▶ evaluation reports, providing evidence-based information and analysis of the functioning of European justice systems, prepared and published biannually by the CEPEJ-GT-EVAL. Since its establishment, CEPEJ has issued 10 biannual reports on the evaluation of judicial systems.¹⁸ Regional evaluation reports are also prepared in the framework of the EU Justice Scoreboard¹⁹ (for EU MS), the Dashboard for the Western Balkans²⁰ (six beneficiaries from the region) and the Justice Dashboard EaP (Eastern Partnership)²¹ (five beneficiaries of the EaP region);
- ▶ tools on the efficiency and quality of justice to support development and implementation of judicial reforms. To date, CEPEJ has prepared and published one charter, 17 guidelines and five guides on specific topics relating to the functioning of justice systems,²² two implementation toolkits²³ and three handbooks for assisting legal professionals and decision makers on selected aspects of judicial systems and data collection;²⁴
- ▶ studies and reports, thematic analytical publications focused on specific aspects of the functioning of judicial systems. To date, 28 such studies have been published.²⁵ Within its intergovernmental work, CEPEJ has also issued eight reports at the request of member states or other Council of Europe bodies²⁶ and eight expert reports.²⁷ Additional expert reports are produced within the co-operation projects;
- ▶ knowledge sharing, targeted expert assistance on legislation and practices and capacity building among member states and partner states in CEPEJ's areas of work, both through the intergovernmental work of CEPEJ, and the co-operation programmes implemented by the CEPEJ under the Independence and Efficiency of Justice sub-programme.

The contributions of CEPEJ feed into the recommendations of the CM regarding the functioning of justice systems.²⁸ Indirectly, CEPEJ's work, by supporting timely delivery of national court decisions in member states, is also aimed at reducing the number of applications to the Court based on Article 6 of the Convention, thereby decreasing the Court's overall workload.²⁹

14. Cyberjustice is broadly understood as grouping together all the situations in which the application of information and communication technologies, at least, forms part of a dispute resolution process, whether in or out of court. See, CEPEJ (2016) Guidelines on how to drive change towards cyberjustice. Stock-taking of tools deployed and summary of good practices, p. 6.

15. CEPEJ(2021)11Final 2022 - 2023 Activity Programme of the CEPEJ p.2., CEPEJ(2019)19Rev 2020 - 2021 Activity Programme of the CEPEJ p. 2., CEPEJ(2017)10 2018 - 2019 Activity Programme of the CEPEJ p. 1.

16. [Mediation \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

17. [Dynamic database of European judicial systems \(coe.int\)](https://www.coe.int), accessed 30 June 2022.

18. [Evaluation of judicial systems \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

19. [EU Justice Scoreboard \(europa.eu\)](https://european-council.europa.eu).

20. EU/Council of Europe Joint Programme "Horizontal Facility for the Western Balkans and Türkiye".

21. EU/Council of Europe Joint Programme "Partnership for Good Governance".

22. [Guidelines \(coe.int\)](https://www.coe.int), [Guides \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

23. [Toolkits \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

24. [Handbooks \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

25. [CEPEJ Studies \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

26. [Reports prepared at the request of one or several member States and Reports prepared at the request of another body of the Council of Europe \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

27. [Expert reports \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

28. See for example Recommendation [CM/Rec\(2010\)12](https://www.coe.int) of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, accessed 5 July 2022.

29. [ECHR Judgements \(coe.int\)](https://www.coe.int), accessed 5 July 2022.

CCJE

The Consultative Council of European Judges (CCJE) is an advisory body of the Council of Europe, created by the CM in 2000. It consists exclusively of serving judges and operates according to its terms of reference and in compliance with the resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods.³⁰ The CCJE contributes to the implementation of the Framework Global Action Plan for Judges in Europe³¹ as well as to the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality, and advises the CM on matters related to the independence, impartiality and competence of judges, as well as their status, career and effective exercise of the judicial profession. In this way, it contributes to the implementation of Article 6 of the Convention.³²

The main purpose of the CCJE is therefore to foster the independence, impartiality and competence of judges, and contribute to the preservation and further promotion of relevant European standards related to the rule of law, including in emergency situations.³³ This overall goal set out in previous CCJE terms of reference (2018-2021) has been expanded in the latest terms of reference for 2022-2025, which specifically mentions “elaboration of standards and guidance as regards the status and career of judges and effective exercise of the judicial profession” as the focus of the CCJE.³⁴ It fulfils this goal by realising different tasks, including advising the CM and developing opinions on judicial profession-related issues, supporting the development and promotion of standards in this regard, as well as targeted co-operation and exchange of knowledge on the matters, promotion and implementation of CCJE-developed standards and contributions to the CM’s recommendation work.³⁵ The CCJE co-operates with member state policy makers and judges to support the implementation of standards, and responds to state requests regarding judicial systems.³⁶

The main outputs of the CCJE work include the following:

- ▶ General opinions on matters concerning the judiciary. The opinions are prepared and issued for the use of the CM, and when applicable other Council of Europe bodies, as well as member states (through the CM). The CCJE adopted the Magna Carta of European Judges³⁷ in 2010 that summarises the fundamental principles contained in these opinions to that date.³⁸ Since its establishment, the CCJE has prepared and issued 24 opinions.³⁹
- ▶ Opinions or other texts concerning the specific situation of judges. These country-specific opinions are issued at the request of the Committee of Ministers or other bodies of the Council of Europe, such as the Secretary General or the Parliamentary Assembly, or at the request of member states, CCJE members and observers, judicial bodies or relevant associations of judges. They aim to provide targeted co-operation and expert advice to enable states to comply with the Council of Europe’s standards related to judges.
- ▶ Studies and situation reports on important topics and problems regarding the functioning of the judiciary. To date, more than five reports regarding the status of judges and judicial system concerns have been issued.⁴⁰

CCPE

The Consultative Council of European Prosecutors (CCPE) is an advisory body of the Council of Europe, created by the CM in 2005. It is composed of serving prosecutors from member states, and operates according to its terms of reference and in compliance with the resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods.⁴¹ The CCPE contributes

30. [CM/Res\(2021\)3 Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods](#), replacing the previous Resolution CM/Res(2011)24.

31. [CCJE \(2001\)24 Framework Global Action Plan for Judges in Europe](#).

32. [CCJE information leaflet](#).

33. Extract from CM(2019)131-addfinal CCJE Terms of Reference for 2020-2021, Extract from CM(2017)131-addfinal CCJE Terms of Reference for 2018-2019.

34. Extract from CM(2021)131-addfinal, CCJE Terms of Reference for 2022-2025.

35. *Idem*.

36. [The Statement of the CCJE President Ms Nina BETETTO, 2021](#), p. 5.

37. [CCJE \(2010\)3 Magna Carta of European Judges \(Fundamental Principles\)](#).

38. The compilation of Opinions issued by CCJE until 2020: [APPENDIX III \(coe.int\)](#).

39. [CCJE Opinions and Magna Carta \(coe.int\)](#), accessed 5 July 2022.

40. [Status and situation of judges \(coe.int\)](#), accessed 5 July 2022.

41. [CM/Res\(2021\)3 Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods](#), replacing the previous Resolution CM/Res(2011)24.

to the implementation of the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality and collects information on the functioning of prosecution services in member states. It advises the CM and member states on matters related to the prosecution service, in line with the Council of Europe's legal standards.

The main purpose of the CCPE is to foster the independence, impartiality and competence of prosecutors "through the elaboration of standards and guidance as regards the status and career of prosecutors and effective exercise of [the] prosecutorial profession".⁴² It fulfils this goal by carrying out different tasks, including advising the CM and developing opinions on prosecutorial profession-related issues, supporting the development and promotion of standards in this regard, as well as targeted co-operation and exchange of knowledge on these issues, promotion and implementation of CCPE-developed standards and contribution to the CM's recommendation work.⁴³

The main outputs of the CCPE work include:

- ▶ general opinions and guidance on matters concerning prosecution services. Since its establishment, the CCPE has adopted 16 opinions;⁴⁴
- ▶ opinions or other texts concerning the specific situation of prosecutors. These are prepared at the request of the CM or other bodies of the Council of Europe, such as the Secretary General or the Parliamentary Assembly, or at the request of member states, CCPE members and observers, prosecutorial bodies or relevant associations of prosecutors; they provide targeted co-operation and expert advice to enable states to comply with Council of Europe standards regarding prosecutors;
- ▶ studies and situation reports on important topics and problems regarding the functioning of prosecution services. To date, two reports on the independence and impartiality of the prosecution services in Council of Europe member states have been issued (in 2017 and 2019), as well as one report prepared jointly with the CCJE on the challenges for judicial independence and impartiality in the member states of the Council of Europe (2016).⁴⁵

Co-operation programmes

In addition to the three bodies described above, the sub-programme includes co-operation programmes, which essentially entail technical assistance projects in various member states or throughout various regions (for example, the Eastern Partnership and Southern Neighbourhood). Two entities implement the co-operation projects under the sub-programme: CEPEJ carries out projects focused on implementation of its tools, while the CPD implements different thematic projects, including on the independence and efficiency of justice. This administrative division for co-operation programmes implementation and its implications is considered in more detail in a dedicated co-operation case study (see Section 4 of Appendix 5.1).

1.3. EVALUATION METHODOLOGY

1.3.1. Overall approach to the evaluation

The evaluation was theory-driven building on various approaches, but applying the Theory of Change approach in particular. The evaluation looked at the "process of change"⁴⁶ as it unfolded in practice, placing a magnifying glass on the various identified "moments of change"⁴⁷ and pinpointing the factors that were at play, either facilitating or hindering achievement of change through the sub-programme. The evaluators also aimed to determine the project's contribution to the expected impact. Figure 1 presents an overall approach to evaluation implementation.

42. Extract from CM(2021)131-addfinal, CCPE Terms of Reference for 2022-2025.

43. *Idem*.

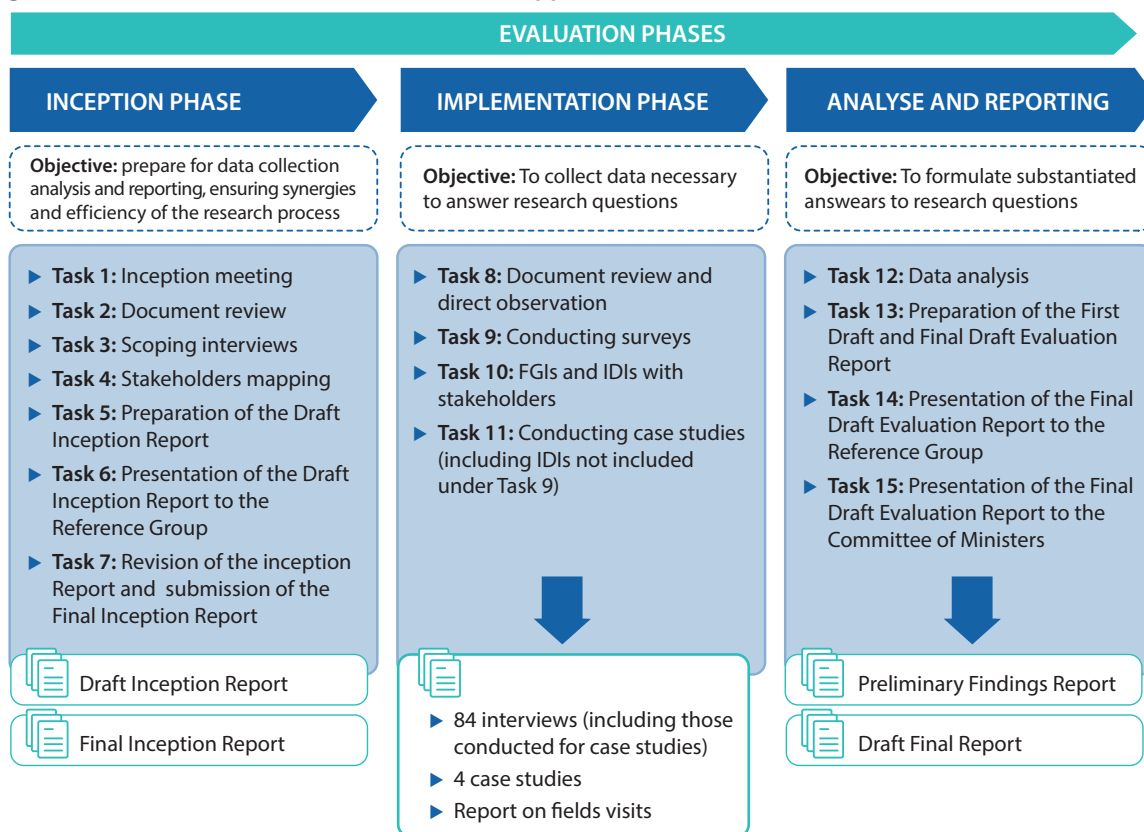
44. [Opinions adopted by the Consultative Council of European Prosecutors \(CCPE\) \(coe.int\)](https://coe.int), accessed 5 July 2022.

45. [Status and situation of prosecutors \(coe.int\)](https://coe.int), accessed 5 July 2022.

46. Stern, E., What is Theory Based Evaluation?, Evaluation Helpdesk Training, Brussels 17-18 April 2018. The presentation highlights different focuses in different schools of theory-based evaluation.

47. *Ibid.*

Figure 1 – Illustration of the overall evaluation approach



1.3.2. Methodology for data collection and analysis

A mixed-methods approach to data collection and analysis was applied. The qualitative methods included desk research and in-depth semi-structured interviews. The interviews were mostly individual (IDIs), but dyads and triads were also conducted in some cases. Initially, the methodology also foresaw focus group interviews. However, these were subsequently replaced with IDIs which provided more privacy and space for the in-depth exploration of individual perspectives. The qualitative methods were complemented by three surveys. Data analysis combined indicator analysis, qualitative thematic analysis and statistical analysis, where possible.

Following the acceptance of the inception report, three surveys (English and French versions) were programmed through an online tool SurveyMonkey. The surveys were addressed to and distributed among three groups of stakeholders:

- ▶ Group 1 – members of the CCJE, the CCPE and CEPEJ;
- ▶ Group 2 – sub-programme staff and other relevant Council of Europe staff;
- ▶ Group 3 – national authorities, permanent representations, civil society and/or international organisations.

The surveys focused on the perceptions and opinions of participants regarding the functioning and effects of the interventions within the sub-programme. To ensure maximum comparability of the results, the questionnaires for all the groups included analogous questions in the same format where applicable, as well as tailored questions to address group-specific issues. The survey questionnaires have been included in Appendices 5.2.4.-5.2.6.

Numerous rounds of validation were performed prior to the launch of the surveys to eliminate errors. The surveys were eventually launched between 25 and 31 August and closed on 20 September 2022. Two reminders followed to increase participation. Overall, 711 requests were sent, with 329 completed surveys received, representing a very satisfactory average response rate of 46.27% among the three survey groups. Overall, the number of non-empty responses⁴⁸ amounted to 261 (225 in English and 36 in French).

In parallel, the research team carried out desk research, which continued throughout the evaluation. This encompassed the following categories of documents: (i) sub-programme documents pertaining to the four

⁴⁸ Non-empty responses are responses where a complete response to at least one question was provided. The results are aggregated and analysed for each question separately.

areas of activity: CEPEJ, CCJE, CCPE and co-operation programmes; (ii) sub-programme outputs produced by CEPEJ, CCJE and CCPE, as well as selected co-operation programmes; (iii) previous evaluations; (iv) academic and other analysis, including various documents of and produced by the bodies of the Council of Europe, UN, EU, etc., to inform, in particular, the analysis of relevance.

From September onwards, the team initiated in-depth semi-structured interviews. In total, the views of 105 people were gathered in the period from September to December 2022 through 84 interviews, conducted both online and in person during the field missions to Serbia and Georgia. With the support of the Council of Europe, interviews with 28 respondents were organised in Serbia and 17 respondents in Georgia. Similarly, though online, more respondents were interviewed during two remote missions which encompassed Türkiye and Spain. In Türkiye, the local project team kindly helped with arranging six online IDIs and collected one completed form with replies to the tailored questions.⁴⁹ Country-focused interviews were also conducted with stakeholders in Malta, Moldova and Morocco.

Field and remote missions, as well as country-focused interviews were closely linked to four case studies conducted during the evaluation and co-operation projects selected for in-depth analysis as part of those case studies. The case studies focused on effectiveness and impact; however, aspects of relevance were also analysed. While choosing case studies best suited to answer the evaluation questions, the evaluation team has taken into account several considerations, such as:

- ▶ types of intervention within the sub-programme;
- ▶ delineation of the thematic scope (focus on more specific themes rather than broader subject areas);
- ▶ whether the case is an example of a tangible outcome of the sub-programme;
- ▶ whether the case reflects the diversity of the sub-programme’s co-operation projects;
- ▶ geographical diversity in terms of the sampled projects per case study;
- ▶ financial resources allocated to the project/country;
- ▶ project implementation dates.

Eventually, three case studies focused on specific themes in the sub-programme’s work and one on the specific type of interventions implemented in the sub-programme, namely co-operation programmes. The subjects for case studies were discussed with the Evaluation Reference Group. For each case study, projects and countries for in-depth analysis were selected. The evaluation team was provided with data concerning 43 co-operation projects that were carried out in 23 countries and regions in the period covered by the evaluation. Twelve projects were chosen for further review. One country per case study was chosen for either a field or remote mission. Importantly, the data collected during field and remote missions fed not only into the case studies, but also the overall evaluation findings, conclusions and recommendations. The rationale behind each case study, the focus countries and projects are described in Table 1 below.

Table 1 – Choice of thematic case studies

Thematic scope	Rationale for the selection	Countries covered	Co-operation projects covered
1. Independence, impartiality and competence of justice professionals	This thematic case study is closely aligned with the core areas of the CCJE’s and CCPE’s work. The subject matter is crucial from the perspective of compliance with Article 6 of the Convention. While looking at the work of these two bodies, this case study examined the co-operation activities related to this theme. The case study looks at how CCJE’s outputs are promoted through projects in Armenia and Serbia. Additionally, through the projects implemented in Serbia, the evaluation team aimed to see how the work of the sub-programme had been supported by the Horizontal Facility for the Western Balkans and Türkiye.	Armenia Serbia (field mission)	PGG 2018 Support to the implementation of the judicial reform in Armenia HF15 – Strengthening legal guarantees for independent and impartial tribunals (project period 2017-2019) HFII: HF9 – Strengthening Independence and Accountability of the Judiciary (project period 2019-2022)

49. The form was sent to collect feedback from a stakeholder who could not participate in an interview.

Thematic scope	Rationale for the selection	Countries covered	Co-operation projects covered
2. Judicial time management	Judicial time management is one of the key thematic areas of CEPEJ's work. It is the subject of interest for the SATURN working group. It is also crucial to ensuring that a case is heard within a reasonable time, i.e. in compliance with Article 6 of the Convention. This case study aimed to examine how the work of the sub-programme contributes to dealing with one of the persistent problems across member states, namely excessive length of proceedings.	Georgia (field mission) Moldova Southern Neighbourhood	PGG II: Enhancing the accountability and the efficiency of the judicial system and the professionalism of lawyers in Georgia (project period 2019-2022) Support to further strengthening the efficiency and quality of the judicial system in the Republic of Moldova (PGGII) SPIV - Independence and efficiency of justice in the Southern Mediterranean (CEPEJ)
3. Cyberjustice (with a focus on digitalisation)	Cyberjustice is one of the key thematic areas of CEPEJ's work. "Getting cyberjustice right" may, in fact, be one of the greatest challenges for the justice systems now and in the future. The challenge will be to benefit from the improvements it can offer, e.g. in the efficiency and quality of justice, without compromising the fair trial and rule of law standards. As compared to the two case studies above, this one ventured into a fairly new area of sub-programme's work. However, a lot of work has been or is being done on the theme, e.g. by CEPEJ-GT-QUAL and CEPEJ-GT-CYBERJUST. For example, in December 2018, CEPEJ adopted the first European Ethical Charter on the use of artificial intelligence in judicial systems. The subject is also tied to the 2022-2025 CEPEJ Action plan: "Digitalisation for a better justice". The case study tried to examine early effects. Other important angles for analysis included: (i) how the sub-programme co-ordinates its actions with other Council of Europe bodies – the CDCJ and CAI; and (ii) how issues of inclusion (disability and vulnerability, poverty and digital exclusion) are incorporated.	Spain (remote mission) Malta	Promoting cyber justice in Spain through change management and improvement of data collection DGREFORM 2019: Establishing a Digital Strategy for the Maltese Justice Sector DGREFORM 2019 : Promoting cyberjustice in Spain through change management (phase II)
4. Co-operation	This case study was selected based not on the sub-programme's area of work, but on the type of intervention. It focused on the co-operation activities, both those managed by CEPEJ and those under the Co-operation Programmes Division. It concentrated on the effectiveness and impact of the implemented projects. One of the aspects that was examined was the way in which the outputs of CEPEJ, but also the CCJE and the CCPE, are used across the projects, including those implemented by bodies operating outside the sub-programme.	Türkiye (remote mission) Western Balkans (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and Kosovo*)	Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of Council of State (Türkiye) Strengthening the Institutional Capacity of the Court of Cassation (Türkiye) Dashboard for the Western Balkans: towards a better evaluation of the results of judicial reform efforts in the Western Balkans

Thematic scope	Rationale for the selection	Countries covered	Co-operation projects covered
	The case study zoomed in on the co-operation with Türkiye, since these projects make up the overwhelming majority of the funds devoted to this type of intervention. At the same time, information on projects analysed for other case studies was also used as much as possible. Coverage of the CEPEJ's Dashboard for the Western Balkans project was to shed light on how this specific type of activity (scoreboard/dashboard) works to promote the objectives of the sub-programme nationally and at a regional level.		

*All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Apart from desk research, surveys, IDIs and case studies, the evaluation team also observed the following events organised by sub-programme bodies:

- ▶ CCPE Plenary, 3-4 October 2022;
- ▶ CCJE Plenary, 30 November to 2 December 2022;
- ▶ CEPEJ Plenary, 6-7 December 2022;
- ▶ TJENI conference entitled “Foster transparency of judicial decisions and enhancing the national implementation of the Convention”, 30 September 2022.

1.3.3. Limitations of the methodology

The evaluation methodology was designed to be comprehensive and complementary in its data collection efforts. However, it was bound by several limitations during the project implementation, which are briefly listed below, together with information on the mitigation measures adopted.

Potential data gaps and objectivity problems with survey data. Through the surveys with three stakeholder groups, the evaluation team collected a body of primarily quantitative data, mindful of certain limitations of this data collection method. First, as surveys collect primarily data regarding perceptions, opinions and attitudes, some concerns relative to objectivity can be raised. A well-known problem in survey research is that of social desirability bias: the tendency to give answers that a survey participant thinks the society or researcher carrying out the survey (or in this case, potentially, the institution that commissioned the evaluation) would approve of.⁵⁰ The evaluation team took care to minimise this effect in the survey design by including several types of questions (closed, Likert,⁵¹ etc.) and ensuring complete anonymity through an online distribution of the survey. While the survey allowed for gathering information primarily on opinions and perceptions, the evaluation team collected a set of answers to a similar set of questions from a variety of stakeholders whenever possible, and aggregated the answers for the purpose of analysis. This has allowed for comparing and contrasting different perspectives, and thereby obtaining a more objective overview; however, differences across survey groups were also reported and analysed when applicable. Moreover, the survey targeted respondents from both the international and national level; while the majority of the questions explicitly referred to the entire Council of Europe area, and referred to country-level context explicitly in only several questions, some of the presented views may nevertheless reflect country-level perspectives. While the survey provided a broad overview, some evaluation aspects were covered to a lesser extent than others. By design, the efficiency aspects of this evaluation were encompassed in the survey (with stakeholder groups 1 and 2) somewhat minimally, with these aspects subsequently covered to a greater extent within desk research and interviews. Lastly, another important

50. See e.g., Nederhof, A.J. (1985), Methods of coping with social desirability bias: A review. *Eur. J. Soc. Psychol.*, 15: 263-280. <https://doi.org/10.1002/ejsp.2420150303>.

51. The Likert scale is a commonly used method to collect data on opinions, attitudes and beliefs. The respondents are asked to indicate their opinion about the issue in question on a rating scale (e.g. from “strongly disagree” to “strongly agree”). See e.g. Joshi, A., Kale, S., Chandel, S. and Pal, D.K., 2015. Likert scale: Explored and explained. *British journal of applied science & technology*, 7(4), p.396.

limitation of the surveys concerned the generic reference to the “sub-programme” as a whole throughout the survey. While additional explanation indicating that the sub-programme encompasses CEPEJ, the CCJE and CCPE as well as co-ordination programmes was provided throughout the questionnaires, this phrasing created some confusion among respondents.⁵²

Overall, the survey responses provided both a broader view on certain evaluation aspects and allowed the evaluation team to identify avenues for more in-depth research. Consistently with the data triangulation approach, the evaluation team filled the data gaps, to the greatest extent possible, by using other data collection methods – desk research and interviews – as well as juxtaposing all collected quantitative and qualitative data to ensure a maximally objective, comprehensive and informative evaluation.

Evaluation timeline and timing. Given the scope of the evaluation and the various data collection methods included, the time frame for the evaluation was challenging. To mitigate this, different data collection activities were carried out in parallel with each other and the preliminary analysis was conducted iteratively as the data was being gathered. Based on that, the final in-depth data analysis was conducted as soon as all the data collection activities were completed.

Dynamics of the sub-programme in the evaluation period. During the period encompassed by the evaluation, there were changes in the placement of the sub-programme in the Council of Europe’s organisational structure, in the detailed definition of its objectives and the exact objectives defined for its constituting bodies. Moreover, there were minor variations between the definition of outcomes in the ToC between the Programme and Budget documents for the periods 2018-2019, 2020-2021 and 2022-2025. Desk review allowed the evaluation team to identify those changes, and multiple in-depth interviews with relevant stakeholders provided insight on the changes, their effectiveness and possible directions for the future. At the same time, as the reform was implemented only recently and the Council of Europe is still in the adjustment process, the evaluation timeline allows only partial conclusions to be drawn regarding the impact of those changes. All findings and considerations regarding the effects of the reform to date are included in the current report.

Primarily qualitative nature of the methodology. In the course of the evaluation, the evaluation team collected quantitative data from the survey, and reviewed the quantitative data from CEPEJ-STAT on the functioning of judicial systems, kindly provided by the sub-programme staff. However, the possibility of drawing straightforward conclusions about direct causal relations between project activities and outcomes, or the observed broader changes based on quantitative analysis, is very limited and beyond the scope of the present evaluation. However, the evaluation team documented the achievement of objectives and results as defined in the Programme and Budget documents, and collected and analysed data regarding the opinions and perceptions of the sub-programme’s performance among stakeholders, and analysed the outputs of the sub-programme against quantitatively defined indicators, based on the sub-programme results framework of the Council of Europe Programme and Budget. Appropriate triangulation at various levels (data collection methods, sources, analysts) was ensured throughout the data collection and analysis process.

Scope of research and indirect evidence. The evaluation methodology relied both on secondary source analysis and primary data collection. However, primary data collection activities were mostly gathered from stakeholders closely involved with the sub-programme. While the methodology did not include collecting data on perceptions and opinions of the general public, for example in the countries where the sub-programme’s supported reforms were implemented, the evaluation team interviewed a number of various stakeholders, including national authorities and civil society, to obtain a maximally comprehensive and objective picture.

Lack of documentation for one of the projects. In the case of one of the sampled projects implemented in Armenia, the documentation was never provided to the evaluation team, despite assurances that the documents exist. For this reason, the project was eventually removed from the sample.

52. In particular, we have received three enquiries from members of the sub-programme bodies, asking for information on the sub-programme.

2. Findings

2.1. RELEVANCE

As has been outlined in its Theory of Change, the key objective of the sub-programme is that the Council of Europe member states adhere to their obligations under Article 6 of the Convention,⁵³ which provides that “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”, and which can be considered as a precondition for the enjoyment of all fundamental rights and freedoms.⁵⁴ Respect of this article therefore requires member states to have efficient, impartial and independent justice systems. The relevance criterion examines two issues: the extent to which the interventions and key areas of work carried out under the sub-programme are relevant to the achievement of its objectives, and the extent to which these objectives and interventions align with the needs of the Council of Europe member states.

The analysis is carried out against the background of emerging challenges for judiciaries across Europe. In recent years, various countries of the continent have seen progressive democratic backsliding and rule of law crises,⁵⁵ powered by anti-liberal political agendas. These phenomena have negatively affected justice systems, weakening their capacity to protect these fundamental values. In the context of such broad developments, the Council of Europe stressed the role of the independence and efficiency of the justice programming in its four-year strategy.⁵⁶

The importance of the work on the independence and efficiency of justice is highlighted, as the justice systems across member states encounter other political and financial constraints.⁵⁷ They increasingly have to face the challenges of digitalisation and technological development, including the big question of the use of AI.⁵⁸ Moreover, the work and functioning of justice professionals and systems have been profoundly affected and challenged by the recent Covid-19 pandemic.⁵⁹ Another crisis broke out in 2022 with the Russian Federation’s invasion of Ukraine, which led to the exclusion of the Russian Federation from the Council of Europe and sparked new challenges for judicial systems in Ukraine and other European countries.⁶⁰

At the same time, the Council of Europe’s efforts run parallel to the action and requirements from the European Union, towards its member states and candidate and potential candidate countries.⁶¹ The enlargement process and requirements of Chapter 23 of the EU acquis on the judiciary and fundamental rights⁶² set out an important context for the interventions under the sub-programme in the enlargement countries. It determines the needs and priorities and provides political leverage to the Council of Europe’s interventions on the ground.

2.1.1. Are the sub-programme’s interventions and key areas of work relevant to the achievement of its objectives? Are there any gaps?

The main objective of the sub-programme is to assist Council of Europe member states to comply with Article 6 of the Convention and, in this spirit, contribute to the development of efficient, impartial and independent justice systems. Three distinctive bodies, CEPEJ, CCJE and CCPE, implement interventions under the sub-programme, while the sub-programme also includes co-operation projects. A review of the key objectives of these sub-programme bodies indicates that the goals of these bodies and the sub-programme align well.

53. Council of Europe, Programme and Budget 2022-2025, p. 79.

54. Ibid.

55. SG(2021) Report by the Secretary General of the Council of Europe on the State of Democracy, Human Rights and the Rule of Law “A Democratic Renewal for Europe”, 2021

56. SG/Inf(2020)34 Strategic Framework of the Council of Europe 2020.

57. CM(2020)1 Council of Europe Programme and Budget 2020-21 p. 68.

58. SG(2022) Annual Report by the Secretary General of the Council of Europe on the State of Democracy, Human Rights and the Rule of Law, “Moving Forward”, 2022.

59. SG(2021) “A Democratic Renewal for Europe”, 2021.

60. SG(2022) “Moving Forward”, 2022.

61. The candidate countries include Albania, Bosnia and Herzegovina, Moldova, Montenegro, the Republic of North Macedonia, Serbia, Türkiye and Ukraine, while Georgia and Kosovo* are potential candidate countries. See [EU membership, how to join, candidates| European Union \(europa.eu\)](#), accessed 7 February 2023.

62. [Chapters of the acquis \(europa.eu\)](#), accessed 7 February 2023.

*All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

CEPEJ's key objective is to improve the efficiency and the functioning of member states in order to ensure that everyone within their jurisdiction can enforce their legal rights effectively.⁶³ The CCJE, as a direct and privileged interlocutor of the member states' judges, aims to foster the independence, impartiality and competence of judges.⁶⁴ The CCPE, as a direct and privileged interlocutor of the member states' prosecutors, aims to do the same for prosecutors.⁶⁵

The sub-programme's ToC classifies the different objectives and activities of its bodies through the Council of Europe strategic triangle lens. It is, however, worth noting that the sub-programmes' activity structure, while embedded in the overall programming strategy, is characterised by two particularities. First, when referring to CEPEJ's evaluation of judicial systems, several stakeholders used the term "quasi-monitoring". While the sub-programme does not contain a monitoring mechanism in the strict sense, CEPEJ's activity is particular and unique in the Council of Europe. Second, while only the CCJE and CCPE issue standards, all three sub-programme bodies also implement auxiliary activities aimed at supporting implementation of sub-programme "soft law",⁶⁶ as well as best practices. The overview of different activity categories and interventions is provided in Table 2 below.

Table 2 – Overview of activities of sub-programme bodies

Activity type as per the ToC (and auxiliary activities)	Activity type as carried out by the sub-programme bodies	Body	Interventions
Standard setting	Standard setting	CCJE, CCPE	Opinions regarding judges and prosecutors
Support for the implementation of standards and practices	Knowledge sharing and implementation support	CCJE, CCPE, CEPEJ	Targeted expert assistance on legislation and practices
		CCJE, CCPE, CEPEJ	Reports, studies and other texts on topical issues
		CEPEJ	Guidelines and tools
	Knowledge sharing and implementation support	CEPEJ	Collaboration with CEPEJ networks
Evaluation of judicial systems (within advisory function) ⁶⁷	Data collection and reporting on the expertise of member states' judicial systems	CCJE, CCPE, CEPEJ	Providing a forum of exchange for justice professionals from all Council of Europe member states
		CEPEJ	CEPEJ evaluation reports
		CEPEJ	CEPEJ Study for the EU Justice Scoreboard, Dashboards for Western Balkans and Eastern Partnership Countries
Co-operation	Organisation and management of programmes	CEPEJ, Co-operation Programmes Division	Organisation and management of projects
	Expert participation in co-operation projects	CEPEJ, CCJE, CCPE	Implementation support, knowledge sharing and capacity building by expert participation in co-operation projects

63. Statute of the European Commission for the Efficiency of Justice (CEPEJ), Article 1.

64. CCJE, Terms of Reference January 2020 – December 2021.

65. CCPE, Terms of Reference January 2020 – December 2021.

66. The term "soft law" refers to quasi-legal documents without legally binding force, which nevertheless can shape interpretation of law and bring about legal effects. The examples include opinions, guidelines, declarations, recommendations, etc.

67. It is important to note that, while the sub-programme's ToC presents CEPEJ activities under the monitoring category of the Council of Europe strategic triangle (see the Council of Europe's Programme and Budget 2022-2025, p. 79.), the CEPEJ according to its statute is not a monitoring body of the Council of Europe (Article 2.2). The official monitoring bodies of the Council of Europe can be found [here](#).

The interventions implemented by these three bodies align with the main objectives of the sub-programme, and no significant gaps were identified. The CCJE and CCPE, as representative of judges and prosecutors, are mainly involved in standard setting through general and country-specific opinions pertaining to the independence and position of judges and prosecutors within judicial systems.⁶⁸ Both types of opinions are considered very relevant by the consulted stakeholders. CCJE standards provide guidance at the international level on the most important aspects of the independence and impartiality of judges and judges' ethics. Some of those opinions contributed substantially to the present understanding of the notion of an "independent and impartial tribunal" – including on the relation between irremovability and independence of judges, the process of judicial appointments and the role of the council of judiciaries.⁶⁹ The work is also topical, as exemplified by the recent issuance of Opinion No. 24 (2021) on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems. It was a timely response in the light of multiple attempts to use national judicial councils to exert political influence over judiciaries.⁷⁰ Country opinions are considered an important complementary tool to provide tailored guidance to member states.⁷¹

In addition, the bodies also engage in co-ordination and serve as platforms for regular exchanges among the judges and prosecutors of different Council of Europe member states. This aspect is highly appreciated, and the CCJE is sometimes referred to as "the European parliament of judges".⁷² Regarding implementation support activities, the CCPE and CCJE provide targeted assistance on request, mainly through co-operation programmes run by other analysed entities, and this involvement is also considered relevant.⁷³

As regards the work of CEPEJ, its activities entail regular, data-based evaluations of judicial systems,⁷⁴ the development of tools and guidelines, and the implementation of co-operation programmes to support the evolution of judicial systems towards efficiency and quality. These are very relevant, highly appreciated and subject to considerable demand. CEPEJ's main working methods, as prescribed in its statute, entail among other things the development of indicators, data analysis (both qualitative and quantitative) and measures that can be used for evaluation.⁷⁵ The key outputs include the CEPEJ evaluation reports, the EU Justice Scoreboard Reports and the Western Balkan and Eastern Partnership Countries dashboards.⁷⁶ The number of external countries requesting to be included in CEPEJ evaluation of judicial systems is increasing, with recent editions including Israel (since 2012), Kazakhstan and Morocco (since 2020).⁷⁷

With its provision of expert guidelines and tools, CEPEJ also performs as a "knowledge hub" for justice system administrators and professionals. That work is carried out mainly by the four thematic working groups (see Section 1.2.2.). CEPEJ developed numerous guidelines that member states can use to improve the efficiency of their judiciaries. Examples include the Guidelines on how to drive change towards cyberjustice⁷⁸ and the Handbook on Court Dashboards.⁷⁹ CEPEJ [Guidelines on videoconferencing in judicial proceedings](#) were met with very high demand during the Covid-19 pandemic.

CEPEJ also has a pool of experts which can be mobilised upon the request of member states, in the co-operation programmes, for the implementation of initiatives that aim at enhancing the independence and efficiency of the judiciary.⁸⁰ The high expertise and unique approach of the body to address challenges in judicial systems was generally appreciated by stakeholders. One interviewee remarked that CEPEJ acts to some extent as a "think tank", where novel directions and ideas are researched.⁸¹ Importantly, in its work, CEPEJ relies on networks of justice professionals, national correspondents, pilot courts and cyberjustice. The networks are considered as CEPEJ's "foot in the field". This embeddedness within member states' justice systems provides CEPEJ experts

68. These general and more specific thematic opinions can be requested by the Committee of Ministers or other bodies of the Council Europe, such as the Secretary General or the Parliamentary Assembly (see the Terms of reference of CCJE and CCPE). See here an overview of the issued opinions by the [CCJE](#) and [CCPE](#).

69. See [Opinion No. 1 \(2001\)](#) on standards concerning the independence of the judiciary and the removal of judges, [Opinion No. 3 \(2002\)](#) on ethics and liability of judges, and [Opinion No. 10 \(2007\)](#) on "Council for the Judiciary in the service of society". Multiple IDs.

70. [Eirik Holmøyvik](#), Anne Sanders (2017), [A Stress Test for Europe's Judiciaries – Verfassungsblog](#), accessed 7 February 2023.

71. Multiple IDs, anonymous survey opinion.

72. E.g. IDs 12, 44.

73. Terms of Reference of CCJE and CCPE, 2022-2025.

74. Regarding the definition of monitoring, see footnote 62. Above.

75. Statute of the European Commission for the Efficiency of Justice (CEPEJ), Article 3.

76. CEPEJ, n.d., [Evaluation of judicial systems](#).

77. [European judicial systems - CEPEJ Evaluation Report – 2022 Evaluation cycle \(2020 data\)](#), p. 10.

78. CEPEJ, 2016, [Guidelines on how to drive change towards cyberjustice](#).

79. CEPEJ, 2021, [Handbook on Court Dashboards](#).

80. See here an overview of the [co-operation programmes](#).

81. IDs 7, 23.

with practical information on the daily life of judiciaries in Europe and constitutes a platform for piloting new tools that CEPEJ develops. According to several interviewees, such organisation of work – encompassing intergovernmental activities and expert networks, as well as co-operation programmes – allows for better identification and targeting of needs, and therefore an increased relevance of CEPEJ’s work.⁸² This also allows for knowledge sharing between the countries and between experts and practitioners.

More generally, one of the most important features of the sub-programme functioning relative to its relevance is the forum of exchange and collaboration it provides for justice professionals from different justice systems. In that context, several stakeholders highlighted the uniqueness of the CCJE and CCPE as bodies constituted solely of judges and prosecutors. The importance of professional exchanges and understanding of different legal systemic contexts and needs was highlighted as increasing the relevance of the developed standards.⁸³ This applies particularly to the CCPE, as the roles and organisational placement of prosecutors varies greatly between the Council of Europe member states. This highlights the importance of in-person meetings and plenaries, which facilitate the exchanges and knowledge sharing. While the relevance of the standards issued by these bodies is regarded positively by stakeholders, the constraints regarding time and resources surfaced during the evaluation as an important factor determining the possible scope of work (see also Section 2.3.3.). Given the dynamic changes facing judicial systems, including digitalisation and threats to the independence and impartiality of justice systems in some member states,⁸⁴ these findings highlight the need to strengthen the CCJE and CCPE.

Co-operation programmes are very relevant to the sub-programme objectives as well, as they are a vehicle to bring the sub-programme’s soft law and tools to the Council of Europe member states and further work towards their implementation.

In general, the sub-programme interventions contribute to its objectives by setting standards for Council of Europe member states’ judicial systems, observing their progress based on high-quality data collection and facilitating co-operation between member states in the form of experience sharing. Targeted expert assistance and co-operation projects also contribute in a relevant manner to the functioning of judicial systems, since they help Council of Europe member states to implement the necessary changes.

While no significant gaps are identified, a closer look at the content of the activities and the main objectives of the sub-programme reveals some space for improvement to further increase relevance of the sub-programme’s interventions towards its objectives. Firstly, while CEPEJ collects broad data regarding judicial systems, including those that pertain to the independence and impartiality of judges and prosecutors – for example on their appointment terms, irremovability, recruitment, etc.⁸⁵ – this information is less used and pronounced in the sub-programme work compared to their utilisation of efficiency statistics. It could be considered whether these data could feed into the CCJE and CCPE work and whether increased use and reliance on these data could further strengthen the relevance of the sub-programme’s activities. Secondly, not all key stakeholders in the judiciary are equally represented in the sub-programme. The CCJE and CCPE are bodies composed of judges and prosecutors of the Council of Europe member states and issue opinions on topics that impact the independence, impartiality and competences of judges and prosecutors. The Council of Europe’s member states can use these documents to develop policies that enable judges and prosecutors to perform their tasks in a way that strengthens the efficiency and independence of their judiciaries. While judges and prosecutors are indeed key stakeholders in judicial systems, an increased input from other legal practitioners could be valuable from the perspective of independence, efficiency and quality of justice goals. The interview findings confirm that view and show that similar considerations regarding the role of legal practitioners are present within the organisation.⁸⁶

2.1.2. To what extent are the objectives relevant to the needs of member states?

The evaluation confirms that the objectives of the sub-programme are relevant to the needs of member states. There was a wide consensus among survey respondents on this matter, with 83% sharing the opinion that they are relevant, and a further 11% that they are somewhat relevant. Similar positive opinions were shared in the conducted interviews.

82. Multiple IDIs, e.g. IDI 37.

83. IDIs 13, 22.

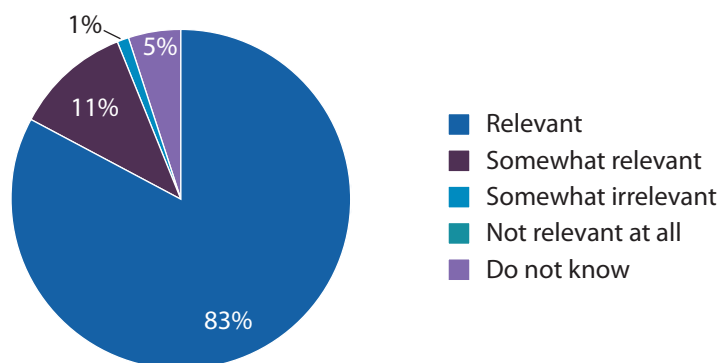
84. Council of Europe, 2021. *State of Democracy, Human Rights and the Rule of Law*, p. 20.

85. See e.g. CEPEJ, 2022, *CEPEJ Evaluation Report*.

86. IDI10.

Figure 2 – Relevance of the objectives of the sub-programme to the needs of Council of Europe member states

Are the objectives of the sub-programme relevant to the needs of the Council of Europe member states?



Source: Own survey data, n=261.

Compliance with Article 6 of the Convention and enjoyment of the specific rights contained therein face various challenges across member states, for example regarding the independence and impartiality of judges, excessive length of proceedings and digitalisation. An increasing challenge pertains to the status and independence of prosecutors in some member states. As discussed in the following paragraphs, the objectives of the programme are well defined to respond to those challenges.

Although the general level of judicial independence across Council of Europe member states is satisfactory, there also remain serious threats.⁸⁷ In some member states attempts can be observed which aim at weakening the independence of judges by increasing the influence of the ruling political class on their appointment and reducing tenure security.⁸⁸ The interviews conducted echo desk research findings that judicial independence is at risk in a range of Council of Europe member states and the judiciaries are subject to populist attacks for political gain, which puts human rights at risk.⁸⁹ In the words of one interviewee, “[one cannot] have ... [a] fully functioning human rights system [without] a fully independent judiciary”.⁹⁰ In the evaluated period, the independence of judicial councils emerged as a relevant and problematic issue in many member states (e.g. Poland, Serbia, Georgia). It has repeatedly been tackled by the CCJE, in particular in its Opinion No. 10 (2007) on the Council for the Judiciary at the service of society, the Magna Carta of Judges and Opinion No. 24 of 2021 on the Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems.

Two examples of countries where judicial independence and the rule of law are considered to be at stake are Poland and Hungary.⁹¹ In 2019, the Commissioner for Human Rights of the Council of Europe reported risks in Poland (see Table 3 below) and Hungary regarding the independence from political influence of the judiciary.⁹² Deteriorating rule of law has also been a concern at the EU level, where the rule of law proceedings under Article 7 of the Treaty on the European Union have been ongoing in several EU member states.⁹³ Attacks on the independence of judges also feed into public perceptions. The EU Justice Scoreboard highlights a heterogeneous picture in this respect, with the majority of respondents in some EU member states having a positive or very positive view of judicial independence (for instance, Finland, Denmark and Austria) while in others there are largely negative or very negative perceptions (for instance, Croatia, Poland and Slovakia). While no similar data are available for the Council of Europe member states outside the EU, desk research and multiple interviews conducted during the evaluation highlight that this problem persists or has even intensified in

87. Council of Europe, 2021. *State of Democracy, Human Rights and the Rule of Law*, p. 20.

88. *Ibid.* pp. 20-21.

89. Multiple IDIs, e.g. IDI 38, 47.

90. IDI 47.

91. The document *State of Democracy, Human Rights and the Rule of Law* mentions various examples of worrisome practices related to the independence of the judiciary. It is highlighted however that these practices have occurred in several member states of the Council of Europe and thus do not only involve Poland and Hungary (see pp. 20-25).

92. Report of the Commissioner for Human Rights of the Council of Europe following her visit to Hungary from 4 to 8 February 2019, Document number: CommDH(2019)13; Report of the Commissioner for Human Rights of the Council of Europe following her visit to Poland from 11 to 15 March 2019, Document number: CommDH(2019)17.

93. European Parliament, 2022. *Rule of law in Poland and Hungary has worsened* | News | European Parliament (europa.eu), accessed 5 December 2022.

a number of jurisdictions.⁹⁴ These challenges in relation to the judiciaries across Council of Europe member states therefore support the relevance of the sub-programme's work in this area.

Table 3 – Rule of law backsliding in Poland: political influence and the National Council of the Judiciary

In Poland, the National Council of the Judiciary (NCJ) is a constitutional body that aims to ensure the independence of courts and judges, and is a highly influential body in the selection and promotion of judges. In 2017, new legislation was adopted that determined that members of the NCJ were no longer to be chosen by a community of judges, but instead by the Polish Parliament. Since then, several cases have been submitted to the Court related to whether the selection of judges constituted a violation of Article 6 of the Convention, which the Court has upheld due to the political influence in their selection (for example, *Reczkowicz v. Poland*,⁹⁵ *Advance Pharma v. Poland*⁹⁶ and *Xero Flor v. Poland*⁹⁷). In July 2022, the Court received 37 new applications on this issue.⁹⁸

The CCJE Bureau issued an opinion on the request of the Polish National Council of the Judiciary with respect to the Draft Act of September 2017 presented by the President of Poland, amending the Act on the Polish National Council of the Judiciary and certain other acts.⁹⁹ This opinion has been relevant in the national debate, and has since been cited in at least four Court judgments (*Reczkowicz v. Poland*,¹⁰⁰ *Advance Pharma v. Poland*,¹⁰¹ *Dolińska-Ficek and Ozimek v. Poland*¹⁰² and *Grzęda v. Poland*).¹⁰³

Furthermore, challenges related to the independence and impartiality of prosecutors have come to light in some jurisdictions.¹⁰⁴ This topic has emerged as an important area of work for the sub-programme, and one that needs strengthening¹⁰⁵ due to the high diversity of legal systems regulating the role and position of prosecutors, the sensitive relationship between prosecution services and the executive and judicial powers¹⁰⁶ and the growing need for co-ordination in criminal cases across Europe.¹⁰⁷ In this light, the CCPE could play an important role in developing and strengthening the standards regarding the role of prosecutors and the guarantees of their independence and impartiality, including by contributing to any possible modifications to Recommendation CM/Rec(2000)19 on the role of public prosecution in the criminal justice system.¹⁰⁸

Moreover, the Council of Europe member states still battle with the long-standing challenge of the excessive length of proceedings, aggravated by the Covid-19 pandemic. CEPEJ data¹⁰⁹ point to particular challenges, for example, in Greece, France and Malta where the disposition time is slow (outside the satisfactory range) and the backlog of cases continues to accumulate. There are also some instances where the disposition time is within the satisfactory range, but the backlog of cases is nevertheless still accumulating (Georgia, Monaco, Poland and Spain), and other instances where the disposition time is outside the satisfactory range but the backlog of cases is decreasing (Italy and Bosnia). Overall, as the length of proceedings is an important factor determining access to justice and enjoyment of the right to a fair trial as defined in Article 6 of the Convention, sub-programme work in this area remains highly relevant. A related challenge includes ongoing digitalisation,

94. Multiple IDIs. See also: CDCJ, [Report on the review of the implementation of the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality](#), Council of Europe 2022.

95. European Court of Human Rights, 2021. *Reczkowicz v. Poland*, Application No. 43447/19.

96. European Court of Human Rights, 2022, *Advance Pharma sp. z o.o v. Poland*, Application No. 1469/20.

97. European Court of Human Rights, 2021, *Xero Flor w Polsce sp. z o.o v. Poland*, Application No. 4907/18.

98. European Court of Human Rights, 2022, Notification of 37 applications concerning judicial independence in Poland, ECHR 248 (2022).

99. Opinion of the CCJE Bureau following the request of the Polish National Council of the Judiciary to provide an opinion with respect to the Draft Act of September 2017 presented by the President of Poland amending the Act on the Polish National Council of the Judiciary and certain other acts" (CCJE-BU(2017)9REV).

100. European Court of Human Rights, 2021. *Reczkowicz v. Poland*, Case Number: 43447/19.

101. European Court of Human Rights, 2022, *Advance Pharma sp. z o.o v. Poland*, Application No. 1469/20.

102. European Court of Human Rights, 2021. *Dolińska-Ficek and Ozimek v. Poland*, Application Nos. 49868/19 and 57511/19.

103. European Court of Human Rights, 2022. *Grzęda v. Poland*, Application No. 43572/18.

104. Joint report of CCJE and CCPE Bureaus, SG/Inf(2016)3rev, Challenges for judicial independence and impartiality in the member states of the Council of Europe, pp. 42-68.

105. Multiple IDIs.

106. Venice Commission, Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service, CDL-AD(2010)040; Joint report of CCJE and CCPE Bureaus, SG/Inf(2016)3rev, Challenges for judicial independence and impartiality in the member states of the Council of Europe; OECD (2020), The Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific.

107. Several IDIs; Exchange of views during the CCPE Plenary 2022.

108. [Exchange of views between the CCPE and the CDPC - Consultative Council of European Prosecutors \(CCPE\) \(coe.int\)](#), accessed 7 February 2023.

109. CEPEJ, 2020. European Judicial Systems: CEPEJ Evaluation Report, p.113. On pp. 119 and 127 the report describes the situation for respectively administrative cases and criminal cases.

which creates both opportunities for the improvement of judicial systems, and emerging threats that digital tools pose for human rights.¹¹⁰ These needs have been articulated by multiple stakeholders, and the work of CEPEJ in that regard is considered highly relevant. At the same time, field missions to Georgia and Serbia highlighted the need for increased CEPEJ support in those countries, which indicates potential for CEPEJ work to expand in the future.

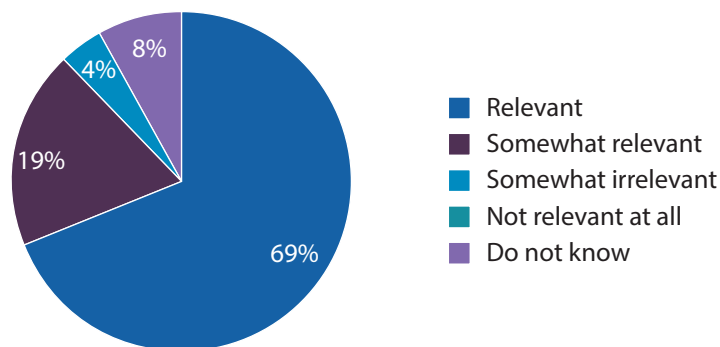
2.1.3. To what extent are the interventions relevant to the needs of Council of Europe member states?

From subsection 2.1.2, it follows that the objectives of the sub-programme address relevant needs of certain member states, since there are concerns for the independence and efficiency of their judiciaries. The question here is whether the sub-programme’s interventions, as discussed in subsection 2.1.1, are able to address these needs.

With respect to the relevance of the interventions to the needs of Council of Europe member states, the majority of survey respondents indicated that these are either relevant (69%) or somewhat relevant (19%). A comparison between these responses and the views on the relevance of the sub-programme’s objectives shows that stakeholders are more convinced of the relevance of the objectives than interventions.¹¹¹ However, neither the survey nor the interviews provide clear reasons why. The interviewees confirmed the high relevance of the interventions and did not consider any interventions irrelevant. As field missions show, some interventions could have been more relevant to the needs of member states than those actually implemented, but it was understood that the choice of interventions was also dictated by the political realities in the countries.

Figure 3 – Relevance of the interventions of the sub-programme to the needs of Council of Europe member states

Are the interventions of the sub-programme relevant to the needs of the Council of Europe member states?



Source: Own survey results, n=261.

The sub-programme interventions involve standard setting, evaluation and co-operation. Together they have a strong informative function by setting standards that member states’ judiciaries should meet, measuring the state of play of their judiciaries and providing assistance on how member states can practically improve their judiciaries. CCJE and CCPE guidelines set standards on a wide range of important topics for the independence and organisation of judiciaries, such as freedom of expression of judges or preventing corruption within the judiciary, etc.¹¹² Both the CCJE and CCPE adopt opinions at the request of relevant actors at the country level.¹¹³ The data collection and evaluation activities (the Evaluation Report, EU Justice Scoreboard Report and Dashboards) mainly concern the collection of statistics on the state of play of member states’ judiciaries.

110. See e.g. The Alan Turing Institute, *Artificial Intelligence, Human Rights, Democracy and the Rule of Law: a Primer*.

111. When the survey results are analysed separately, there are some notable differences in perceptions between members of the CCJE, CCPE and CEPEJ (survey 1); sub-programme and other Council of Europe staff (survey 2) and representatives of international organisations, civil society, academia and national authorities (survey 3). Specifically, just over 78% of survey 2 respondents consider sub-programme interventions as relevant, compared to 68% and 58% of respondents to surveys 1 and 3, respectively.

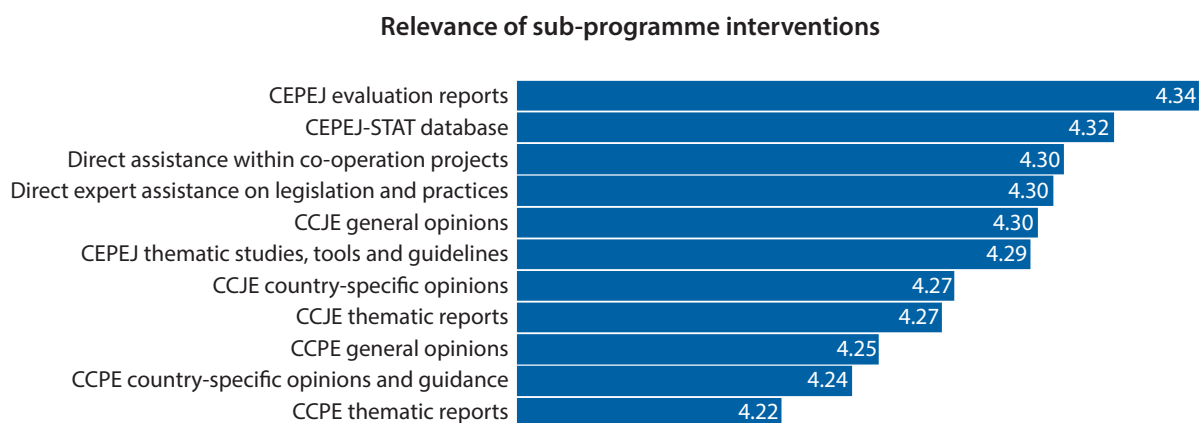
112. To date CCJE issued 25 opinions (see: www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta) and CCPE 17 (see: www.coe.int/en/web/ccpe/opinions/adopted-opinions). The ones mentioned in the main text are: CCJE, 2022, Opinion no. 25 on Freedom of expression on Judges; CCJE, 2018, Opinion no. 21 on Prevention of Corruption among judges.

113. Council of Europe, 2021. Programme and Budget 2022-2025: Terms of Reference of Intergovernmental Bodies, p.48 (for CCJE) and p.51 (for CCPE).

The EU Justice Scoreboard and Dashboards are provided at the EU's request, suggesting that this type of intervention is relevant for the organisation's needs and remains so, given the recurrent contracts.

As to the relevance of individual interventions, the survey respondents view some interventions as more important than others (see Figure 4), with CEPEJ evaluation reports, the CEPEJ-STAT database and co-operation projects seen as the most relevant. At the same time, these differences are minor, with only 0.12 of a point difference on the 5-point scale between the most and the least relevant intervention type. While the evaluation findings do not provide a straightforward explanation of those results, we hypothesise that some of those differences may be related to the visibility of the sub-programme bodies, rather than with the quality of those interventions.

Figure 4 – Ranking of individual interventions under the flag of the sub-programme



Source: Own survey data, n=227.

The sub-programme bodies work towards identifying the needs of member states. CEPEJ collects data in an iterative process, guiding national correspondents and addressing their questions. While providing information itself is not always sufficient to bring about the change, it is very relevant and, as discussed further in the report, constitutes an important point of reference in institutional change processes. A recent CEPEJ plenary meeting can serve as a good practice example, as national representatives provided information from member states on the challenges and the situation of judicial systems to all other members of that body.¹¹⁴ The information on ongoing reform processes is also collected within the biannual evaluation of judicial systems cycle. Another good practice is employed by the CCJE which, prior to issuing an opinion, collects detailed information on the situation regarding the chosen topic through questionnaires distributed to its members.¹¹⁵ Moreover, the CCJE and CCPE assist member states directly at their request, consulting planned or introduced legal reforms. Examples of interventions involving targeted expert assistance at the request of member states are presented in Table 4 below.¹¹⁶

Table 4 – Examples of requests received by the CCJE and CCPE for opinions from actors in different member states

- ▶ Letter from the Polish Judges Association IUSTITIA in May 2018 referring to the worrying situation of the independence of judges and requesting the CCJE to provide its position on this situation and respond to several concrete questions.¹¹⁷
- ▶ Letter from the Association of Judges of Montenegro in June 2018 concerning alleged problems with setting up of the Judicial Council of Montenegro, as well as its composition, and requesting the CCJE to provide comments on this subject.¹¹⁸

114. Based on the observation of the 39th plenary meeting of the CEPEJ, held on 6 and 7 December in Strasbourg.

115. IDI 40.

116. Council of Europe Committee of Ministers, Resolution Res(2002)12 establishing the European Commission for the efficiency of justice (CEPEJ), Article 2.d.

117. CCJE-BU(2018), Report of the 25th meeting Porto, 13 June 2018.

118. CCJE-BU(2018), Report of the 25th meeting Porto, 13 June 2018.

- ▶ Letter from two professional organisations in Romania requesting the CCJE and CCPE to answer a long list of questions.¹¹⁹
- ▶ Letter from a group of Ukrainian judges in March 2021, inviting the CCJE to consider the negative effects of judicial reform in Ukraine and requesting the CCJE standards to be highlighted regarding the removal of judges, including the transfer of judges from one court to another and the dissolution of courts.¹²⁰
- ▶ Opinion issued by the CCPE Bureau in February 2020, following a request by the Superior Council of Prosecutors of the Republic of Moldova concerning the independence of prosecutors in the context of legislative changes.¹²¹
- ▶ Opinion issued by the CCPE Bureau in March 2019, following a request by the Prosecutors Association of Serbia to assess compatibility with European standards of proposed amendments to the constitution affecting the composition of the High Prosecutorial Council and prosecutors' work.¹²²

Regarding sub-programme co-operation projects, there are two modes of determining needs, with assessment procedures varying according to the organising body and the exact design of the project. While the projects are designed to address the needs of member states, often including national authorities in the process of negotiating agreements, an "on-the-ground" needs assessment at a stage prior to project design is not a standard practice. While such an assessment could improve the relevance (and effectiveness) of projects, the sub-programme budget does not provide for this activity.¹²³ At the same time, the Council of Europe field office staff are typically very well-acquainted with member state needs and routinely provide input at the project design stage.¹²⁴ The projects carried out by CEPEJ typically contain a detailed needs assessment carried out by CEPEJ experts in the early stages of the project, with a view to tailoring activities to needs.¹²⁵

During the evaluated period, the outbreak of the Covid-19 pandemic presented a new challenge to all member states. Judges were faced with the difficult but delicate task of responding effectively to the crisis, while maintaining full respect of human rights and the rule of law.¹²⁶ The President of the CCJE pointed out that a judge needs to be able to perform this balance without political or societal interference at all times.¹²⁷ Member states expressed a need for guidance regarding online procedures, which was met with a prompt reaction from CEPEJ, notably through the Guidelines on videoconferencing in judicial proceedings,¹²⁸ which were widely appreciated by the interviewed stakeholders. While currently the pandemic appears to have already peaked, there is always the possibility that it may reignite in the future. Moreover, the pandemic has increased awareness of other emergency situations that may emerge in the future, where a difficult trade-off may be necessary between responding to a crisis and protecting individual citizens' fundamental rights.¹²⁹

One element that could possibly undermine the relevance of the sub-programme interventions, especially in the context of the CCJE (and potentially also the CCPE), is related to geographical representation in its working group. The differences in challenges and diverse legal and political contexts of different member states were often raised by interviewees when discussing the relevance of interventions.¹³⁰ To address those further, a more geographically inclusive composition of the CCJE working group could be considered, to ensure

119. CCJE-BU(2019), Report of the 26th meeting Paris, 20 March 2019.

120. CCJE-BU(2021), Report of the 30th meeting, 24 March 2021 (by videoconference).

121. CCPE-BU(2020)2, [Opinion of the CCPE Bureau adopted following a request by the Superior Council of Prosecutors of the Republic of Moldova concerning the independence of prosecutors in the context of legislative changes as regards the prosecution service \(February 2020\)](#).

122. CCPE-BU(2019)2, [Opinion of the CCPE Bureau following a request by the Prosecutors Association of Serbia to assess the compatibility with European standards of the proposed amendments to the Constitution of Serbia which will affect the composition of the High Prosecutorial Council and the way prosecutors work \(March 2019\)](#).

123. Multiple IDIs, e.g. IDI 45.

124. Multiple IDIs, e.g. IDI 45.

125. Multiple IDIs.

126. Council of Europe, 2021. State of Democracy, Human Rights and the Rule of Law, p.29. This is supported by Venice Commission Opinion No. 359/2005, Opinion on the protection of human rights in emergency situations (CDL-AD(2006)015), 4 April 2006.

127. CCJE, 2020. Statement of the President of the CCJE "The role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges", pp. 2-3.

128. CEPEJ 2021, [Guidelines on videoconferencing in judicial proceedings](#).

129. Council of Europe, 2020. Strategic Framework of the Council of Europe, p. 4.

130. Multiple IDIs.

that future opinions are relevant and useful for all member states at the early stages of opinion drafting.¹³¹ Addressing this could provide a more nuanced picture regarding the specific needs and challenges of member states, to be reflected at earlier stages in the work on standards. This suggestion is complemented by another, which is to ensure that more frequent and updated information on the situations in all member states is provided to the members of the sub-programme bodies to further improve communications on the needs of member states within the sub-programme.

2.1.4. To what extent are the objectives of the sub-programme consistent with the objectives of the Council of Europe?

The sub-programme is a part of the Ensuring Justice sector under the rule of law pillar.¹³² The overarching objective of the rule of law pillar is:

To develop a pan-European legal area in which robust and accessible democratic institutions and procedures, based on the rule of law, exist at national, regional and local level.¹³³

Two other sectors of the pillar are Strengthening the rule of law and Countering threats to the rule of law. Compliance with Article 6 of the Convention and independent and impartial judiciary are priorities under the pillar.¹³⁴ The main objective and expected impact of the sub-programme are in turn defined as:

Member states fulfil their obligations under Article 6 of the Convention and persons enjoy their right to a fair trial as enshrined in Article 6 of the Convention.¹³⁵

The interviewees underlined the key role of the sub-programme in the broader rule of law area of work in the Organisation, with issues of independence being “at the heart of the rule of law”.¹³⁶ In this light, the sub-programme objective is clearly aligned with the overarching programme and pillar objectives.

In the context of the strategic triangle, some inconsistencies between the definition of the type of activities as defined by the Programme and Budget document and the sub-programme bodies’ mandates need to be highlighted. The strategic triangle encompasses standard setting, co-operation and monitoring as three complementary types of activities at the core of the Council of Europe approach.¹³⁷ In the programming documents, the proportions between standard setting, co-operation and monitoring within the sub-programme are set out as follows.

Table 5 – Sub-programme and Strategic Triangle¹³⁸

Programming period	Standard setting	Co-operation	Monitoring
2018-2019	12%	74%	14%
2020-2021	20%	52%	28%
2022-2025	23%	40%	37%

These numbers indicate the channels via which the sub-programme is supposed to achieve its outcomes and impact, as established by its ToC. However, in the strict sense, none of the sub-programme bodies is among the Council of Europe monitoring mechanisms. While the Programme and Budget document for 2022-2025 clarifies that “Monitoring and advisory include activities aimed at assessing compliance by States with [the standards]”, it also refers the monitoring component of the strategic triangle to independent monitoring mechanisms.¹³⁹ While the CEPEJ evaluation exercise within its advisory function contains a component of regular data collection and diagnosis – which is similar to monitoring – it does not have a monitoring mandate.¹⁴⁰

131. IDI 43.

132. Programme and Budget 2018-2019, pp. 57-59.

133. Programme and Budget 2018-2019, p. 59.

134. Idem.

135. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 74.

136. IDI 47; similarly also IDI 38.

137. [The Directorate General Human Rights and Rule of Law - Human Rights and Rule of Law \(coe.int\)](#), accessed 7 February 2023.

138. Council of Europe Programme and Budget documents: 2018-2019 p. 62; 2020-2021, p. 68; 2022-2025 p. 79.

139. Council of Europe Programme and Budget for 2022-2025, p. 16.

140. List of Council of Europe monitoring mechanisms available at: [Monitoring mechanisms – Human Rights and Rule of Law \(coe.int\)](#), accessed 7 February 2023.

More generally, ensuring the right to a fair trial is crucial in the context of the Council of Europe's mission and an obligation of its member states in accordance with Article 3 of the Organisation's statute.¹⁴¹ As already highlighted, it is a precondition for the full enjoyment of the rights enshrined in the Convention, as only an independent and efficient judiciary may provide effective remedies in case those rights are violated. The Independence and Efficiency of Justice sub-programme works towards that goal by assisting member states in ensuring that independent courts deliver quality decisions within a reasonable time following a fair consideration of the issues.¹⁴² To strengthen its commitment to these values and underline the key position of judges, the CM adopted updates in 2010 to its recommendation on judges: independence, efficiency and responsibilities.¹⁴³

The Council of Europe announced in 2020 that the independence, efficiency and resilience of the judicial systems of its member states are a key priority in its four-year Strategic Framework.¹⁴⁴ The work carried out within the Independence and Efficiency of Justice sub-programme falls under Key Strategic Priority 6, as set out in the Secretary General's Strategic Framework,¹⁴⁵ namely the Independence, efficiency and resilience of the judicial systems of the member states. It also contributes to the achievement of Key Strategic Priority 9, namely artificial intelligence and the broader impact of the digital transformation and the use of new technologies on human rights, democracy and the rule of law. Over the five-year period between 2016 and 2021, the sub-programme also aimed to contribute to the realisation of the Council of Europe's Plan of Action on Strengthening Judicial Independence and Impartiality adopted in 2016.¹⁴⁶ Overall, the objectives of the sub-programme align well with the priorities and goals set out in those documents.

The sub-programme objectives correspond with the objectives of the Council of Europe and generally follow the direction indicated by the relevant Council of Europe documents. Importantly, other bodies of the Council of Europe consider the sub-programme work as relevant. At the same time, multiple interviewees highlighted close areas of interest with other Council of Europe bodies working in that area, notably the Venice Commission and GRECO. The composition, specific area and modes of functioning of those bodies differ compared to those of CCJE and CCPE, and their activities are largely complementary. However, the evaluation findings highlight the shared and corresponding objectives between those bodies and the need for improved internal co-ordination, pointing to risks of overlap and indicating that the work of these bodies should be better aligned.¹⁴⁷

2.2. EFFECTIVENESS

The analysis of effectiveness focuses on determining to what extent the work of the Independence and Efficiency of Justice sub-programme has been effective in achieving the objectives and expected results as outlined in the Programme and Budget documents for the years 2018-2022. The evaluation follows a Theory of Change approach in analysing effectiveness. The main effectiveness question (Section 2.2.1.) concentrates on the framework outlined in the Council of Europe programming documents. Consequently, the analysis presented below refers to the Theory of Change as presented in the Programme and Budget for 2022-2025, treating it as a reconstruction of the programme logic in previous years and for the future. The contribution of the sub-programme to the Rule of Law-Based Institutions programme is also addressed, as are factors which enable or hinder achievement of results.

2.2.1. To what extent were the objectives and expected results as set out in the P&B 2018-2022 achieved?

Sub-programme Theory of Change

The Council of Europe Programme and Budget for 2022-2025 provides the first ToC developed for the sub-programme. The ToC includes four levels: outputs, immediate outcomes, intermediate outcomes and impact. Figure 5 below defines these elements for the sub-programme.

141. Statute of the Council of Europe (coe.int).

142. Council of Europe, 2021. Programme and Budget 2022-25 p. 74.

143. Council of Europe – Committee of Ministers, 2010. Recommendation CM/REC(2010)12 on Judges: independence, efficiency and responsibilities. This document was an update of: Council of Europe – Committee of Ministers, 1994. Recommendation No. R(94)12 on the Independence, efficiency and role of judges.

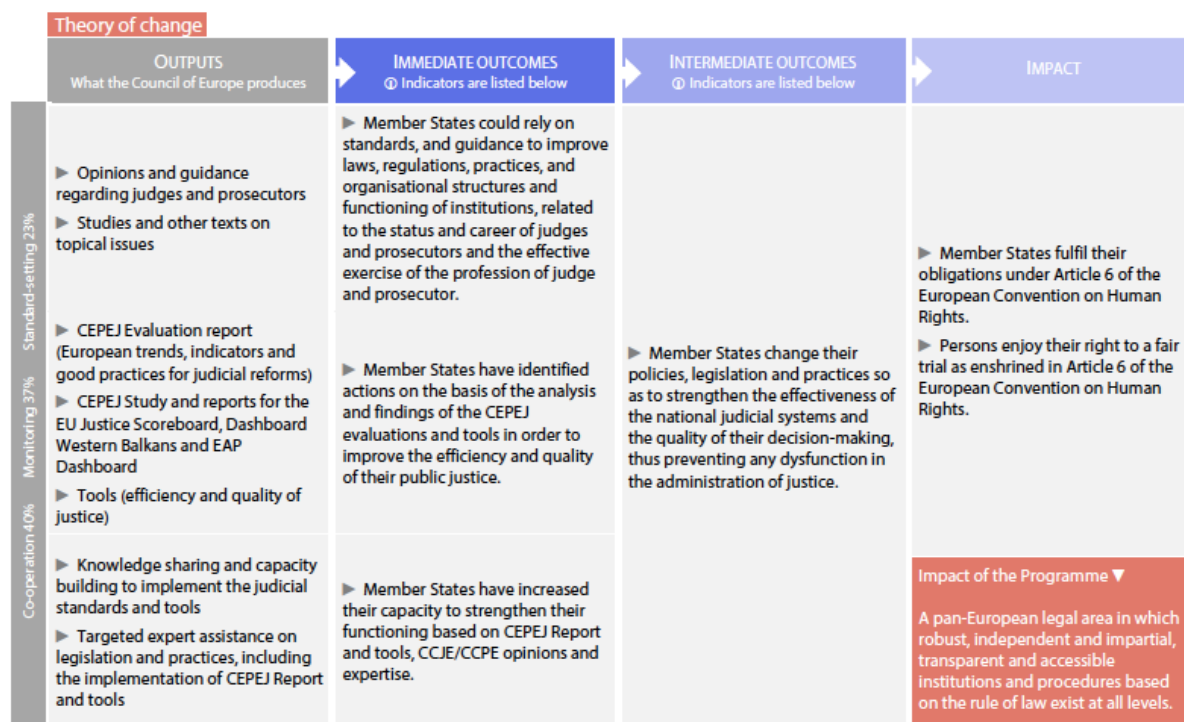
144. Council of Europe, 2020. Strategic Framework of the Council of Europe, pp. 3-4.

145. SG/Inf(2020)34, Strategic Framework of the Council of Europe 2020.

146. CM(2016)36 final Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality.

147. Multiple IDIs, e.g. 10, 32.

Figure 5 – Sub-programme’s ToC¹⁴⁸



In the evaluation period, 2018-2022, the immediate outcomes have somewhat evolved, as illustrated in Table 6 below, however these changes are not significant. Overall, the results/outcomes concentrate on member states being able to rely on standards and resources produced by the sub-programme to identify different types of actions (including policy, legal, institutional, etc.) to improve efficiency, quality and independence of their justice systems, including specifically the functioning of legal professions and institutions.

Table 6 – Evolution of sub-programme’s results and immediate outcomes

Programming perspective	Expected result 1	Expected result 2	Expected result 3
2018-2019	Member states have relied on the analysis and findings of the CEPEJ evaluations and tools in order to improve the efficiency and quality of their public justice.	Member states have received guidance on the functioning of the professions of judges and prosecutors.	Member states and, where appropriate, neighbourhood countries, have identified concrete measures to strengthen their judicial systems, following targeted co-operation.
2020-2021	Member states have identified actions on the basis of the analysis and findings of the CEPEJ evaluations and tools in order to improve the efficiency and quality of their public justice.	Member states have identified measures to improve laws, regulations, institutions, practices or funding related to the status and functioning of the professions of judges and prosecutors.	Member states and, where appropriate, neighbourhood countries, have increased their capacity to strengthen their judicial systems.
	Immediate outcome 1	Immediate outcome 2	Immediate outcome 3
2022-2025	Member states have identified actions on the basis of the analysis and findings of the CEPEJ evaluations and tools in order to improve the efficiency and quality of their public justice (same as expected result 1 above).	Member states could rely on standards and guidance to improve laws, regulations, practices and functioning of institutions, related to the status and career of judges and prosecutors and the effective exercise of the profession of judge and prosecutor.	Member states have increased their capacity to strengthen their functioning based on CEPEJ Report and tools, CCJE/CCPE opinions and expertise.

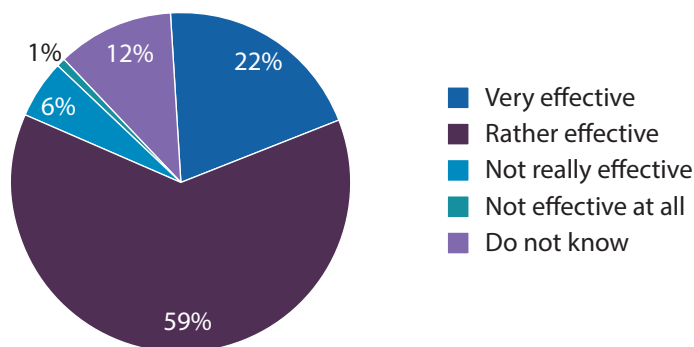
148. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 74, CM(2020)1 Council of Europe Programme and Budget 2020-21 p. 65.

Overall assessment of effectiveness

On the whole, the evaluation shows that the sub-programme has been effective. Over the evaluation period, the sub-programme achieved its expected results. Some delays reported in 2020 due to the Covid-19 pandemic have been mitigated in 2021.¹⁴⁹ The majority of surveyed CCJE, CCPE and CEPEJ members, as well as the sub-programme staff (n=153) believe that the sub-programme has been “very effective” (21.57%) or “rather effective” (59.48%) in achieving its expected results set out for the years 2018-2022 (see Figure 6 below). The interviewees generally expressed positive assessments as to the sub-programme’s effectiveness. The interventions are certainly the most effective when the agendas of member states’ authorities align with the sub-programme’s objectives.

While the perceptions are overwhelmingly positive, a visible minority of survey respondents (slightly over 7%) assessed the effectiveness negatively. Evaluation interlocutors during field missions tended to present a somewhat less optimistic perspective than other interviewees. The results of the survey and interviews show that where the sub-programme’s effectiveness has been most limited, this is predominantly due to external factors, especially the lack of political will at member state level. In relation to some countries, there is a perception among interviewees that the Council of Europe, as well as other donors and international actors, have limited avenues for action, which conveys a sense of hopelessness at times. This underscores the need for the Council of Europe to solidify its actions around the sub-programme’s agenda to create stronger leverage.

Figure 6 – Achievement of sub-programme results as set out in the Programme and Budget documents for the period 2018-2022



Source: Ecorys own survey data, n=153.

Analysis of sub-programme outputs

The sub-programme delivers on the planned outputs. Overall, CEPEJ, CCJE and CCPE have been able to produce the outputs planned in the Programme and Budget documents. Similarly, co-operation programmes have consistently been implemented, delivering on the majority of planned activities and products.

The Covid-19 pandemic affected the functioning of sub-programme bodies, yet it did not significantly decrease their effectiveness in delivering publications. For example, in 2020, the CEPEJ succeeded in implementing its 2020-2021 programme of activities as approved by the Committee of Ministers almost normally and without experiencing any delay in the execution of its work.¹⁵⁰ The interviews show that co-operation programmes have been affected to a higher degree. For example, Turkish programmes analysed for one of the case studies experienced significant delays as a result of the pandemic. Importantly, the interviews suggest that the programmes have been able to catch up to some extent.

Interviewees generally spoke highly of the quality of outputs developed in the sub-programme.¹⁵¹ For CEPEJ the evaluation report and the CEPEJ-STAT database are often viewed as flagship activities, although many other tools were also mentioned across the discussions. A number of interviewees explicitly referred to the CEPEJ European Ethical Charter on the use of artificial intelligence in judicial systems and their environment

149. Council of Europe Directorate of Programme and Budget (2019), Progress Review Report 2018, CM/Inf(2019)7; Council of Europe Directorate of Programme and Budget (2020), Progress Review Report 2019, CM/Inf(2020)7; Directorate of Programme and Budget (2021), Progress Review Report 2020, CM/Inf(2021)7; Directorate of Programme and Budget (2022), Progress Review Report 2021, CM/Inf(2022)7.

150. CEPEJ (2021), CEPEJ Activity Report – 2020. As adopted at the 36th CEPEJ plenary meeting on 16 and 17 June 2021, CEPEJ(2021)9.

151. E.g. ID112, ID117, ID124, ID143.

as an example of a very successful product that also testifies to CEPEJ’s ability to set trends.¹⁵² The opinions of the CCJE and CCPE are also held in high regard.

Sub-programme interventions are viewed positively by interviewees and survey respondents alike. Survey responses (n=211) show overwhelmingly positive assessments of various sub-programme interventions in terms of how they affect the independence, efficiency and quality of justice systems across Council of Europe member states. When analysed separately, the surveys differ in their top three choices.

Analysis of immediate outcomes

Sub-programme outputs are variously used at country level, as evidenced by survey results, interviews and desk research. The majority of surveyed representatives of international organisations, civil society, academia and national authorities (57.41%, 31) stated that this has been the case, while 11.11% responded in the negative. Based on survey data the most often used outputs are:

- ▶ CEPEJ Evaluation reports on the functioning of judicial systems;
- ▶ CCJE general opinions;
- ▶ CEPEJ-STAT database on the functioning of justice systems.

These are followed by CEPEJ thematic studies, tools, and guidelines supporting the implementation of reforms and CCJE thematic reports (see Table 2 below). On the other hand, interviewees do not present any hierarchy of the outputs in terms of their use across member states, but rather highlight that the outputs are indeed made available to national authorities and they are also used.

Table 7 – Sub-programme outputs used at country level

Answer Choices	Responses	
CEPEJ-STAT, the database on the functioning of justice systems	70.97%	22
CEPEJ Evaluation reports on the functioning of judicial systems	83.87%	26
CEPEJ thematic studies, tools and guidelines supporting the implementation of reforms	64.52%	20
CCJE general opinions	70.97%	22
CCJE country-specific opinions and guidance regarding judiciaries	48.39%	15
CCJE thematic reports	54.84%	17
CCPE general opinions	48.39%	15
CCPE country-specific opinions and guidance regarding prosecution services	45.16%	14
CCPE thematic reports	45.16%	14
Direct expert assistance on legislation and practices regarding the functioning of the justice system	22.58%	7
Direct assistance within co-operation projects to the Council of Europe member states and neighbouring countries	45.16%	14
Other (please specify)	3.23%	1
	Answered	31

Source: Ecorys, based on survey data, n=31.

Immediate Outcome 1:

Member states have identified actions on the basis of the analysis and findings of the CEPEJ evaluations and tools in order to improve the efficiency and quality of their public justice

CEPEJ evaluation reports, and statistical data more generally, are used by various actors within and outside the Council of Europe to illustrate trends, support analysis of judicial systems and identify areas where interventions are necessary. The data has been particularly appreciated by the EU which supports CEPEJ projects focused on data collection, such as the Justice Scoreboard, the Western Balkans Dashboard and the Eastern

¹⁵². E.g. IDI 26.

Partnership Dashboard. The data are used in the EU Rule of Law report,¹⁵³ but also pre-accession processes; for example it feeds into specific indicators in Serbia.¹⁵⁴ According to interviewees, with its data collection methodology and multidisciplinary expertise, CEPEJ is a unique body on a global scale.¹⁵⁵

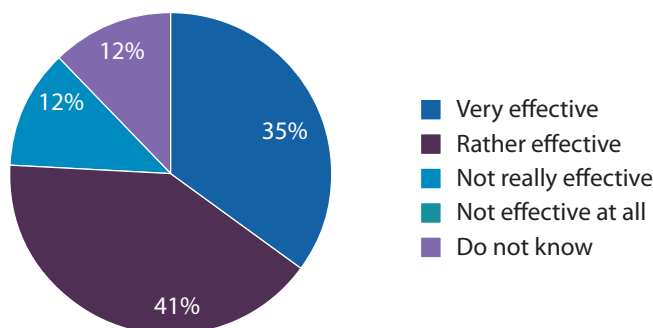
The evaluation also collected evidence of various instances where member states have identified actions on the basis of the analysis and findings of CEPEJ evaluations and tools in order to improve the efficiency and quality of their public justice. CEPEJ itself is proactive in helping member states identify these actions. For example, in 2018 CEPEJ made specific recommendations to improve the system of judicial data collection in Andorra, Montenegro and North Macedonia.¹⁵⁶ Between 2018 and 2022, CEPEJ’s tools and methodology have been used to guide judicial reforms in many countries, including Albania, Azerbaijan, Georgia, Latvia, Kosovo*, Malta, Moldova, Morocco, Slovakia, Spain, Tunisia and the Southern Neighbourhood region.¹⁵⁷

Co-operation programmes have been the main, albeit not the only, vehicle for CEPEJ to use its methodologies and tools at country level, provide experts, set up assessment processes and thereby support member states in identifying what needs to be done. The findings thus show that actions have been identified at member state level, having been presented in various expert reports and recommendations. In this sense, given the way it is formulated, this immediate outcome can be considered achieved.

A question remains however as to whether the actions identified based on CEPEJ outputs are implemented in practice. Perhaps unsurprisingly, the evaluation findings on this are mixed, and similarly for other sub-programme bodies. In the survey, representatives of international organisations, civil society, academia and national authorities (survey group 3) were asked whether they had implemented projects in co-operation with CEPEJ in the period between 2018 and 2022, or are currently implementing any. Among 54 who answered, 18 stated that this had been the case. Among the 17 respondents who provided assessment of the projects’ effectiveness, the majority provided positive opinions (76.47%, 13), including six people (35.29%) believing that the projects were “very effective” and seven (41.18%) that they were “rather effective”. Only two people considered that the projects were “not really effective”.

Figure 7 – Effectiveness of co-operation projects according to survey respondents

How effective do you consider the project implementation to have been?



Source: Ecorys, n=17.

Qualitative interviews identify specific positive examples. In Spain, for example, CEPEJ recommendations were used to improve the legal framework in the preparation of three draft laws.¹⁵⁸ In Malta, its project significantly contributed to the digitalisation of the country’s judicial system, triggered by the Covid-19 pandemic which gave the matter more urgency.¹⁵⁹ In Morocco, the project contributed to broader judicial reforms, but also specifically launched pilot courts, introduced logs for efficiency and CEPEJ satisfaction surveys for both the general public and lawyers.¹⁶⁰ On the other hand, the field mission in Georgia showed that CEPEJ recommendations,

153. See e.g. European Commission, European Rule of Law mechanism: Methodology for the preparation of the Annual Rule of Law Report, available [here](#).

154. FGI 73.

155. E.g. IDI 26, IDI 42.

156. CEPEJ (2019), Activity Report of the CEPEJ – 2018, CEPEJ(2019)6.

157. CEPEJ (2019), Activity Report of the CEPEJ – 2018, CEPEJ(2019)6; CEPEJ (2020), Activity Report of the CEPEJ – 2019, CEPEJ(2020)10Rev.

158. IDI 17.

159. IDI 23.

160. IDI 26.

for example related to statistical data collection and case management, were not put into practice.¹⁶¹ This could perhaps, to some extent, be explained by it being the first phase of co-operation between CEPEJ and Georgia, coinciding with the Covid-19 pandemic. Although the interviewees considered that there is a better climate for work on the efficiency of justice than on independence and impartiality, the ongoing process of judicial appointments and surrounding political controversies seemed to have distracted key actors from the reform agenda and made this work difficult as well.

In this context, it is useful to recall some interview insights which suggest limited capacity on the part of CEPEJ and other sub-programme bodies to follow up on or monitor how the recommendations are implemented.¹⁶² Nevertheless, requests for continuous support from CEPEJ can perhaps be seen as indications of the member states' willingness to follow through on the actions and implement the recommendations.¹⁶³

Immediate Outcome 2:

Member states could rely on standards and guidance to improve laws, regulations, practices and organisational structures and functioning of institutions, related to the status and career of judges and prosecutors and the effective exercise of the profession of judge and prosecutor.

The second immediate outcome partly overlaps with the first, insofar as it also concerns CEPEJ in addition to the CCJE, CCPE and co-operation programmes. Similar to the first immediate outcome, its attainment depends on member states being able to access the standards and guidance, rather than on their willingness to use these, although that is the end goal. In this sense, its achievement is very much in the hands of the sub-programme bodies and co-operation programmes. What becomes of key importance is the capacity to reach specific stakeholders and create conditions in which they can make use of sub-programme resources.

Sub-programme outputs are disseminated through various channels, including dedicated websites and social media, national members of sub-programme bodies, plenary sessions, conferences attended by representatives of sub-programme bodies and newsletters. Other Council of Europe bodies (see also Section 2.2.4.), various international organisations (in particular the EU, but also for example the OECD), international non-governmental organisations (INGOs) and civil society organisations serve as multipliers by relying on and referencing the standards and guidance in their own work.

Table 8 – Examples of CEPEJ dissemination activities between 2018 and 2022 based on activity reports¹⁶⁴

In 2018, CEPEJ was represented in 60 forums (27 states) on the functioning of justice. Two issues of the "CEPEJ Newsletter" were published electronically and disseminated to almost 3 000 recipients.

In 2019, CEPEJ was represented in 80 forums (33 states) on the functioning of justice.

In 2019 and 2020, the CEPEJ Newsletter was published electronically and disseminated to almost 3 500 recipients. CEPEJ's internet site averaged almost 10 000 connections per month.

In 2019, the CEPEJ Facebook page had more than 1 200 followers, and in 2020 nearly 1 800.

While potentially perceived as rather technical, the translation of sub-programme outputs is one of the preconditions for member states to be able to rely on the standards and guidance. While sub-programme bodies provide this, their resources are limited. This is especially the case for the CCJE and CCPE, which do not have their own co-operation programmes that could cover these costs. Thus, sometimes it is the members of those bodies who translate the opinions.¹⁶⁵ Ensuring that sub-programme bodies have sufficient resources for this aspect of their activities is, therefore, of great importance. Co-operation programmes are a major way to ensure translation of documents, and systematic inclusion of translation budgets in the projects provides some solution to the scarcity of resources within the ordinary budget.

Co-operation programmes are by far the most tangible way in which the Council of Europe can make its standards and guidance on the independence and efficiency of justice available for member states. One

161. Field mission interviews; ID I43.

162. E.g. ID I13, ID I42 and ID I50.

163. ID I50.

164. CEPEJ (2019), Activity Report of the CEPEJ – 2018, CEPEJ(2019)6; CEPEJ (2020), Activity Report of the CEPEJ – 2019, CEPEJ(2020)10Rev; CEPEJ (2021), CEPEJ Activity Report – 2020. As adopted at the 36th CEPEJ plenary meeting on 16 and 17 June 2021, CEPEJ(2021)9.

165. ID I41.

interviewee called them “a key point of entry”, noting that in Ukraine, Moldova and other countries, professionals would quote CCJE’s opinions, since those countries had projects.¹⁶⁶ It is, however, also worth mentioning that co-operation programmes are put in place because the Council of Europe has its standards, for example developed by the CCJE and CCPE, with interviewees in the field highlighting that these represent its primary assets. This therefore explains why the Organisation is often perceived as best placed to implement programmes in the area of justice.

Given the potential of co-operation programmes to effect change, for example by being implemented collaboratively with the national authorities and the most relevant stakeholders, it is of paramount importance that these programmes mainstream sub-programme standards as much as possible. This is less of an issue for CEPEJ, since it implements its own co-operation programmes and focuses on its own tools. In fact, a number of interviewees expressed a strong opinion that CEPEJ tools should be dealt with in CEPEJ co-operation programmes due to their technical nature and expertise requirements.¹⁶⁷ However, it is particularly important for the CCJE and CCPE, which have to rely on co-operation programmes implemented both by CEPEJ and the CPD.

The evaluation, especially field missions, shows that while CEPEJ largely focuses on its own tools, the co-operation programmes run by the CPD rely on the CCJE and CCPE publications (and CEPEJ to some extent). Co-operation programmes translate opinions produced by the CCJE and CCPE. This has been reported by Council of Europe staff, but also mentioned independently by representatives of national stakeholders interviewed during field missions. The programmes bring those opinions to stakeholders’ attention and use them as a reference point for activities. Given the qualitative nature of this evaluation, it is difficult to say to what extent this is systematic. However, there is a clear understanding among relevant stakeholders that promotion of the Council of Europe standards and their practical implementation on the ground is the main objective of co-operation.

Table 9 – Country examples: dissemination of sub-programme outputs through co-operation programmes

In Serbia, various actors involved in the ongoing constitutional reforms observed that the Council of Europe project translated a package of the Council of Europe standards, including CCJE and CCPE opinions, and made those directly available to decision makers during the development of legislation. In the analysed Serbian projects (the “HF15-Serbia-High Judicial Council and Individual Independence” and “HFII.9: Strengthening Independence and Accountability of the Judiciary”) different CCJE, CCPE and CEPEJ outputs were included in log frames as sources and means of verification for outcomes, in addition to those by GRECO and the Venice Commission.

In Georgia, one of the interviewed national stakeholders involved in the “PGG II: Enhancing the accountability and the efficiency of the judicial system and the professionalism of lawyers in Georgia” project recalled the ongoing reform processes around judicial ethics and the disciplinary liability of judges. The final version of the Code of Judicial Ethics was adopted in October 2021. The grounds for disciplinary liability were altered to include a violation of the code. The interviewee noted that CCJE Opinion No. 3 on the principles and rules governing judges’ professional conduct, in particular ethics, incompatible behaviour and impartiality, was one of the reference points. In the CEPEJ component of the same project, four CEPEJ tools, including case weighting in judicial systems, have been translated and shared with project partners and other stakeholders. However, based on the programme documents, the tools were not introduced as of the end 2021.

Apart from translation and dissemination of documents, stakeholders reported that experts from sub-programme bodies are invited to provide expertise within the projects. The interviewees underline that the expertise is particularly appreciated as it comes from practitioners; however, this does not always guarantee that the recommendations will be taken on board. Much in this respect depends on the political context.

¹⁶⁶. IDI 8, but importance of co-operation programmes also underlined explicitly by IDI 23.

¹⁶⁷. E.g. IDI 45.

Table 10 – Country example: the use of the sub-programme’s expertise in co-operation projects

The expertise provided by the CCJE as part of a Georgian project in relation to the evaluation of judges’ performance has not so far been used in practice. The interviewees attributed this to the controversial nature of the subject matter, as opposed for example to the evaluation of court staff which is being piloted in the Georgian Supreme Court. As already mentioned above, there are instances when specific expertise provided by CEPEJ experts has not been used either, even though it relates to issues that can be seen as much less controversial. Positive examples of the use of CEPEJ tools in practice have also been identified.

A number of interviewees have recalled experiences of having been involved in co-operation projects with success.¹⁶⁸ Interviewees mentioned for example that in Armenia recommendations related to appeals on disciplinary decisions at the constitutional level were accepted and laws were changed, and that in Moldova a five-year mandate for judges was abolished, which was linked to the CCJE indicating this as an important barrier to independence.

Importantly, co-operation programmes are a “two-way street”. While experts from sub-programme bodies provide advice and/or capacity building to national stakeholders, their participation in these programmes can inspire work around standard setting. One of the interviewees commented that the recent organisational split between CCJE/CCPE and co-operation programmes (which were moved to another department in 2021) may somewhat lessen the capacity of those bodies to creatively address the most current challenges. While this risk has not been confirmed in other interviews, and some noted for example that the CCJE will “never run out of topics to consider”, the benefit from participation in co-operation programmes to the general standard-setting activities of the Council of Europe should be noted and heeded when experts are selected to take part in programmes.

Member states’ reliance on standards and guidance depend on the ability of the sub-programme to deliver those to the attention of decision makers. While various efforts made are appreciated, a number of interviewees highlighted the need for increasing visibility and dissemination.¹⁶⁹ The survey results also provide an argument for increased publicity at country level related to the sub-programme and the use of sub-programme outputs. This is because a significant number of respondents (27.78%, n=54) in group 3 (comprising national authorities, permanent representations, civil society and/or international organisations, etc.) did not know whether the analysis and findings of CEPEJ, CCJE and CCPE, and other expert opinions, evaluations and tools, have been used to improve the independence, efficiency and quality of justice and the functioning of judicial systems in their countries or regions.

Immediate Outcome 3:

Member states have increased their capacity to strengthen their functioning based on CEPEJ reports and tools, and on CCJE/CCPE opinions and expertise.

Unlike previous immediate outcomes, this outcome as defined in the ToC depends on the actions implemented by sub-programme bodies and co-operation programmes only to some extent, in particular, the extent to which they make the standards available (through co-operation projects, dissemination and visibility) to member states.

However, this outcome also requires an assessment as to whether capacities were increased to strengthen member state institutions’ functioning. Field missions and analysis of co-operation programmes, in particular, show that the sub-programme creates opportunities for member states to do just that. Clear recommendations are frequently laid out in co-operation programme outputs. Apart from the provision of information and expertise, which in themselves can lead to increased capacities, assistance in institutional reforms, capacity building and training components are built into co-operation programmes. Case studies also suggest positive results in terms of actual increased capacities both at member state and individual level.

¹⁶⁸. E.g. IDI 41, IDI 26, IDI 54.

¹⁶⁹. E.g. IDI 10, IDI 15, IDI 16, IDI 22, IDI 24, IDI 50.

Table 11 – Country examples: positive results in Serbia and Türkiye

In Serbia, the co-operation projects helped establish procedures to tackle undue pressure on judges and prosecutors in the High Judiciary Council (HJC) and the Supreme Prosecution Council. Since these were established in 2021,¹⁷⁰ cases have already been brought to the attention of these bodies and resolved. For example, as of October 2022, 10 cases were brought before the HJC, with two dismissed, four adopted and four heard. Three of those related to the pressure from the media and one to undue influence from local government.¹⁷¹

In Türkiye, where case law unity is a significant problem, one of the projects analysed helped to set up a case law database for the Court of Cassation, as part of the solution. The database will use artificial intelligence to optimise accuracy of judgment selection. The same project is also supplying training materials, course modules for judges and training of trainers. It has also translated CEPEJ documents and CCJE Opinion No. 20 on the role of courts with respect to the uniform application of the law. The second analysed Turkish project developed the entire Roadmap for the Improved Administrative Justice System 2020-2023 outlining the necessary reforms. In this sense, the capacity of the member state to strengthen its functioning was increased.

However, whether the member states use these opportunities and increased capacities to actually strengthen themselves is often dependent on political will.¹⁷² As one interviewee put it: “I think ... there are countries that want to run the reforms, and there are countries that do not.”¹⁷³ While the issue is surely more complex, as will be discussed below, when the political climate is not favourable, the interviewees indicated that work on efficiency and the daily life of courts can still be possible. They also suggested that a bottom-up approach can be more effective, namely that more work is carried out with individual judges.

Table 12 – Country example: Serbia

In Serbia, even when the climate was not favourable for constitutional reforms in line with sub-programme standards, the judges’ professional associations would refer to the CCJE with requests for opinions on various matters of concern. The interviewees praised the CCJE and attributed some of their successes in defending their independence to the support of this body.

Analysis of intermediate outcomes

The intermediate outcome that the sub-programme aims to achieve consists of positive changes in legislation, policies and practices in the member states towards better functioning judicial systems. The analysis of the sub-programme’s effectiveness in this respect requires establishing whether any positive or negative changes have been implemented and establishing to what extent these are related to the sub-programme. The evaluation does not allow for a systematic review of all interventions in all countries, and hence its results will have to be interpreted from a qualitative standpoint.

The evaluation shows that there are multiple examples of countries where reforms have been implemented and positive changes in legislation have been introduced. These have the potential to also positively affect policies and practices; however, as the Georgian field mission shows, even good laws do not always translate into good legal practice, especially when political interests are at stake. However, positive examples have been presented in the analysis of immediate outcomes. And these have the potential to translate into further changes and interviewees agree that the sub-programme has had positive effects in various member states.

Survey results provide stakeholders’ perspectives on the changes in the independence, efficiency and quality of justice systems in Council of Europe member states taken as a whole. Among the 223 survey respondents who provided answers, the majority presented a positive assessment of the changes between 2018 and 2022, albeit somewhat reserved. The situation “significantly improved” in the opinion of 12.56% of respondents and “somewhat improved” according to 50.22%. However, a significant proportion believe that the situation

170. HF 9 - Strengthening Independence and Accountability of the Judiciary (2021), HF II Annual report 2020-2021 – Year 2 of implementation.

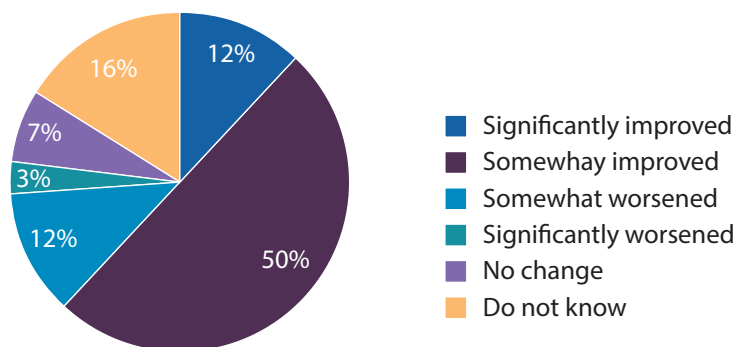
171. FGI 74.

172. E.g. IDI 15, IDI 18, IDI 29, IDI 41, IDI 42.

173. IDI 42.

“somewhat worsened” (12.11%) or “significantly worsened” (2.69%), with others perceiving no change (6.73%) or not knowing (15.70%). Members of the CCJE, CCPE and CEPEJ presented a more positive outlook, with 19.74% assessing that the situation “significantly improved”. Conversely, respondents for the survey with representatives of international organisations, civil society, academia and national authorities (group 3) presented a somewhat more pessimistic assessment, with 16.39% stating that the situation “somewhat worsened” and 4.92% that it “significantly worsened”.

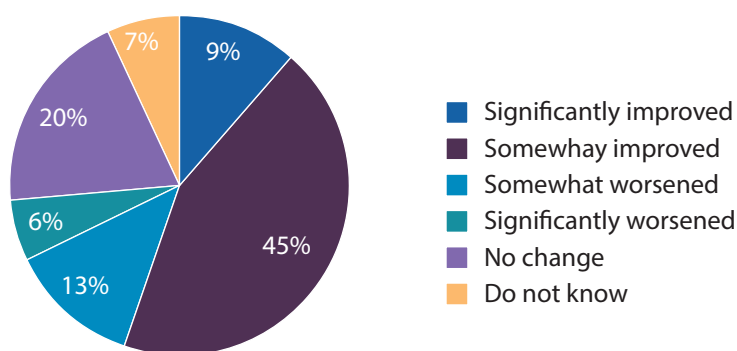
Figure 8 – Perceived change in the independence, efficiency and quality of justice systems in the Council of Europe member states in the period 2018-2022 (results from all three surveys)



Source: Ecorys own survey data, n=223.

While the overall assessment for all Council of Europe member states is fairly positive, assessment of the situation at country level seems to be somewhat less optimistic. When asked about the changes in the independence, efficiency and quality of justice in their country (geographical area), a small majority of the representatives of international organisations, civil society, academia and national authorities (53.7%) see the situation improving, including 9.26% saying it had improved significantly and 44.44% somewhat. However, as many as 18.52% displayed more scepticism, believing that the situation had worsened somewhat (12.96%) or significantly worsened (5.56%). At the same time, just over 20% of the respondents perceived no change in the situation, while 7.41% did not know. This makes a case for the sub-programme to be strengthened, given the backsliding or lack of progress perceived by significant groups of survey respondents, confirmed further in the interviews conducted for the evaluation.

Figure 9 – Perceived change in the independence, efficiency and quality of justice systems in Council of Europe member states over the period 2018-2022 in respondent countries (results from the survey with civil society, academia and national authorities)

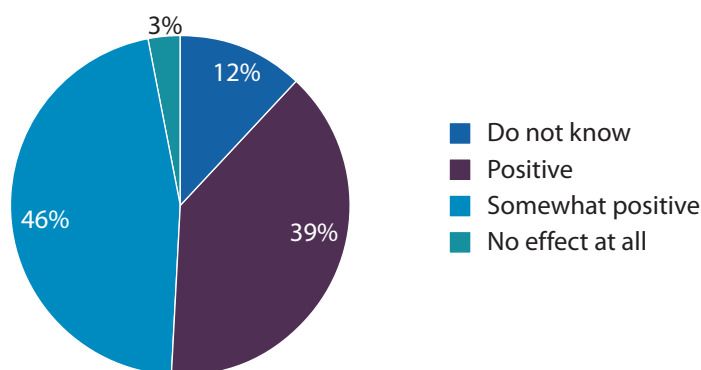


Source: : Ecorys own survey data, n=54.

Input from interviews and desk research shows that the situation with the independence of judiciaries across the Council of Europe region has been particularly problematic.

Surveyed stakeholders (n=218) assess that the sub-programme has had a “positive” (39%) or “somewhat positive” (46%) effect on the independence, efficiency and quality of justice systems in Council of Europe member states. In this case, members of CCJE, CCPE and CEPEJ presented a more optimistic assessment than others, with 46.05% believing that the sub-programme’s influence has been positive. Only a small number of stakeholders believe that the sub-programme has had “no effect at all” (3%).

Figure 10 – Sub-programme’s effects on independence, efficiency and quality of justice systems in Council of Europe member states



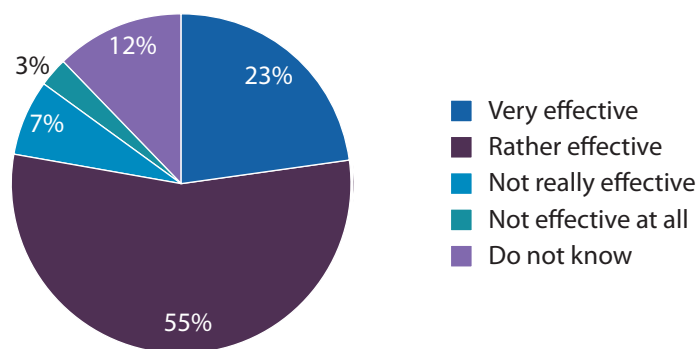
Source: Ecorys own survey data, n=218.

2.2.2. To what extent does the sub-programme contribute to the Rule of Law-Based Institutions programme?

The interviewees saw the work done by the sub-programme as an integral part of efforts to establish and strengthen the rule of law. Survey responses (n=211) suggest that the sub-programme contributes to the Rule of Law-Based Institutions programme objectives, that is, the development of a pan-European legal area in which robust institutions and procedures based on the rule of law exist. Slightly over 23% of stakeholders believe that the programme is “very effective”, while close to 55% believe that it is “rather effective”. It can thus be concluded that the sub-programme is rightly situated under the Rule of Law-Based Institutions programme.

At the same time, just over 10% of respondents considered the sub-programme either “not really effective” or “not effective at all”. This is a noticeable minority. The interviews suggest that political will among the member states and lack of leverage on the part of the Council of Europe, and other international actors, may be the main reason behind this negative assessment. These are the same factors which affect the effectiveness of the sub-programme in general, and they are discussed further in Section 2.2.3.

Figure 11 – Assessment of the sub-programme’s contribution to the Rule of Law-Based Institutions programme



Source: Ecorys own survey results, n=211.

The input from interviews suggests that the work of CEPEJ, the CCJE and CCPE contributes to greater alignment of standards across Council of Europe member states. In this way, the sub-programme helps to build a legal area that is pan-European in nature and that the Rule of Law-Based Institutions programme seeks to create. The three bodies gather representatives from all member states and create a platform for them to regularly exchange views and expertise, as well as find common ground.¹⁷⁴ This latter aspect was highlighted specifically by interviewees related to the CCPE, who noted that the functioning of prosecution services is particularly diverse across member states. This integrative aspect of the sub-programme work was considered important, even if it is not central from the perspective of the sub-programme’s ToC, which seems to underscore compliance with Article 6 in individual member states. The results here echo earlier findings from the evaluation of intergovernmental committees in 2018, which pointed out that “[i]n addition,

¹⁷⁴ E.g. IDI 22.

and not to be underestimated, is the importance of bringing together members of 47 member states to share experiences and examples of good practice providing an important tool to increase co-operation and coherence between countries in terms of legislation, policies and practices. In this sense, committees play a role in achieving greater unity between its members, which is an aim stated in Article 1 of the Statute of the Council of Europe¹⁷⁵

The sub-programme interacts with various other programmatic efforts implemented by the Council of Europe in a largely supportive manner, although challenges have also been identified. Within the Rule of Law-Based Institutions, it is implemented alongside the activities of the Venice Commission. There is some overlap in the subject matter covered by the Venice Commission and sub-programme bodies, especially the CCJE. Generally, the bodies use each other's outputs and multiply messages, which should support achievement of the programme's aspirations. However, the evaluation also shows that even a slight discord between what they say can be used to hinder reforms at national level (see Section 2.4.2). Co-operation and co-ordination between all these bodies is therefore key to ensuring the success of the programme. Outside the Rule of Law-based Institutions, the sub-programme interacts with the "Effectiveness of the Convention system at national and European level" sub-programme, which belongs to the human rights pillar and the "Effective Convention implementation" programme. The CPD implements co-operation programmes which fall under these two sub-programmes. There is a thematic overlap between both sub-programmes insofar as both deal with Article 6. This overlap can create challenges in terms of project management, in particular reporting of results. The CPD has resolved to attach the projects concerning the functioning of judicial systems to the "Independence and Efficiency of Justice" sub-programme in the future, despite the link to Article 6. Either way, projects related to Article 6 and implemented under the "Effectiveness of the Convention system at national and European level" sub-programme would still feed into the evaluated sub-programme and the Rule of Law-Based Institutions programme, as their results frameworks are aligned.

2.2.3. What were the main factors influencing the achievement or non-achievement of the objectives?

The sub-programme operates in a complex environment and achievement of its results is conditional on various internal and external factors.

Factors facilitating achievement of the objectives

Survey results show that the significance of factors outlined by members of CEPEJ, the CCJE and CCPE (group 1) and sub-programme and other Council of Europe staff (group 2) differs from the assessments presented by other stakeholders, such as international organisations, civil society, academia and national authorities (group 3). These perceptions are therefore considered separately.

Among the 154 survey respondents from groups 1 and 2 who provided answers on the factors influencing the achievement of sub-programme objectives, over 52% highlighted that professional background and expertise of the members of the three sub-programmes' bodies is a success determinant (56.34% and 56.34% of the respondents of group 1 and 2, respectively). This was also confirmed in the interviews as important.

The second factor most frequently selected, by 51% of respondents, was working methods based on knowledge sharing and building a professional network (57.75% respondents of group 1 and 44.87% of group 2). In this context, CEPEJ pilot courts are one of the networks that can support its effectiveness. However, the network has not always worked in an optimal way. CEPEJ itself noticed the need to motivate its pilot courts so that they contribute more effectively to the work of the CEPEJ working groups. Proposals were considered to group them by competence or centre of interest, in order to improve the response rate when they are requested.¹⁷⁶ Knowledge sharing and building professional networks were also seen by the interviewees as an important opportunity provided by the sub-programme bodies, as mentioned above.

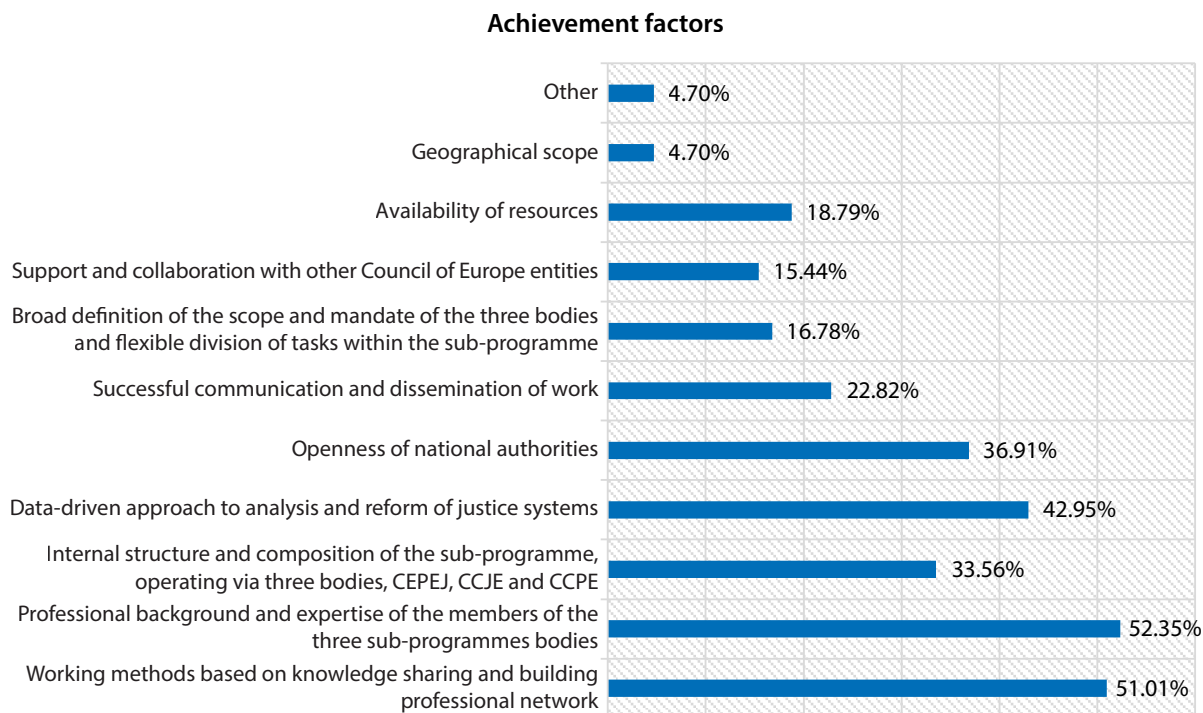
As many as 43% of respondents considered a data-driven approach to analysis and reform of justice systems as another important success factor. Interestingly, almost 41% of respondents from group 1 listed the internal structure and composition of the sub-programme, operating through the three bodies CEPEJ, CCJE and CCPE, as the third main success factor. At the same time, as open-ended input to the survey shows, the

175. CSES (2019), Evaluation of the intergovernmental Committees. Final report, Directorate of Internal Oversight of the Council of Europe, 2019(27), p. 51.

176. CEPEJ-BU(2019)3, 34th CEPEJ Bureau Meeting Report, p. 3.

administrative arrangements related to this structure (in particular administrative separation between CEPEJ and CCJE/CCPE) are considered sub-optimal for some respondents from the perspective of effectiveness. Similar sentiments were presented in some of the interviews.¹⁷⁷ While this could be an argument for a return to the previous arrangement, it can also be related to the lacking co-ordination mechanisms at the level of the sub-programme itself.

Figure 12 – Main factors influencing the achievement of the objectives (combined answers from group 1 and 2)



Source: Ecorys survey data, n= 154.

Desk research also suggests that another facilitating factor, which was not identified in the course of the survey, is the improvement in the size of the Council of Europe’s budget.¹⁷⁸ The aspects related to the budget are further reported under the efficiency section (2.3).

Results from the group 3 survey distributed among international organisations, academia, NGOs and national authorities (n=55) highlight the following leading factors enabling improvements in the independence, efficiency and quality of justice:

- ▶ positive attitudes of justice system professionals (judges, prosecutors) towards change: 60% of the respondents;
- ▶ political will to implement positive/meaningful reforms: 60% of the respondents;
- ▶ availability of resources: 38% of the respondents.

Directly opposite factors, that is, the lack of political will and resources, correlate with non-achievement of the objectives, and are considered further in the section below. The importance attached to these factors highlights the need to work on the attitudes of justice professionals and find ways to incentivise (or influence) national authorities to implement reforms in line with Council of Europe standards.

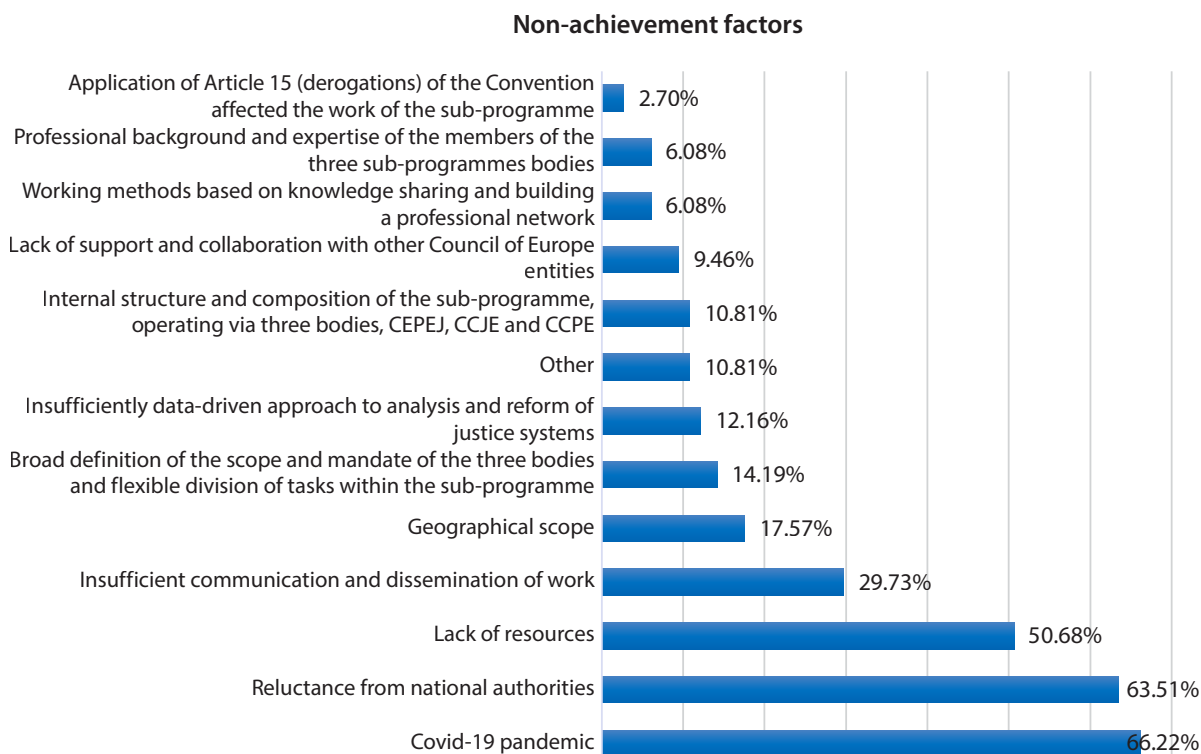
Factors hindering achievement of the objectives

The survey solicited stakeholder feedback on the factors hindering achievement of objectives. While stakeholders from groups 1 and 2 could choose from a somewhat more extended list (see Figure 13 below) than stakeholders in group 3, the answers largely align on the most prominent factors.

¹⁷⁷. E.g. IDI 27.

¹⁷⁸. E.g. CEPEJ-GT-MED(2019)11, CEPEJ Working Group on Mediation 6th Meeting Report, p. 2.

Figure 13 – Main factors hindering achievement of objectives (combined answers from group 1 and 2)



Source: Ecorys own survey data (n=148).

Stakeholders in group 3 were strongly aligned (85%, n=54) in their assessment that the lack of political will to implement positive/meaningful reforms is the most prominent factor hindering effectiveness. The second factor, organisational structure of the justice systems and lack of resources, garnered 50% of the votes.

The interviews confirm that the lack of political will to implement reforms, either among representatives of state authorities or justice professionals, is the most prominent barrier to sub-programme effectiveness at member state level.¹⁷⁹ The evaluators initially hypothesised that what was reported in the survey as reluctance from national authorities could also be caused by the lack of capacity, pointing to qualitative input to the survey that “member states seldom have the time to use data and opinions systematically”. Lack of capacity was also reported in some CEPEJ documentation.¹⁸⁰ However, qualitative input from interviews and analysis of project work suggests that while some beneficiaries may have lacked experience, the lack of capacity would hardly be an issue if positive and solution-driven attitudes were there in the first place.

Table 13 – Country example: the importance of political will

The case of Serbia illustrates that when the political climate was not favourable for constitutional reforms, the project initiated with this purpose was required to change course. Instead, work was done on fighting undue pressure on judges, prosecutors and judicial and prosecutorial assistants. However, the political landscape changed in 2019, momentum was created and a series of constitutional reforms was initiated. The Council of Europe projects on the ground have closely assisted the reform processes, providing information on standards and expertise, including from the sub-programme.

The Serbian example also supports a case for patience in the approach to countries where prolonged difficulties are encountered, as opposed to implementing exit strategies. One of the interviewees convincingly argued that if the Council of Europe leaves such countries, it may create a value vacuum, which other actors with opposing standards will be all too eager to fill. There is also an often-repeated argument that it is easier to leave a country than to come back after relations have been severed and trust undermined. Instead, interviewees propose strategies focusing on grass-roots, working with CSOs and individual justice professionals.

¹⁷⁹. E.g. IDI 15, IDI 18, IDI 29, IDI 41, IDI 42.

¹⁸⁰. See e.g. CEPEJ-BU(2018)2, 31st CEPEJ Bureau Meeting Report.

These approaches can prepare the ground for reform when the time comes and also provides an opportunity to create a critical mass of individuals whose commitment will propel large-scale political and legislative reforms. Further still, another interviewee observed that not all issues are politically undesirable, for example the training of judges as an activity that is less controversial in itself. In the example of Tunisia, an interviewee pointed to the value of assistance being tailored to the country, in supporting NGOs, continuously explaining standards and ensuring that what is supported is not misused.¹⁸¹

In this somewhat arduous work in adverse environments, the sub-programme can make use of the political and financial leverage offered by other international actors, in particular the European Union. The EU assigns significant resources to joint projects implemented with the Council of Europe, including in the evaluated sub-programme. Close collaboration with the EU, particularly visible in the EU enlargement countries, for example Serbia, appears to greatly facilitate reform, at least in some contexts. At the same time, the evaluation also shows that the Council of Europe does not fully employ its own political power to rally behind the sub-programme's agenda. There is room for improvement in how the Organisation's various bodies position themselves vis-à-vis the sub-programme and amplify its message (see also Section 2.2.4). This includes the Venice Commission and GRECO, which are probably the closest in substantive remit, but also political bodies, such as the Committee of Ministers and the Parliamentary Assembly.

The second most common factor indicated in the survey was lack of resources. One respondent noted that "co-operation is being negatively impacted by the proliferation of intermediaries and co-ordinators within the Council of Europe. This leads to the redaction of budgets for specific projects/activities and to increased administrative pressure on staff." The interviewees working in Strasbourg noted budgetary challenges, which is discussed in more detail under Efficiency (Section 2.3).

The Covid-19 pandemic was also highlighted among the survey responses. As many as 66% of respondents noted that the pandemic had a great impact on the work of all three bodies (almost 66% and 67% in group 1 and group 2, respectively). At the same time, desk research also shows that despite the crisis with all that it implied (for example, an inability to conduct field missions), in the majority of cases a satisfactory rate of activity has been maintained and significant results have been achieved, due to the increased use of videoconferencing and local expertise.¹⁸² Despite Covid-19, intergovernmental activities were continued online, although the pandemic has had an impact on the number of activities held.¹⁸³ Covid-19 has, however, had a stronger influence on co-operation programmes, disabling some components (for example study visits) for a significant period of time. While the projects have been able to catch up, at least to some extent, some have not been able to fully recover.

2.2.4. To what extent has the sub-programme's effectiveness been facilitated by support from other areas of the Council of Europe and viceversa?

Overall, the evaluation shows that there is space and, most importantly, a need for improving two-way co-operation between the sub-programme and other Council of Europe bodies. Survey results showed that internal co-operation with the Council of Europe bodies takes place with positive effects for the sub-programme, however this element can be strengthened. While 41% responses (n=148) suggest that entities from other areas of the Council of Europe supported or facilitated the work of the sub-programme, as many as 55% marked that they did not have knowledge about this aspect, with 4% providing negative answers.

Survey responses listed a number of specific bodies.¹⁸⁴ The HELP Programme was mentioned as facilitating the effectiveness of the sub-programme, specifically its course on the ethics for judges, prosecutors and lawyers developed in collaboration with CEPEJ and authors who are members of the CCPE and CCJE. The course is followed by more than 1 000 users on the HELP e-learning platform. The joint CEPEJ-HELP collaboration is also resulting in the (ongoing) development of the HELP course on the quality and efficiency of justice: the work of the CEPEJ.

181. IDI 24.

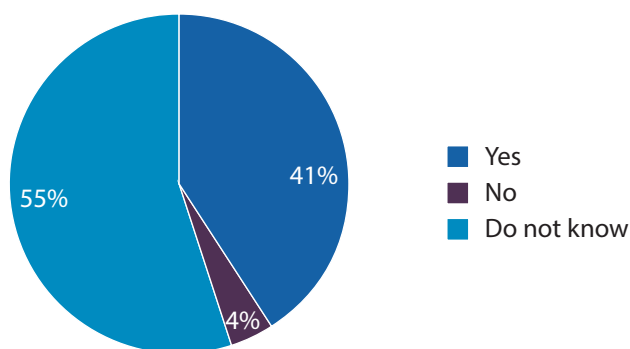
182. CEPEJ-BU(2021)1, 36th and 37th CEPEJ Bureau Meetings Report, p.4. See also progress reports listed in footnote 162.

183. CEPEJ-BU(2021)2, 38th CEPEJ Bureau Meeting Report, pp. 3-4.

184. Some respondents named bodies belonging to the programme (CEPEJ, CCPE, CCJE), which is somewhat surprising and may suggest that the question may have been misunderstood or perhaps that the respondents do not realise that the aforementioned bodies are part of the same sub-programme.

Figure 14 – Facilitation of the sub-programme’s work by entities from other areas of the Council of Europe (groups 1 and 2)

Have entities from other areas of the Council of Europe supported or facilitated the work of the sub-programme?



Source: Ecorys own survey data (n=148).

Desk research provided ample evidence of exchanges/linkages between sub-programme bodies and other Council of Europe actors, without allowing for a clear assessment as to how these translate into better effects. For example, according to its activity reports, CEPEJ continued exchanges with standard-setting committees and other bodies dealing with matters related to justice.¹⁸⁵ Aside from the CCJE and CCPE, the Parliamentary Assembly of the Council of Europe (PACE),¹⁸⁶ the European Committee on Legal Co-operation (CDCJ)¹⁸⁷ and the European Committee on Crime Problems (CDPC)¹⁸⁸ are represented at the CEPEJ plenary meetings.¹⁸⁹ The CCPE has recently held an exchange with the CDPC and presented its Opinion No. 17 (2022) on the role of prosecutors in the protection of the environment.¹⁹⁰

The interviewees noticed a particular similarity in the substantive remits of the CCJE and the Venice Commission.¹⁹¹ CCJE reports take note of successful co-operation with this body.¹⁹² The interviewees observed that CCJE’s members are sometimes invited to participate in the preparation of Venice Commission opinions, which also quote CCJE outputs. The latter seems a particularly useful practice, which could be intensified given the evaluation findings. The field missions suggest that the Venice Commission enjoys a very high level of respect, at least in analysed member states, including through EU support and its role in pre-accession reforms under Chapter 23 on the judiciary and fundamental rights.¹⁹³ This status can certainly be used to provide more visibility and strengthen the position of the CCJE.

Field missions also speak to the importance of alignment in terms of messaging between the CCJE and the Venice Commission, revealing problems which may occur when the messages differ. In this regard, field mission interviews show that stakeholders may instrumentalise even those standards which are worded in the same way by proposing interpretations that suit their agendas. So even the slightest differences in standard interpretations or wording between the Venice Commission and the CCJE can be (and sometimes are) exploited to the detriment of judicial independence and impartiality, undermining not only the work of these bodies but also the reputation of the Council of Europe. Convergence on the Council of Europe’s messages does not relate solely to the Venice Commission and the CCJE, however. Similar observations can also be made when it comes to the coherence between the outputs of the Council of Europe bodies, including those within the sub-programme, and expert opinions developed as part of the co-operation programmes. The CPD recognised the danger of diverging opinions and “forum shopping” and is planning to implement solutions in the future to ensure coherence.

Interviews conducted with stakeholders outside the sub-programme indicate that there is some level of knowledge about its work, but this could be improved. At times, recognition of the sub-programme’s work,

185. CEPEJ(2019)6, Activity Report of the CEPEJ - 2018, p. 6.

186. Information available at: <https://pace.coe.int/en/>.

187. <https://www.coe.int/en/web/cdcj/home>.

188. <https://www.coe.int/en/web/cdpc>.

189. CEPEJ(2020)10Rev, Activity Report of the CEPEJ – 2019, p. 2.

190. Information available [here](#).

191. Information available [here](#).

192. See e.g. CCJE-BU(2021)3, Report of the 30th meeting 24 March 2021 (by video conference) in which the Bureau recalled an “excellent level of co-operation with the Venice Commission”.

193. Information on the chapters available [here](#).

for example its inclusion in documents, also discussed further in this section, appears to depend on individual knowledge and attitudes of staff rather than a systematic organisational policy. However, capacity issues and the number of standards available must surely also play a role. The interviewees advocated more co-operation, albeit frequently focusing on the internal co-operation between sub-programme components.¹⁹⁴ Their feedback also suggests a need for better solutions for knowledge management within the Organisation.

There was, however, a rather uniform conviction, especially among Council of Europe staff within and outside the sub-programme that such co-operation should not be formalised into a specific procedure. While the evaluators would agree as to minimising formalities, there is some contradiction in the presented views. For example, when asked about a possible checklist for consultations, one interviewee noted that “it is not a matter of a checklist, you should have this instinct to consult the bodies”.¹⁹⁵ There is an implicit understanding here that co-operation should be “natural”. However, in a complex environment with many pressure points, for example results and time pressure, financial constraints, workloads and high-level stakeholders, other equally potent “instincts” may prevail, for example concentration on the most immediate task. One can argue in this context that a checklist (for example as exists for gender mainstreaming) or a similar easy mechanism is a safety valve rather than an additional burden. A checklist is also a mechanism to create habits and could be helpful for new staff, such as project managers who come to co-operation programmes. So could induction courses for new Council of Europe staff members, which would introduce all the bodies and their mandates.

Besides the already mentioned Venice Commission, various bodies of the Council of Europe also use sub-programme outputs in their work, thus promoting its work. The Department for the Execution of the Judgments refers to CCJE in at least 11 execution proceedings and CCPE opinions in one of the proceedings. Moreover, CEPEJ data play a significant role in the execution proceedings, with statistical information on different aspects of judicial systems, performance included in at least 41 proceedings in the analysed period. Quantitative data, and less often qualitative data, provided by the CEPEJ serve to identify problems, and analyse the dynamic of changes in the execution process, and are referred to both by the mechanism and by the involved countries. Occasionally, the general measures also include references to other tools, for example CEPEJ best practices and guidelines.¹⁹⁶ The references to sub-programme standards and guidelines, however, is not systematic. The interviews have indicated that inclusion of such references to a large extent depends on the familiarity of the staff preparing the execution process with those tools and on their discretionary decisions, even if there is a clear thematic fit, and the outputs of the sub-programme would be of relevance. One interlocutor indicated that the CEPEJ work in particular is technical and not easy to find on the website due to the working groups division and suggested creating a unified database of all available tools that would be internally available and searchable.

Another body with common thematic areas of work with the sub-programme is GRECO. Several opinions of the CCJE and CCPE feed into the GRECO evaluation framework. These have been listed in Table 14 below. Two CEPEJ dashboards also co-operate with GRECO for the analysis of questions concerning the integrity of judges.

Table 14 – CCPE and CCJE opinions which feed into the GRECO evaluation framework

CCPE Opinion No. 9 “Rome Charter” on European Norms and Principles concerning Prosecutors
CCPE Opinion No. 13 on independence, accountability and ethics of prosecutors
CCPE Opinion No. 14 on the role of prosecutors in fighting corruption and related economic and financial crime
CCJE Opinion No. 18 on the position of the judiciary and its relations with other powers of state in a modern democracy
CCJE Opinion No. 19 on the role of court presidents
CCJE Opinion No. 21 on preventing corruption among judges,
CCJE Opinion No. 24 on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems ¹⁹⁷

194. E.g. IDI 10, IDI 11, IDI 12, IDI 13, IDI 16, IDI 22, IDI 50.

195. E.g. IDI 10.

196. Own calculation, based on the search in HUDOC-EXEC database and subsequent review of execution documents. Search terms: Consultative Council of European Judges, CCJE, Consultative Council of European Prosecutors, CCPE, European Commission for the Efficiency of Justice, CEPEJ.

197. GRECO 22nd General Activity Report (2021), [Anti-corruption trends, challenges and good practices in Europe & the United States of America](#), p. 23, GRECO 21st General Activity Report (2020), [Anti-corruption trends, challenges and good practices in Europe & the United States of America](#), p. 19.

The work of CEPEJ, the CCPE and CCJE has also been quoted or otherwise referenced in the work of the Commissioner for Human Rights. This has concerned topics such as the reform of the judicial system; budget allocation for legal aid; statistics on the number of lawyers and judges; level of salaries; judicial time management; and the budget for the judicial system.

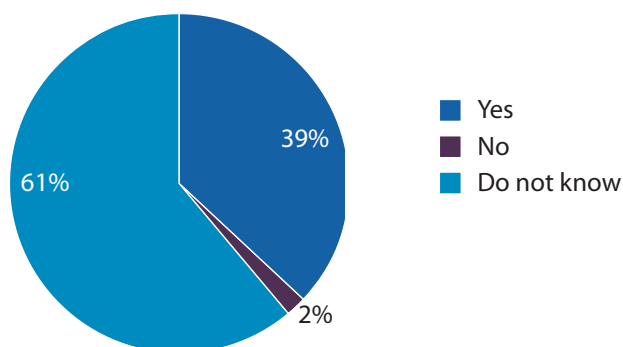
Table 15 – References to CEPEJ, CCJE and CCPE documents in the work of the Council of Europe Commissioner for Human Rights between 2018 and 2022

- ▶ 2018 July - Human Rights Comment on “Safeguarding human rights in the era of artificial intelligence” – CEPEJ: reference to the team of multidisciplinary experts put together by CEPEJ to lead the drafting of guidelines for the ethical use of algorithms within justice systems, including predictive justice.¹⁹⁸
- ▶ 2019 October – Speech – CEPEJ: the existence of “tools to develop criminal justice systems which use technology to the benefit of human rights. For example, the Ethical Charter on the use of artificial intelligence in judicial systems that the CEPEJ has adopted and the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data are two key texts.”¹⁹⁹
- ▶ 2019 July – Report on Azerbaijan – CEPEJ: statistics on the number of lawyers.²⁰⁰
- ▶ 2019 March – Report on Poland – CCJE and CCPE: modifications in the procedure for appointing the members of the council of the judiciary.²⁰¹

The above already shows that the sub-programme bodies and their work to some extent feed into that of other Council of Europe entities. Members of the CCJE, the CCPE and CEPEJ, the sub-programme and other relevant Council of Europe staff were also directly asked in the survey whether the sub-programme supported or facilitated the work of entities from other areas of the Council of Europe. Overall, 148 responses were collected, of which 37% positively assess the sub-programme in this respect, while only 2% of the replies are negative.

Figure 15 – Facilitation of the entities from other areas of the Council of Europe by the sub-programme’s work (groups 1 and 2)

Has the sub-programme supported or facilitated the work of entities from other areas of the Council of Europe?



Source: Ecorys own survey data (n=148).

However, over 60% of respondents were unaware whether the sub-programme supported or facilitated the work of entities from other areas of the Council of Europe. Apart from the references noted above, some evidence of such support can be found in desk research; for example, on a number of occasions opinions

198. Human Rights Comment: Safeguarding human rights in the era of artificial intelligence, by Dunja Mijatović, Council of Europe Commissioner for Human Rights, published on 3 July 2018, available at www.coe.int/en/web/commissioner/-/safeguarding-human-rights-in-the-era-of-artificial-intelligence.

199. Conference of Council of Europe Justice Ministers “Justice in Europe facing the challenges of digital technology”; Speech by Dunja Mijatović, Council of Europe Commissioner for Human Rights, Strasbourg, 15 October 2019, available at https://search.coe.int/commissioner/Pages/result_details.aspx?ObjectId=09000016809835e0.

200. CommDH(2019)27 Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Strasbourg, 11 December 2019, available at https://search.coe.int/commissioner/Pages/result_details.aspx?ObjectId=090000168098e108.

201. CommDH(2019)17 Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Strasbourg, 28 June 2019, available at https://search.coe.int/commissioner/Pages/result_details.aspx?ObjectId=090000168094d848.

or comments of CEPEJ have been provided.²⁰² CEPEJ's mandate includes supplying opinions at the request of various bodies, but also the preparation of action plans, best practice surveys or guidelines requested by steering committees.²⁰³

The evidence collected suggests that stronger internal co-operation – at least with similarly mandated bodies – within the Council of Europe could help to increase the sub-programme's effectiveness by facilitating enforcement of the developed standards and tools. At this point of the sub-programme's existence, a large body of standards and supporting instruments has been developed, and vigorous efforts have been made to ensure dissemination and implementation of these materials. However, implementation is still far from satisfactory due to factors such as those discussed above. The main political bodies within the Council of Europe, the Committee of Ministers, PACE and the Secretary General, could also support the sub-programme's intergovernmental and co-operation work by referring to sub-programme outputs, allowing appropriate time for consideration of the sub-programme's work, promoting their work at member state level and advocating implementation of standards using the Council of Europe's political leverage where possible.

In addition, as indicated above, CEPEJ is an advisory body, while CCJE and CCPE focus on standard setting; however, none have supervisory or monitoring functions, which would provide stronger enforcement instruments where member states are not willing to reform. In this context, interviewees provided different options for strengthening the capacity of the sub-programme to effect change at the national level, with one proposed solution being to endow CEPEJ with a monitoring function. However, strong arguments have also been raised against this line of action. In the respondents' view, this would change the nature of relations between CEPEJ and its counterparts from those based on peer and expert co-operation to those based on hierarchy and control. The evaluators would side with maintaining the existing character of these bodies. An intermediary solution would thus be to use the powers of other political and monitoring bodies in the Organisation as leverage.

2.3. EFFICIENCY

The analysis under the efficiency criterion focuses on determining to what extent the Independence and Efficiency of Justice sub-programme has been efficient in implementing its programme of activity for the period 2018-2022. This entails examining the cost-efficiency of sub-programme activities, the timeliness of activities, the allocated resources and management practices. Efficiency analysis also focuses on the organisational aspects of the programme, including placement of the various bodies within specific Council of Europe administrative structures.

2.3.1. To what extent are the sub-programme's activities cost-efficient?

The evaluation indicates that the sub-programme's activities are overall cost-efficient, especially when it comes to the work of sub-programme bodies. In the case of co-operation programmes, some overbudgeting and underspending were identified. However, findings in this section are limited as a full cost-efficiency analysis was not possible in the scope of this evaluation due to the complexity of the sub-programme, its limited comparability with other sub-programmes, limited comparability of outputs within the sub-programme itself and the general nature of sub-programme outcomes which do not easily lend themselves to quantification.

The sub-programme is financed from both the ordinary budget and extraordinary resources. With the exception of 2019, the extraordinary resources constituted the majority of the sub-programme's budget in the evaluation period. The EU contributes the majority of extrabudgetary resources which are dedicated mainly to co-operation programmes. Voluntary contributions (VC) from different states also play a role in financing, albeit smaller compared to other sources of financing.

The sub-programme's financing has fluctuated over the analysed period, with the most significant increase noted in extrabudgetary resources, representing European Union contributions to Joint Programmes (EU/JP) between 2019 and 2020, which have almost doubled. Table 16 below presents the funds allocated to the sub-programme over the evaluation period, juxtaposed against the total funds for the Rule of Law-Based Institutions programme and the rule of law pillar.

202. E.g. CEPEJ(2018)10 CEPEJ 30th plenary meeting/15th anniversary Abridged report, p. 4; CEPEJ-SATURN(2018)7 CEPEJ Steering Group of the Saturn Centre for Judicial Time Management 24th Meeting Report, p. 6.

203. Resolution Res(2002)12 Appendix 1 Statute of the European Commission for the Efficiency of Justice (CEPEJ).

Table 16 – Sub-programme budget over the evaluation period (in thousands of euros)²⁰⁴

Year	Budgetary resources	Extrabudgetary resources		Independence and efficiency of Justice sub-programme Total	Rule of Law based institutions programme Total	Rule of Law pillar Total
	Ordinary budget	EU/JP amount secured	VC amount secured			
2018 (as presented in 2019 adjusted)	3 193.7	4 080.2	1 238.5	8 512.4		49 931.3
2019 (adjusted)	2 829.5	732.9	882.5	4 444.9		34 945.4
2020 (as presented in 2021 adjusted)	3 483.6	7 794.5	1 575.0	12 853.1	20 408.7	167 547.7
2021 (adjusted)	3 391.0	6 847.5	527.5	10 766.0	17 639.3	177 084.5
2022	3 159.9	6 496.1	821.3	10 477.3	16 648.3	128 283.7

The overall budget of the sub-programme appears to be rather small when viewed from the perspective of the Rule of Law pillar. In 2022, the allocation for this pillar amounted to €128 283 700, including €16 648 300 (approx. 13% of pillar budget) earmarked for the Rule of Law-Based Institutions programme. In the same year, the sub-programme received the biggest portion of financing under this programme, namely €10 477 300 (approx. 8% of the pillar budget); however, the majority (€6 496 100) are extrabudgetary resources for co-operation projects which are not intended to cover intergovernmental work (i.e. the work of the CCJE and the CCPE and the bulk of CEPEJ's work). The remaining budget under the rule of law pillar is allocated to the "Action against crime, security and protection of citizens" programme and amounts to €111 635 400 in 2022.²⁰⁵ When compared with this programme, the sub-programme budget seems small; however, the crime-related sub-programme encompasses the work of more bodies and its activity volume is bigger.

The interviewees shared positive perceptions on the efficiency of sub-programme activities. They agreed that the sub-programme bodies are able to deliver on the commitments made in programming documents with high quality. Overall, in the evaluated period, the sub-programme delivered 81 outputs of different types which are included in Table 17 below.²⁰⁶ While it would be possible to present a calculation of the average cost per output within the sub-programme, such calculations would provide little valuable insight. The outputs as presented below do not represent all activities carried out within the sub-programme. They also vary greatly in scope, and thus in terms of the required workload and time.

Table 17 – Selected sub-programme outputs

Type of output	Number of outputs ²⁰⁷					
	2018	2019	2020	2021	2022	Total
CCJE						
General opinions	1	1	1	1	1	5
Specific opinions issued at member states' requests	5	2	2	2	1 ²⁰⁸	12
Studies and thematic reports	0	1	0	0	0	1
Plenary meetings	1	1	1	1	1	5
Total CCJE	7	5	4	4	3	23

204. Based on the information from the Council of Europe Directorate of Programme and Budget.

205. Committee of Ministers (2021), Council of Europe Programme and Budget 2022-2025, CM(2022)1, 10 December 2021.

206. This number does not include co-operation inputs of CEPEJ.

207. The calculation based on information provided by the CCJE and CCPE Secretariat as of September 2022 (comprising outputs until 2021 included) and information available on the Council of Europe website.

208. Number for 2022 based on publicly available data.

Type of output	Number of outputs ²⁰⁷					
	2018	2019	2020	2021	2022	Total
CCPE						
General opinions	1	1	1	1	1	5
Specific opinions issued at member states' requests	1	2	1	0	0 ²⁰⁹	4
Studies and thematic reports	0	1	0	0	0	1
Plenary meetings	1	1	1	1	1	5
Total CCPE	3	5	3	2	2	15
CEPEJ						
Evaluation of judicial systems (biannual reports)	1	0	1	0	1	3
Evaluation of judicial systems – other studies ²¹⁰	0	1	2	1	No data	4
Studies and thematic reports	1	0	1	2	0	4
Tools on efficiency and quality of justice	7	8	0	5	2	22
Plenary meetings ²¹¹	2	2	2	2	2	10
Total CEPEJ	11	11	6	10	5	43
Total sub-programme	17	17				

As reported under effectiveness, a half of the surveyed members of sub-programme bodies and sub-programme staff viewed lack of resources as one of the top hindering factors for effectiveness. Some interviewees noted in turn that the sub-programme's budget was insufficient to the needs and therefore demanded a lot of additional engagement from staff. These concerns related mainly to intergovernmental work financed from the ordinary budget and to the functioning of the CCJE and CCPE, specifically. The fact that the CCJE and CCPE Secretariat is shared between two bodies was pointed out by the interviewees as a limitation which may affect perceptions of the bodies' importance within the Council of Europe architecture. As one interviewee stated, "the structures are rather firm in the Council of Europe, and the position of the CCJE is low, the staff is very limited and not exclusively working for the CCJE, but also the CCPE. We are [sharing] these three [staff]. From the level of staff, you could see how the Council of Europe sees these bodies – but with hard work, we are coping."²¹² The perceptions of the budget as limited and the workload as high seemed to create an impression among at least some interviewees, especially representing the two councils, that these bodies and their secretariat are doing the maximum they can.

Somewhat fewer concerns were visible about the resources available to CEPEJ or co-operation programmes, although these have also been expressed in relation to their intergovernmental work financed from the ordinary budget. In the case of CEPEJ, it may be related to the fact that the commission is able to support its intergovernmental work by flexibly using the extrabudgetary resources of co-operation projects that it runs, while the CCJE and CCPE are in a considerably more difficult position because they do not implement such projects. While extrabudgetary resources are invaluable, the evaluation team does not share a view that they should be a solution to an appropriate allocation from the ordinary budget for intergovernmental work done by the bodies, as well as core activities of the co-operation programmes run by the CPD.

There is some indication in the interviews conducted as part of the field mission that the cost-efficiency of specific activities within co-operation projects run under the CPD could vary, but the evaluation team did not analyse the financial data of all projects. The interviews indicate underspending in some projects. This was attributed for example to the Covid-19 pandemic or delays in activities caused by difficult relations with national authorities. However, the interviewees also note overbudgeting in select projects and point to staff not being able to spend the money on that account. As revealed in one of the missions, effective budget use

209. Number for 2022 based on publicly available data.

210. Beyond biannual report on evaluation systems, CEPEJ also provides yearly [Study for the EU Justice Scoreboard](#) for 27 EU countries (since 2013, before 2020 it was 28 countries including the UK), as well as annual evaluations for "Dashboard Western Balkans" (2019-2022, six countries) and "Justice Dashboard EaP" (2021-2024, five countries).

211. The summary of outputs does not include other meetings organised by the bodies, e.g. network seminars or events, including those conducted in the course of co-operation projects, etc. Having a full overview of sub-programme outputs would be very difficult in the space of this evaluation, considering the complexity of the sub-programme.

212. IDI 41.

in multimillion projects is hindered for example by the procedures followed in the Council of Europe on visa routes. According to interviewees, the need for frequent approvals of relatively low expenses affected the performance of one of the projects in Türkiye and is also making project implementation difficult in Georgia. As one interviewee explained, some of the budgets' size is driven by donor requirements. The Department for the Implementation of Human Rights, Justice and Legal Co-operation Standards, where the CPD is situated, has acknowledged the issue of overbudgeting as one to be tackled in its ongoing reforms.

In the context of co-operation programmes run by both CEPEJ and the CPD, reliance on extrabudgetary resources creates challenges for ensuring continuation of financing and thus also sustainability and stability of the work. Limited resources assigned under the ordinary budget also make it difficult to fund activities outside projects (see also Section 2.3.3).

2.3.2. To what extent were outputs of the sub-programme delivered within requested deadlines?

The evaluation indicates that delays have not been a significant problem in the functioning of the sub-programme bodies. They seem to affect co-operation programmes to a somewhat larger extent, which is perhaps not surprising considering that the work is predicated on co-operation with multiple external actors. However, in the reference period and among the analysed projects, those that did face delays can mostly be attributed to external factors, such as the Covid-19 pandemic or the political context of a given country.

Survey data suggests that timelines for the delivery of outputs are generally respected within the sub-programme, although this is not always the case. A strong majority of surveyed members of the CCJE, CCPE and CEPEJ (84.29%, 59 people) stated that in general the work of their body has been carried out in a timely manner with respect to the plans in the period 2018-2022. Three respondents disagreed, while eight did not know. A visible yet smaller majority of surveyed programme staff (63.64%, 49) stated that the outputs have, in general, been delivered within requested deadlines. Only one respondent answered in the negative, however 35.06% of the respondents did not know the answer to this question.

In terms of the scale of delays, the majority of surveyed programme staff (58.44%) were not able to say how many outputs have been delivered after the deadline in the period 2018-2021. The remaining answers were split, although the majority of the remaining respondents (22.08%) assessed that more than 10 outputs have been delayed, which has to be seen as a significant number in view of the ambitions over the period (see Appendix 4.2). As many as 6.49% considered that 1-5 outputs have been delayed, while 7.79% referred to 5-10 outputs. Four people (5.19%) stated that none of the outputs have been delayed.

Survey input from programme staff suggests there are three main factors affecting the timeliness of output development: the Covid-19 pandemic, lack of engagement among member states (limited political will, non-commitment of authorities), and a more general lack of resources. The answers are also consistent with the main factors identified as hindering the achievement of results. Most of those factors are external with respect to the sub-programme, although the survey input is not clear as to whether the question of resources concerns the programme itself or national governments. The majority of qualitative input mentioned Covid-19 as an obstacle, yet without detail. The importance of member states' engagement was also highlighted, with low engagement constituting an important barrier to both efficiency and effectiveness. This is particularly the case for certain deliverables, for example those of CEPEJ, which are dependent on the co-operation of member states on collecting and sharing data. The development of the Justice Scoreboard for the European Commission was affected by delays in member states' submitting data, with the secretariat having to make up for late submissions. One respondent also noted that work on legislative changes and their implementation takes more time by its very nature, with this difficulty compounded by the reluctance of authorities to implement change, as observed by another respondent.

2.3.3. To what extent is the amount of resources (time/budget) allocated for specific activities of the sub-programme appropriate to produce the expected outputs?

The analysis of effectiveness shows that the sub-programme has been able to produce the expected outputs in line with its programming. However, as already indicated above, for the sub-programme bodies this is sometimes achieved despite budget constraints.

The overall assessment is that the budget for intergovernmental work and related human resources – especially of the CCJE and the CCPE – are not sufficient in view of the needs. While CEPEJ also experiences some difficulties related to the limited share of the ordinary budget in its financing, it has more flexibility and is able to mitigate financial constraints with extrabudgetary resources behind its co-operation programmes. As a result, its secretariat has more staff and capacity, with the secretariat numbering 40 people. The CCJE and CCPE do not have that recourse to extrabudgetary resources, and in the evaluators' view this situation combined with limitations

on the ordinary budget puts a strain on their secretariat staff and does not reflect the importance of the bodies' work. In addition, this does not create appropriate conditions for their work to be developed further in view of the challenges, such as attacks on judiciaries in many countries and the need to update standards and respond to the cyberjustice trends. This does not mean that the resources behind the CCJE and CCPE should be the same as those behind CEPEJ, as the latter has more activities, but that they should be financially strengthened.

In relation to co-operation programmes run by the CPD, the interviewees in the Council of Europe headquarters indicated that their human resources are sometimes insufficient. One recalled an organisational practice which requires that staff costs are divided between the headquarters and the field in a specific proportion (1:3), which means that the budget in Strasbourg is significantly smaller. While overall this allocation seems justifiable, given that the bulk of the work is conducted by staff in the field, project activities with an international component and a number of others (for example, review of reporting) are implemented from Strasbourg. In some of the projects, this amounts to a significant workload, while staff normally need to handle more than one project. As projects vary, so does the level of headquarter involvement. It is not clear to the evaluation team to what extent the discussed staff cost allocation policy/practice is applied as a default option to all projects. However, potential differences between projects certainly justify a tailored project-based approach to this matter, rather than a default.

The evaluation also shows that some types of activities are more difficult to finance than others, for example needs assessment and follow-up activities in relation to co-operation programmes, as they are usually not conducted within specific projects. While formal needs assessment prior to project launch may not be needed for all types of projects (for example where the Council of Europe has a strong presence and is running projects, and thus has a firm grasp on the situation and needs) and in all countries, sometimes it may be advisable. In these situations, there are limited and somewhat unclear options for staff to use. The interviewees noted this should not be done from the resources of other projects, but could possibly be financed through levies and overheads. However, it is not clear to the evaluators whether these options are used and whether they would in fact be sufficient to fund such exercises. At the same time, the sub-programme seems to generally be able to tailor the activities to the specific needs of member states, so finding resources for follow up to recommendations (if specific projects are not continued) may be more justifiable.

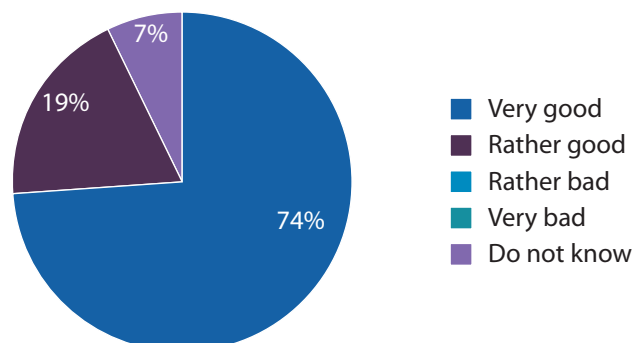
2.3.4. To what extent is the sub-programme managed in line with good management practices?

Management practices

Survey results show that the working relations between the sub-programme bodies and their secretariats are positive. The question was posed specifically to the members of the three bodies, who perceived this relation as either very good (74.29%, 52) or rather good (18.57%, 13). The remaining five (7.14%) respondents did not know. The interviewees representing the bodies also agreed in their very positive perceptions of the relations with respective secretariats. They also spoke highly of the dedication and competence of the secretariats' staff.

Figure 16 – Assessment of working relations between sub-programme bodies and secretariats (group 1)

In general, how do you assess the working relations of the body that you represent with its secretariat?



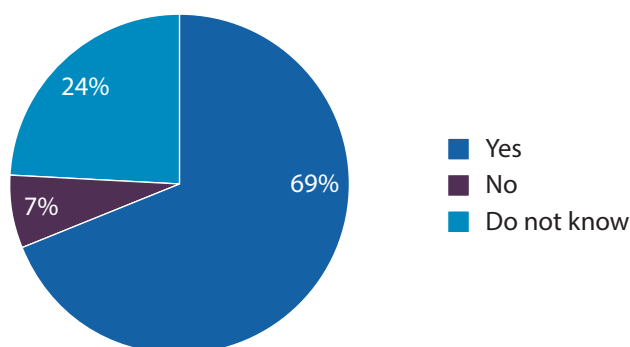
Source: Own survey data, n=70.

As to the relations of the sub-programme bodies to other Council of Europe bodies, the answers – while still overwhelmingly positive – were somewhat more reserved. Among the received responses (n=70), 42.86% of the members considered the working relations to be “very good” and 31.43% “rather good”. Two people believe that these relations are “rather bad”. A considerable number (22.86%) did not know what the relations were like.

The majority of surveyed members of the three sub-programme bodies (69.33%, 52) agreed that the sub-programme has been run in line with good management practices. Only five respondents disagreed (6.67%), while 18 (24%) did not know.

Figure 17 – Assessment of management practices by members of the CCJE, the CCPE and CEPEJ (group 1)

In general, has the sub-programme been managed in line with good management practices?



Source: Own survey data, n=75.

CEPEJ, CCJE and CCPE members generally positively assessed various aspects of the sub-programme functioning that the survey investigated. The investigated aspects were:

- ▶ appropriateness of strategic and operational planning and programming;
- ▶ effectiveness of the monitoring and evaluation system;
- ▶ prompt information provision about expectations and progress achieved;
- ▶ prompt information provision about the work of other Council of Europe bodies in areas relevant to its activities;
- ▶ prompt information provision about the activities carried out within the Independence and Efficiency of Justice sub-programme;
- ▶ visibility of and accessibility for external actors to the work of the sub-programme bodies;
- ▶ effectiveness of partnership building.

For all these aspects a large majority of respondents considered the positive statements to be accurate to various degrees, but mostly very accurate. The two aspects that were assessed somewhat less positively, and may thus require attention within the sub-programme, were information provision on the work of other Council of Europe bodies in relevant areas and information provision about the activities implemented within the Independence and Efficiency of Justice sub-programme.

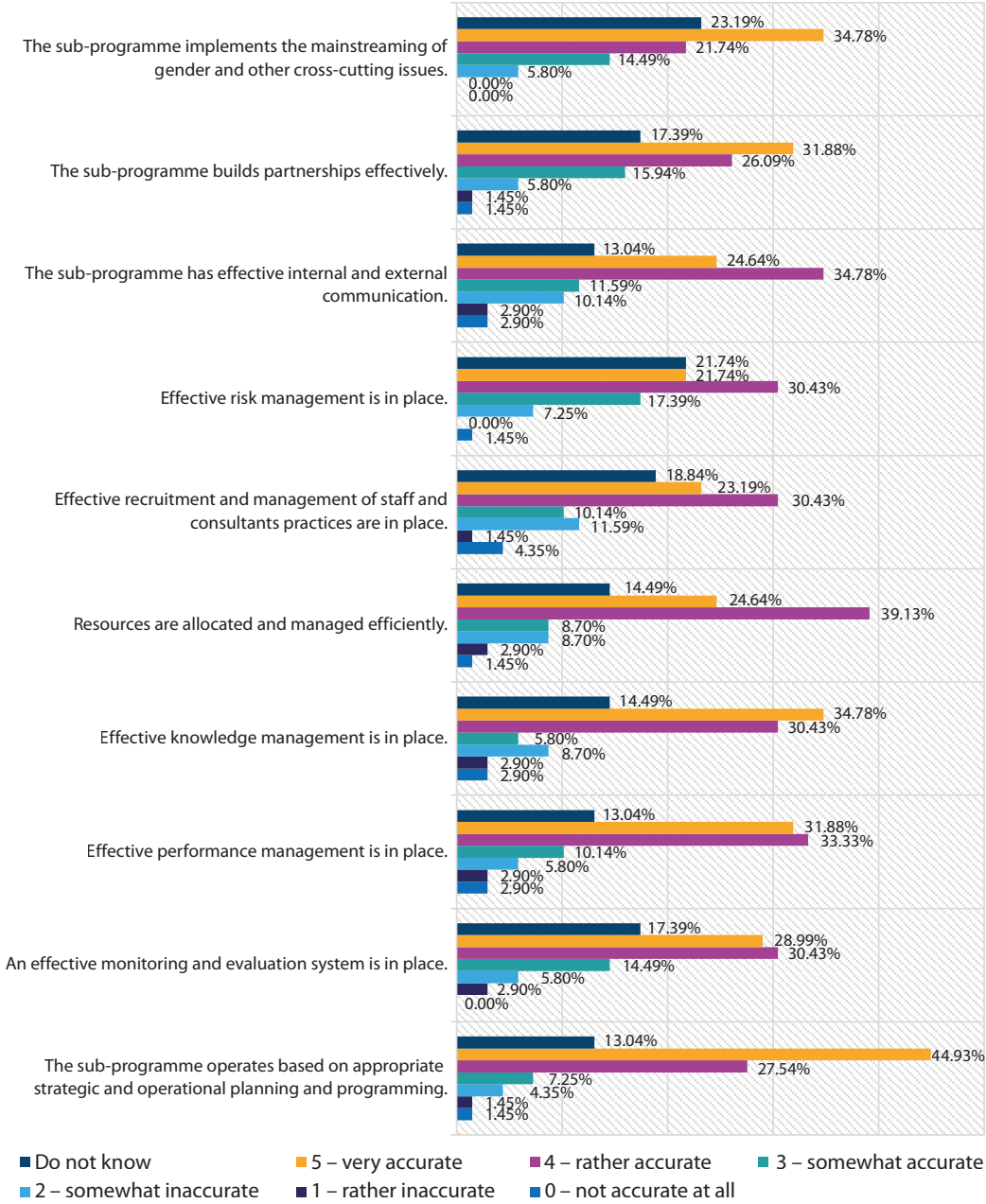
The sub-programme staff and staff of other Council of Europe bodies were also asked to rate specific statements pertaining to sub-programme management practices. The following statements were rated.

- ▶ The sub-programme operates based on appropriate strategic and operational planning and programming.
- ▶ An effective monitoring and evaluation system is in place.
- ▶ Effective performance management is in place.
- ▶ Effective knowledge management is in place.
- ▶ Resources are allocated and managed efficiently.
- ▶ Effective recruitment and management of staff and consultants' practices are in place.
- ▶ Effective risk management is in place.
- ▶ The sub-programme has effective internal and external communication.
- ▶ The sub-programme builds partnerships effectively.
- ▶ The sub-programme implements the mainstreaming of gender and other cross-cutting issues.

As visible in Figure 18 below, these sub-programme management practices were largely rated positively, mostly as very accurate or rather accurate (in all cases these two ratings exceeded 50% of responses). Over 72% of respondents thought that it was very or rather accurate to say that the sub-programme operates based on appropriate strategic and operational planning. Over 60% similarly assessed the statements that related to the effectiveness of the performance and knowledge management in place (65.21%) and efficiency of resource allocation and management (63.77%).

Recruitment practices and management of staff and consultants have received somewhat lower ratings, with eight (11.59%) respondents stating that the statement is “somewhat inaccurate”, one (1.45%) saying that it is “rather inaccurate” and three (4.35%) of the opinion that it is “not accurate at all”. This may be tied to perceptions of high workload and limited resources. Some qualitative survey input advocated more resources and staff for the CCJE and better human resource management and recruitment concerning all levels – from assistants to managers. Some other relevant observations were that the selection of experts in working groups could be more competitive and incentives for these experts for could be added, and that experts could be generally better paid to help ensure the best expertise. Small remuneration for experts was also mentioned in interviews. Interviewees also noted other human resource constraints, such as temporary employment contracts at the Council of Europe. This includes contracts for assistants, who are employed for nine months and then need to take an obligatory three-months break or other staff whose employment is tied to project implementation. These contractual conditions put a strain on capacity and induce staff rotation, which hinders implementation of activities both at headquarter level and in the field.²¹³ Field staff working on co-operation projects explicitly noted staff rotation at headquarter level as an issue complicating project management and implementation.

Figure 18 – Rating of management practices by sub-programme and other Council of Europe staff (group 2)



Source: Own elaboration of survey data, n=69.

213. E.g. IDI 17, IDI 27, IDI 30.

Sub-programme structure

Some interview and survey input shows that the administrative reform separating CEPEJ from the CCJE and CCPE is not perceived as supporting the effectiveness of the sub-programme. According to some survey respondents, the administrative separation results in a much lower level of co-operation, co-ordination and synergy compared to the level before April 2020, when the reform took effect. Similar opinions were voiced in some interviews. However, the evaluation has not revealed significant direct adverse influences on effectiveness, even if the case for strengthening co-operation and creating a unifying identity between sub-programme bodies has been made and there are financial implications of depriving a department of co-operation programmes, ensuring access to extrabudgetary resources. There were also opinions suggesting that bodies such as the Venice Commission are in fact closer in terms of mandate to the CCJE than CEPEJ. These views aside, the evaluators believe that placement in the same department is not a condition *sine qua non* for successful co-operation, nor its guarantee. However, since it is of paramount importance that the bodies always co-operate to convey the same messages on key matters, some form of consistent output consultation (or indeed sub-programme consultation or governance) would be advisable, in particular considering that the overlap in subject matter may increase in the future.

The evaluation also explored the perceptions related to the structure of co-operation programmes. At the moment, co-operation programmes are run by CEPEJ and by the CPD. Both the survey and interview feedback showed that the current set-up is not perceived as optimal by some respondents. Two main scenarios for approaching the organisation of co-operation programmes in the future have been discussed in qualitative survey input and interviews as well.

- ▶ The decentralisation scenario foresees that all co-operation programmes within the sub-programme are run by the sub-programme bodies. As one of the survey respondents remarked, the decentralised option would ensure effective management, as the programmes would be run by entities that own the subject-matter expertise. This attachment of co-operation programmes to subject-matter expertise could increase the effectiveness in the implementation of the strategic triangle of the Council of Europe. In this scenario, a project on legal aid or family law should be run by the secretariat of the CDCJ, should be run by CEPEJ, for example. On the downside, this scenario could possibly lead to projects which are narrower in scope and with lower budgets, including in an array of Council of Europe standards that they mainstream at country level. However, it can also be argued that in any event it is impossible or not reasonable for a single project to focus on too many objectives pertaining to too many standards.
- ▶ The centralisation scenario would entail moving all co-operation projects to CPD. While this option was mentioned by one respondent as a possibility, the survey offers no particular arguments in favour of this solution. However, some interviewees noted that such an arrangement offers the economy of scale and could provide opportunities for better synergies, including in terms of human resources management, and mainstreaming various related standards in one project. For this to work effectively, there would have to be close co-operation between the bodies with subject-matter expertise (standard setting or monitoring) and the CPD.

However, taken as a whole, in the evaluators' view, the evaluation supports the existing set-up which is somewhat less binary. Interviewees generally agreed that if a project concentrates on the implementation of CEPEJ tools then it should be done by CEPEJ.²¹⁴ The main reason behind this is the technical nature of those tools and specific expertise that is required in their implementation. The evaluators would agree with a caveat that this should not preclude projects run by the CPD from using CEPEJ tools (and expertise), if these constituted a small aspect of a wider intervention. What is important in such cases is early notification of CEPEJ and CEPEJ's openness to co-operation, as well as continuous joint work throughout. If the CPD were to be precluded from using CEPEJ tools, this would limit the Council of Europe's capacity to respond to specific needs at country level and disseminate standards in a comprehensive manner, and the interviewees also recognised the power of co-operation programmes for dissemination. Given the limited capacity of CEPEJ in terms of running co-operation projects as compared to the CPD, a sharp division is not justified.

While the evaluation proposes to follow a middle ground at this stage, it notes that the CPD centralises a large number of co-operation programmes and is currently responsible for standard dissemination in relation to many Council of Europe bodies. Apart from the sub-programme bodies, these are in particular the judgments of the Court or standards developed by the CDCJ. For the years to come, it may be the main vehicle for

214. E.g. IDI 45.

mainstreaming the standards developed by the CCJE and CCPE on the ground. Examples of this being done have been identified throughout this research, but to ensure the best results within the sub-programme, these standards have to be used consistently and systematically, which can also be facilitated by a stronger sub-programme governance structure.

As a fairly new administrative unit, created in 2021 and placed within the Department for the Implementation of Human Rights, Justice and Legal Co-operation Standards, the CPD has not yet found its optimal operational capacity. The size of this division and scope of activities, spanning different sub-programmes, thematic fields and dozens of countries, necessitate a robust management structure and processes. Only with such a structure will the CPD be able to co-ordinate and cohere all implemented activities and projects, create and use the synergies that centralisation of co-operation programmes offers and maximise dissemination of standards. It is thus very reassuring that strategic discussions have been initiated on this matter.²¹⁵ This evaluation suggests that apart from considering how to appropriately set up co-operation within sub-programme bodies, it could also consider reflecting a thematic division in its structure. Some options that are possible include: dividing the CPD thematically and then within thematic units further geographically, or maintaining the current main geographic split, but adding thematic specialisations under each region. Alternatively, the division could consider introducing a horizontal function, e.g. an internal co-ordinator, for the independence and efficiency of justice. While it is too early to evaluate the CPD's structure, some form of an evaluation could be considered in two years' time.

2.4. IMPACT

The sub-programme's overarching objective is that the member states fulfil their obligations and persons enjoy their right to a fair trial as enshrined in Article 6 of the Convention.²¹⁶ The different sub-programme activities aim at contributing directly or indirectly to meeting this objective. Assessment and measurement of their direct impact, however, poses several challenges. The first one pertains to a too broad definition of sub-programme impact at the programming level. While Article 6 of the Convention sets out the key direction for the sub-programme work, it also constitutes a complex right, encompassing several components, such as:

- ▶ access to justice;
- ▶ efficient functioning of justice;
- ▶ reasonable length of proceedings;
- ▶ independence, competence and impartiality of judges;
- ▶ independence, competence and impartiality of prosecutors;
- ▶ compliance of the Council of Europe member states with international standards on the functioning of justice.

These dimensions of Article 6 of the Convention, while interconnected, can be affected differently by different programme interventions. Therefore, the impact of the sub-programme on each of those components should rather be monitored and analysed separately.

Secondly, given that impact is defined at such a general and broad level, it is impossible to disentangle the change brought about by the sub-programme interventions from that caused by external factors. Many other elements may affect compliance with Article 6 of the Convention, including the efforts of other institutions working in this area, political and economic events, changes in substantive or procedural laws, etc. Thirdly, the sub-programme lacks systematic monitoring of outcomes which could inform evaluation of impact. While the outputs are systematically monitored and reported in the progress reports, the outcomes (especially the intermediate ones) are not. Some information on reforms in the member states is available through, for example, the CEPEJ evaluation reports, co-operation projects reports, or shared by the members of the three bodies. It is, however, fragmented; similarly, among the ToC indicators, only one pertains to the intermediate outcomes and refers only very broadly to "evidence of changes", without any concrete measures to track progress.²¹⁷ Moreover, the long-term character of structural changes and the high political sensitivity concerning organisation of judicial systems contribute to the complexity of both achieving and evaluating impact.

215. The Department for Implementation of Human Rights and Justice and Legal Co-operation, within which the CPD is situated, is in the process of developing its priorities for the period of 2022-2025.

216. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 74.

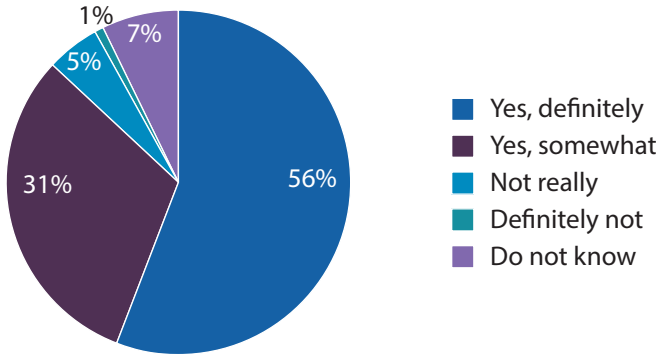
217. CM(2022)1 Council of Europe Programme and Budget 2022-25 p. 80.

Taking into account the above-mentioned concerns, disentangling and causally linking the changes in Article 6 of the Convention area to impacts of the sub-programme and its activities is not possible. Our evaluation of impact focuses instead on the intermediate outcomes and channels of direct and indirect influence of the sub-programme on the implementation of Article 6 of the Convention. In terms of intermediate outcomes, the evaluation identifies and analyses examples of changes in member states' legislation, policies and practices linked to the sub-programme in the context of its impact. As far as different channels of influence are concerned, the analysis encompasses: the references to sub-programme standards and other outputs in the case law of the Court; the impact synergies with other Council of Europe bodies; the role of CEPEJ evaluations and CCJE and CCPE standards as points of reference for legal reform; and considerations regarding co-operation programmes as channels of impact.

2.4.1. Has the sub-programme contributed to member states fulfilling their obligations under Article 6 (right to a fair trial) of the Convention?

The general perception among the survey respondents is that the sub-programme has contributed to the implementation of Article 6 of the Convention in the Council of Europe member states (87.4%), either definitely (56.32%, 107 responses) or somewhat (31.05%, 59 responses). Notably, only one person (0.53%) believes that it has definitely had no contribution. Further, nine respondents (4.74%) stated that the sub-programme has not really contributed and 14 (7.37%) declared not to know.

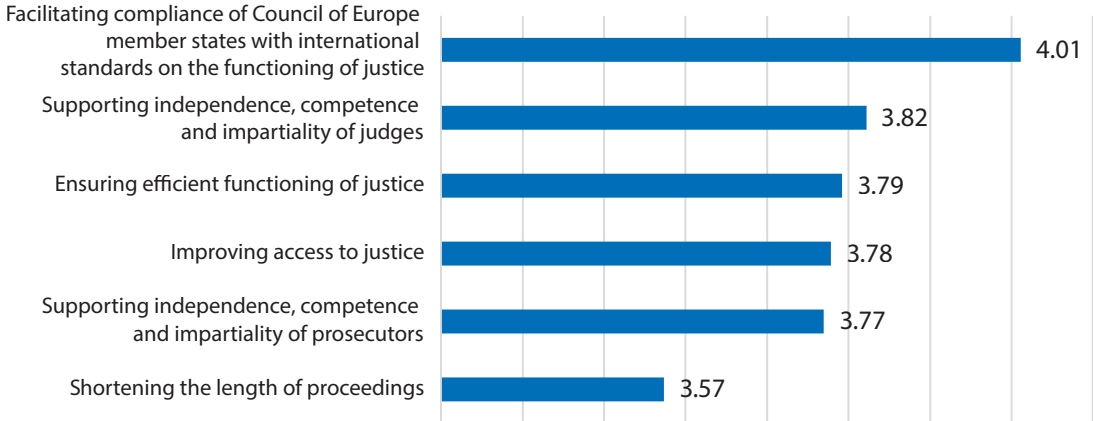
Figure 19 – Contribution of the sub-programme to the implementation of Article 6 of the Convention
Did the sub-programme contribute to attainment of Article 6 of the Convention?



Source: Own survey data, n=190.

The sub-programme activities encompass several dimensions, and thus can contribute to different aspects of the implementation of the right to a fair trial. In the survey, respondents have assessed the contribution across these different dimensions on the scale from “no contribution at all” (0) to “very high contribution” (5). For all the categories, the assessment ranges between “moderate” (3) and “high contribution” (4) with an average of 3.79 points for all the categories.

Figure 20 – Perceived type of contribution to compliance with Article 6 of the Convention



Source: Own survey data, n=188.

The greatest perceived impact of the sub-programme is through facilitating compliance of the Council of Europe member states with international standards on the functioning of justice (average score of 4.01²¹⁸), followed by supporting the independence, competence and impartiality of judges (3.82), efficient functioning of justice (3.79), improving access to justice (3.78), supporting the independence, competence and impartiality of prosecutors (3.77) and shortening the length of proceedings with the lowest score (3.57). These findings were generally confirmed by interviews and supplemented by desk research. However, the interviews provided a more nuanced picture of the channels of impact and determining factors. These are presented in detail in the following section.

2.4.2. In what concrete ways has the work of the sub-programme contributed to citizens enjoying their rights to a fair trial as enshrined in Article 6?

The influence of the sub-programme on the fulfilment of Article 6 of the Convention in the Council of Europe member states is exerted through several channels. The impact of those activities is, in many instances, indirect. However, the indirect impact and contribution to the observance of Article 6 by member states should not be underestimated.

Sub-programme standards and expert reports in the case law of the Court

As far as the sub-programme standard setting is concerned, the issued opinions constitute a point of reference for international and national bodies in defining the rules for organisation, work, and institutional structure of judiciaries. In the words of one interviewee, “Article 6 talks about ... [reasonable time], but these are just two words”, and by providing reports, guidelines and tools, the sub-programme puts meaning into those words.²¹⁹ Notably, the Court referred to the opinions of the CCJE and CCPE in its judgments in Article 6 cases regarding the issues of the independence and competence of the judiciary, respectively (at least) 64 and seven times, including four key cases (see examples in Table 18).²²⁰ Some of the most influential CCJE opinions include:

- ▶ [Opinion No. 1 \(2001\)](#) on standards concerning the independence of the judiciary and the removal of judges;
- ▶ [Opinion No. 3 \(2002\)](#) on ethics and liability of judges;
- ▶ [Opinion No. 10 \(2007\)](#) on the “Council for the Judiciary in the service of society”.

These have been cited in six, eight and ten Court judgments, respectively, including in key cases. In addition, the Magna Carta of Judges features substantially in the Court jurisprudence, with 15 judgments citing it since its issuance in 2010. The Court also refers to reports and opinions issued by those bodies on specific topics in relation to the recent rule of law backsliding in some member states²²¹ and situations in specific countries.²²² The list of sub-programme documents cited in the Court judgments is provided in Appendix 5.3.

Table 18 – Key Court cases referring to CCJE standards

*Baka v. Hungary*²²³

This case was initiated by a judge of the Supreme Court of Hungary who was dismissed from his post (after criticising reforms concerning the judiciary) as a result of a reform introducing a lower retirement age for judges – and *de facto* shortening judicial terms of judges in office. The Court found that the legislation was directed against Judge Baka, and that his rights under Article 6 (1) of the Convention (access to an independent and impartial tribunal) and Article 10 (freedom of speech) had been violated. The Court referred in its judgment to CCJE Opinion No. 1 (2001), CCJE Opinion No. 3 (2002) and the CCJE Magna Carta of Judges (Fundamental Principles) of 2010. The Court indicated a potential “chilling effect” of such sanctions, discouraging judges’ participation in public debate on judicial reforms.

218. The scores were calculated as the weighted average of all responses other than “Do not know”.

219. IDI.

220. Own calculation, based on the search in HUDOC database and subsequent review of cases. Search terms: Consultative Council of European Judges, CCJE, Consultative Council of European Prosecutors, CCPE, European Commission for the Efficiency of Justice, CEPEJ. Indicated numbers of cases only refer to cases resulting from that search.

221. For example the “Report on judicial independence and impartiality in the Council of Europe member States” (2017 and 2019 editions) and Joint CCJE and CCPE opinion “Challenges for judicial independence and impartiality in the member States of the Council of Europe.”

222. Notably, the Opinion of the CCJE Bureau following the request of the Polish National Council of the Judiciary to provide an opinion with respect to the Draft Act of September 2017 presented by the President of Poland amending the Act on the Polish National Council of the Judiciary and certain other acts (CCJE-BU(2017)9REV), cited in four cases to date.

223. Court, 2016. *Baka v. Hungary*. Application No. 20261/12.

*Guðmundur Andri Ástráðsson v. Iceland*²²⁴

This case concerns the process of judicial appointments, and how its irregularities may lead to a violation of Article 6 of the Convention. The case was initiated by Mr Ástráðsson, whose case was decided by the Court of Appeal of Iceland by a panel of judges including a judge appointed to their post in violation of the established legal proceedings. The applicant filed a motion demanding that the judge withdraw from the case, but the motion was rejected. The Court found a violation of the right to a fair trial as the judicial appointment procedure was against the very essence of the principle that a tribunal must be established by law. The Court referred in its judgment to CCJE Opinion No. 1 (2001), CCJE Opinion No. 18 (2015), CCJE report “Judicial independence and impartiality in the Council of Europe member states in 2017” and the CCJE Magna Carta of Judges.

*Grzęda v. Poland*²²⁵

This case was initiated by a judge of the Supreme Administrative Court of Poland who, as a result of a reform of the judiciary in Poland, was removed from the National Council of Judiciary before the end of his term. The Court found that his removal was in breach of Article 6 of the Convention, and that the unavailability of judicial review breached the right to access to justice. The Court also argued that judicial independence should be understood broadly, including other official roles of judges, such as in judicial councils. The Court highlighted that the integrity of judicial appointments and judicial independence are closely related (§345). The sub-programme documents referred to included CCJE Opinion No. 10 (2007), CCJE Bureau Opinion on the Draft Act on the NCJ submitted by the President of Poland, CCJE-BU(2017)9REV and CCJE Opinion No. 24 (2021).

CEPEJ data and guidelines are also referenced in Court judgments (at least 25 times overall). For example, the Court has indicated CEPEJ’s expected role in addressing the problem of the length of proceedings in several decisions from 29 March 2006 in cases against Italy.²²⁶ In other cases, the Court has referred *inter alia* to the Guidelines for a better implementation of the existing recommendation concerning family mediation and mediation in civil matters²²⁷ (three cases), and evaluation reports on European judicial systems: efficiency and quality of justice (different editions) (three cases). In several instances, CEPEJ statistical data were used to support arguments by the defendant states (four cases).

Beyond the Court’s case law, in recent years the standards and expert reports of the sub-programme have also been cited in the Court of Justice of the European Union (ECJ) judgments and opinions.²²⁸ In interviews, CCPE opinions were also indicated as a relevant reference in some of the UN Human Rights Committee (OCHCR) proceedings, pointing to potential indirect impact reaching also beyond the Council of Europe.²²⁹

Potential impact synergies between the sub-programme and other Council of Europe bodies – and risks of misco-ordination

As discussed in Section 2.2.4 above, other bodies of the Council of Europe refer to sub-programme outputs, but not systematically. These citations are potential channels of impact for the sub-programme. At the same time, there are some risks related to inconsistent communications from different Council of Europe bodies, which may undermine impact. The Venice Commission refers to the CCJE and CCPE opinions in some of its reports and opinions regarding justice systems. Several interviewees expressed concern regarding potential overlap of the working areas of these bodies, as the issues of judicial and prosecutorial independence are at the heart of the rule of law and the constitutional separation of powers. While CCJE and, to a lesser extent, CCPE standards feature in the work of the Venice Commission, there is space for improved synergies and increased impact. For example, the 2010 Venice Commission Report on the Independence of the Judicial System relies to a large extent on CCJE opinions available to that date (and to a smaller extent on CCPE standards).²³⁰

224. Court, 2020. *Guðmundur Andri Ástráðsson v. Iceland*. Application No. 26374/18.

225. Court, 2022. *Grzęda v. Poland*. Application No. 43572/18.

226. Nine cases against Italy, see Appendix 5.3.

227. CEPEJ (2007)14.

228. Fifteen opinions/judgments citing CCJE standards, two citing CCPE standards, six citing CEPEJ thematic reports or data as evidence.

229. IDI 16.

230. CDL-AD(2010)004-e Report on the Independence of the Judicial System Part I: The Independence of Judges adopted by the Venice Commission at its 82nd Plenary Session (Venice, 12-13 March 2010) [Venice Commission : Council of Europe \(coe.int\)](#). Part II, CDL-AD(2010)040-e Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service - Adopted by the Venice Commission - at its 85th plenary session (Venice, 17-18 December 2010) [Venice Commission : Council of Europe \(coe.int\)](#) – refers only to the “Bordeaux declaration” – Joint CCJE Opinion No. 12 (2009) and CCPE Opinion No. 4 (2009) on the relations between Judges and Prosecutors in a democratic society.

However, the more recent rule of law checklist refers only to CCJE [Opinion No. 1 \(2001\)](#) on standards concerning the independence of the judiciary and the removal of judges.²³¹ The Venice Commission and the Council of Europe Directorate General I have also jointly issued opinions on matters concerning judiciaries in member states, with contributions from CCJE members or experts. Nevertheless, country-level opinions pertaining to issues of judicial independence and impartiality do not feature CCJE references systematically. A more consistent use of existing CCJE and CCPE standards is advisable from the point of view of increasing the impact of the sub-programme, as well as the Council of Europe work in the rule of law area more broadly. One example presented in Table 19 highlights such a need, as well as potentially detrimental effects of the lack of co-ordination between the bodies.

Table 19 – Implementing Council of Europe standards: practical dimension. The example of judicial councils

In 2007, the CCJE adopted its [Opinion No. 10 \(2007\)](#) on the Council for the Judiciary at the service of society, recommending the establishment of councils for the judiciary, serving as a means to protect the independence of both the judicial system and individual judges and to guarantee the efficiency and quality of justice as defined in Article 6 of the Convention.²³² The mission, composition and competences of judicial councils were also affirmed in the CCJE's *Magna Carta of Judges*. In parallel, the importance of judicial councils was stressed both by the Committee of Ministers²³³ and the Venice Commission, which recommended “that states which have not yet done so consider the establishment of an independent judicial council or similar body” as a method for guaranteeing independence of the judiciary.²³⁴ However, the following years proved that making the principles a reality may be sometimes a challenge. Due to the increasing erosion of rule of law-based systems and political events undermining judicial institutions across Europe, the issue of judicial councils landed on the Court docket in a number of cases.²³⁵ It has also been a subject of CCJE country-specific opinions, as in the case of Serbia. While the standards on judicial councils mentioned above set by the CCJE and the Venice Commission are very similar, the case of Serbia is an interesting example of how subtle discrepancies may potentially be used by the government as a gateway to proceed with questionable changes in the judiciary. On 4 May 2018, in its opinion requested by the Judges' Association of Serbia²³⁶ regarding the changes in the High Judicial Council and its composition of 10 members, the CCJE firmly stated that the judicial council should be composed of an odd number of members, with judges constituting the majority. In the following month, the issue of the council's composition was addressed by the Venice Commission in its opinion of 25 June 2018²³⁷ in a highly delicate manner. The Venice Commission confirmed that an odd number of members is the current trend in many European states, but have not expressed a view that this trend shall be necessarily a standard. to follow.

231. CDL-AD(2016)007 European Commission for Democracy through Law (Venice Commission) Rule of Law Checklist, available at: [Venice Commission: Council of Europe \(coe.int\)](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)007), referring to CCJE [Opinion No. 1 \(2001\)](#) on standards concerning the independence of the judiciary and the irremovability of judges.

Moreover, the CDL-PI(2019)008 Compilation of Venice Commission Opinions and Reports concerning Courts and Judges, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2019\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2019)008-e), only includes one reference to CCJE [Opinion No. 11 \(2008\)](#) on the quality of judicial decisions. Similarly, the CDL-PI(2022)023 Compilation of Venice Commission Opinions and Reports concerning Prosecutors, [www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2022\)023-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2022)023-e) references only one CDL-AD(2015)039-e Joint Opinion of the Venice Commission, the Consultative Council of European Prosecutors (CCPE) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on the draft Amendments to the Law on the Prosecutor's Office of Georgia, endorsed by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015). While these reports focus primarily on the Venice Commission opinions, they feature chapters dedicated to judicial and prosecutorial impartiality and independence, and including the topical soft law of CCJE and CCPE on that matter could improve visibility of those standards and overall impact of the Council of Europe soft law.

232. CCJE [Opinion No. 10 \(2007\)](#) on the Council for the judiciary at the service of society.

233. Recommendation CM/Rec(2010)12 of the Committee of Ministers on judges: independence, efficiency and responsibilities.

234. CDL-AD(2010)004, Report on the Independence of the Judicial System Part I: The Independence of Judges adopted by the Venice Commission at its 82nd Plenary Session, §32.

235. *Ramos Nunes de Carvalho e Sá v. Portugal*, 6. 11. 2018, paragraph 144; *Guðmundur Andri Ástráðsson v. Iceland* ([GC], no. 26374/18, 1 12. 2020; *Xero Flor w Polsce v. Poland*, 7.5.2021 – 4907/18, paragraph 243-251; from the case law of the Court of Justice of the European Union (CJEU), *ASdJP v. Tribunal de Contas* 27.2.2018 – C 64/16, paragraph 42-45; *European Commission v. Poland*, 24.6.2019 – C 619/18, paragraph 71-73; *A.K. v. Krajowa Rada Sadownictwa*, 19.11.2019, - C 585/18, C-624/18, C-625/18, paragraph 120-122. CJEU, *European Commission v. Poland*, 24.6.2019 – C 619/18, paragraph 74, 75; *CJEU, A.K. v. Krajowa Rada Sadownictwa*, 19.11.2019, - C 585/18, C-624/18, C-625/18, paragraph 123, 133-134; *VQ v. Land Hessen*, 9.7.2020 – C2727/19, paragraph 54; *Repubblika Il-Prim Ministru v. WY*, 20.4.2021 – C-896/19; C-83/19 and others 18.5.2021.

236. CCJE-BU(2018)4, Opinion of the CCJE Bureau following a request by the Judges' Association of Serbia to assess the compatibility with European standards of the proposed amendments to the Constitution of the Republic of Serbia which will affect the organisation of judicial power, May 2018.

237. CDL-AD(2018)011, Venice Commission, Opinion No. 921 / 2018 on the draft amendments to the constitutional provisions on the judiciary in Serbia, adopted by the Venice Commission at its 115th Plenary Session (Venice, 22-23 June 2018).

It assessed the composition in relation to the voting scheme and stated that “[i]n any case, where decisions are adopted by at least six members, whether there is an even or an odd number of members will not make a difference”.²³⁸ In its subsequent opinion of 21 December 2018, CCJE reiterated that councils should be composed of an odd number of members – 11 members – the majority of which – six members – should be judges.²³⁹ While the current composition scheme of the High Judicial Council of Serbia corresponds to the standard recommended by the CCJE,²⁴⁰ diverging views of the CCJE and the Venice Commission could potentially impact the Council of Europe’s credibility and weaken its position as a standard-setting authority.

Such discrepancies may of course arise due to differences between opinions of the two bodies, who are independent from each other. Nevertheless, from an external perspective, such differences may create confusion among the member states and possibly compromise the application of the Council of Europe standards, as the above case illustrates. Therefore, a consideration of differences and an aligned approach among the Council of Europe’s bodies is thus welcomed, ensuring that governments receive unequivocal opinions on their proposed changes in the judiciary system.

From a very different angle, it is observed that the case of judicial councils is also an example of the dynamic and responsive character of the CCJE’s work. In response to political changes in recent years adversely impacting the independence of the judiciary, the CCJE conducted a questionnaire on the organisation, composition and role of judicial councils among the Council of Europe member states, and created a comparative analysis of judicial councils across Europe, which served as the basis for its recent Opinion No. 24 of 2021 on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems, complementing and reaffirming CCJE’s Opinion No. 10 of 2007.

While the Venice Commission is widely considered a “close relative” of the CCJE and CCPE,²⁴¹ the interviews highlighted problems with co-ordination between those bodies, with potentially detrimental effects regarding the impact of the Council of Europe on the ground. As illustrated by the example of inconsistencies between CCJE and Venice Commission opinions on judicial councils, even if the divergencies are minor, the risks stemming from those are twofold. First, inconsistent standards and recommendations may undermine the overall impact of the Council of Europe, if doubts arise as to which of them are applicable. Second, those divergencies may be instrumentally exploited by opposing political forces to undermine reforms. While such divergencies are an exception rather than the rule, both those risks could undermine the expected impact of the sub-programme, as well as the Council of Europe in general. This highlights the need for better co-ordination between the CCJE and CCPE and the Venice Commission in areas of common interest.

Overall, while these influential bodies of the Council of Europe rely to some extent on the sub-programme outputs, therefore strengthening its outreach, effectiveness and potential impact, the references to CCJE and CCPE soft law and CEPEJ data and tools are not considered in a systematic way. One identified factor that potentially compromises the impact through this channel is insufficient co-ordination between the sub-programme bodies, and the other bodies, in particular the Venice Commission and the Department of the Execution of Judgments. Another undermining factor is relatively low internal visibility of the work of the CCJE and CCPE. Among the two standard-setting bodies, the CCPE seems to benefit from less recognition by other Council of Europe bodies, as evidenced by a review of the above-mentioned sources and interviews. Given the importance of the role of the prosecution in justice systems and the rule of law more generally, more visibility should be given to CCPE opinions. While CEPEJ work is generally more visible within the Organisation, more accessible communication could further improve the use and impact of its data and tools for the Organisation.²⁴²

There are also related to issues with internal visibility and co-ordination, as discussed throughout Section 2.2.4 as well. Another important factor concerns the support from the political bodies of the Council of Europe and the platform given to the CCJE and CCPE. While the rule of law and the independence and efficiency

238. CDL-AD(2018)011, Venice Commission, Opinion No. 921 / 2018 on the draft amendments to the constitutional provisions on the judiciary in Serbia, adopted by the Venice Commission at its 115th Plenary Session (Venice, 22-23 June 2018), paragraph 59.

239. CCJE-BU(2018)9 Opinion of the CCJE Bureau following a request by the Judges’ Association of Serbia to assess the compatibility with European standards of the proposed amendments to the Constitution of the Republic of Serbia which will affect the organisation of judicial power, December 2018.

240. Beyond the issue of the composition of the High Judicial Council, the appointment criteria for lay members of the HJC is another issue challenging the independence of this body. The reforms as of late 2022 are in process, with the Venice Commission providing further opinions on the matter. See [Venice Commission: Council of Europe \(coe.int\): 1st Opinion of October 2022](#), and [Venice Commission: Council of Europe \(coe.int\): 2nd Follow up Opinion of December 2022](#).

241. Multiple IDIs, e.g. IDI 10.

242. Multiple IDIs.

of justice feature prominently in the strategic documents of the Organisation, the interviews reveal that the work of the CCJE and in particular the CCPE does not always get sufficient attention. In the light of ongoing challenges to the independence of judicial systems, it is advisable that both the CCJE and CCPE be strengthened and given a more substantial internal and external platform.

Evaluation and diagnosis as a basis for legal reforms in the Council of Europe member states

Apart from the indirect impact through the Court's case law, and contributions referred to by other Council of Europe bodies, the sub-programme contributes to legal reform in the Council of Europe member states through several other avenues: by providing data and diagnosis of judicial systems; creating incentives to change and providing the standards to be implemented in national legislation; and by providing expert assistance at the request of member states and through co-operation programmes.

Firstly, the indirect impact of judicial system data collection in policy processes is worth underlining. By providing a reference point, diagnostic device and evidence basis for reforms, the data help decision makers identify problem areas and their underlying causes. One of the interviewees underlined the crucial role of CEPEJ data collection in providing evidence that serves as a benchmark for the assessment of judicial systems, and indeed allows the measuring of the impact of interventions. This may contribute to the fulfilment of Article 6 obligations by enabling better diagnosis of problems and strategic planning at the country level. The examples identified by interviewees include:

- ▶ a reform in **Türkiye**, increasing the number of judges in response to a below-average number of judges in comparison to the average for the Council of Europe member states;
- ▶ Slovakia's efforts to have its caseload database modified to align with the CEPEJ classification;
- ▶ Moldova's use of judicial statistics information to justify a need for reforms in its legislative process.²⁴³

The data are also used by the European Union as an evidence base for its justice reform policies and recommendations, both for the EU member states and its external partners.²⁴⁴

The interviews highlighted that the preparation of short country factsheets introduced in recent editions of the CEPEJ evaluation exercise further facilitates the usage of those data by the member states.²⁴⁵ In the words of one interviewee, "[promoting] certain tools that should help the system reduce trial duration, reduce the number of cases, manage better the courts ... [helps the countries] to improve the situation and reduces the number of applications that get to the [Court] in relation to Article 6".²⁴⁶ The evaluation reports of the CEPEJ, with both quantitative and qualitative components, as well as the opinions and reports of the CCJE and CCPE, help to bring problems to the attention of decision makers: "If there is no report, there is no problem, but if there is a report, [the problem is identified and] it needs a solution."²⁴⁷

Multiple interviewees pointed to the fact that the availability of detailed, comparable data on the functioning of judicial systems creates additional incentives for reforms aimed at improved the functioning of judicial systems. These processes take place at both the national and international level. Firstly, such data allow for comparison between countries and induces "healthy competition" among them.²⁴⁸ Secondly, it leads to improved transparency around justice systems and provides objective evidence that can be used by policy makers and political actors to create pressure to reform.²⁴⁹ Thirdly, it provides evidence and supports processes at the international level. The review of Court case law and execution of judgments documents above (Section 2.2.4) has shown that CEPEJ data are an important reference point where the situation and organisation of judiciaries in member states is concerned. Another important channel of impact is through the EU's use of CEPEJ data to monitor the situation in its member and partner states. As already mentioned above (Section 1.3), CEPEJ collects data for the EU Justice Scoreboard, as well as the Justice Dashboard Eastern Partnership and Dashboard Western Balkans. These contribute to EU-wide policy-making processes, as well as policy recommendations for EU enlargement countries and other external partner states.²⁵⁰ This subsequently increases the political leverage of the sub-programme's work in the efficiency of justice area. The interviews also highlighted the importance of CEPEJ

243. IDIs 9, 50, 84.

244. IDIs 25, 46.

245. Multiple IDIs, including IDI 37, 43, 49.

246. IDI 15.

247. IDI 16.

248. Multiple interviews.

249. IDI 15.

250. Multiple IDIs.

expertise, including in-depth understanding of different legal contexts, and the reliability and high quality of data provided. The countries often see CEPEJ as a “knowledgeable friend”, with trust-based relations between CEPEJ experts and national authorities constituting a factor that enhances the potential impact of its work.

The role of CCJE and CCPE standards for legal reform at the national level

CCJE and CCPE opinions, in general, are regarded as a valuable source of soft law on the independence, impartiality and competence of judges and prosecutors. Interviews in general underlined the important role of these standards, both in terms of their implementation in national laws and their influence on justice professionals and legal practitioners. The standards constitute a reference point for legislative reform. Some examples of the CCJE and CCPE soft law being incorporated into national state laws include Ireland’s reform introducing a Judicial Council and judicial assistants into their justice system, developed in line with CCJE opinions; Georgia incorporating CCJE standards into their national law; and legislative reforms in Austria, Croatia, the Czech Republic, Georgia, Italy, Latvia, the Netherlands, Norway, Romania, San Marino, Slovenia, Sweden and Türkiye based, *inter alia*, on CCJE standards.²⁵¹ The expert opinions of the CCJE and CCPE concerning changes and proposed reforms in national judicial systems, provided at the request of states, are also contributing to those changes. One prominent example includes the Opinion of the CCJE Bureau following the request of the Polish National Council of the Judiciary mentioned above (Section 2.2.4),²⁵² which was referred to by the Court (in four cases to date), other Council of Europe bodies and spurred discussions at the national level. However, even if reforms are introduced and standards embodied into hard law, their impact cannot be taken for granted. At times, the “law on the books” is not implemented in practice, and legal or political culture hampers the intended changes.²⁵³ The impact of CCJE and CCPE opinions therefore varies across countries. Attitudes to and the familiarity of justice professionals with the sub-programme’s work are also important factors affecting change.

Safeguarding enjoyment of the right to a fair trial – especially in unfavourable political contexts – requires time. However, even when influence on formal legal systems proves challenging, impact can also be achieved outside the formal legislative process, with such changes playing an intermediary role in achieving impact. In the view of one interviewee, the opinions of the CCJE and CCPE play a crucial role in the organic evolution of legal systems by providing a reference point to legal practitioners.²⁵⁴ This highlights the role of capacity-building activities for justice system professionals in achieving long-term impact. Several interviewees underlined the positive role of in-person dissemination events and training for capacity building and visibility of the CCJE and CCPE.²⁵⁵ These initiatives teach the rule of law and human rights-oriented attitudes and allow for building a community that will share the aspiration for change, and they inspire or support reform when the momentum comes.²⁵⁶

The external visibility and outreach of the sub-programme outputs, however, differ across countries. It depends to a large extent on the efforts of individual members of sub-programme bodies and the level of support they receive from the state (including platforms for outreach and financial support for the dissemination of materials, for example the translation of opinions and tools into national languages).²⁵⁷ The evaluation research, including interviews with multiple stakeholders, shows that the level of visibility of sub-programme activities in member states is not always satisfactory, and in many countries there is a need for increased efforts to bring the standards closer to justice professionals “on the ground” and familiarise them with sub-programme soft law and tools. One way of increasing visibility is through the increased scope of training activities within co-operation programmes in the member states where those are implemented. Other suggestions from the interviewed stakeholders include the organisation of in-person events for justice professionals (for example, thematic conferences or dissemination events at plenaries) and increased use of media outlets for justice professionals for providing information on a broader scale.²⁵⁸

Impact of sub-programme co-operation projects

Co-operation projects are very important sub-programme activities, as they are vehicles for bringing the standards and tools to member states and assisting with their implementation. The interviewees in general

251. CCJE(2018)16 CCJE Plenary Meeting Report 2018, CCJE(2022)4 CCJE Plenary Meeting Report 2022; Multiple IDIs.

252. CCJE-BU(2017)9REV.

253. IDI 43.

254. Multiple IDIs.

255. Multiple IDIs.

256. IDI 15, IDI 19.

257. Multiple IDIs.

258. Multiple IDIs.

were appreciative of co-operation programmes as a tool of achieving impact, even if the analysis of projects selected for this evaluation did not highlight such tangible impacts.²⁵⁹ However, several aspects of co-operation activities make them an important tool for achieving impact. As mentioned above, the implementation of standards and national legal reforms, while potentially the most straightforward activity, may easily be hampered by the lack of political will or momentum. That was largely the case in the analysed projects carried out in Georgia, Moldova, Türkiye and Serbia, even if some changes were introduced in each of those countries.²⁶⁰ For example, in Georgia, a Strategic Action Plan for the Supreme Court was drafted, but never adopted.²⁶¹ In Moldova, a draft reform to support the efficiency of justice was prepared, but frequent changes in the Council of Magistrates undermine the efforts to implement it.²⁶² In Serbia, constitutional reforms regarding judicial independence were blocked for a number of years to be finally taken up following a favourable political change. The reform processes are ongoing in co-operation with the Council of Europe staff on the ground.²⁶³

Nevertheless, multiple interviewed stakeholders from different Council of Europe bodies, project management teams and national authorities converged in their opinion that these activities are useful and that impact can only be achieved in the long term, often depending on cultural and social change as well. Stakeholders also underlined the role of the capacity-building activities of co-operation programmes, emphasising that they bring empowerment and facilitate bottom-up changes.²⁶⁴ Several interviewees have referred to the impact of co-operation projects as “sowing the seed”. The added value and potential impact of co-operation activities lie in raising awareness, building institutional capacity and strengthening ties between national authorities and the Council of Europe – “preparing ground” for future reforms.²⁶⁵ As already discussed in Section 2.2.3, a continued relationship between the Council of Europe and its member states is key to maintaining any possibility of future impact; otherwise, an “institutional vacuum” would be filled by other values.

259. For more detailed analysis, see Appendix 5.1, Case studies.

260. For more detailed analysis, see Appendix 5.1, Case studies.

261. See case study on Judicial time management in Appendix 5.1.

262. Ibid.

263. See case study on Independence of justice in Appendix 5.1.

264. Multiple IDIs.

265. Multiple IDIs.

3. Lessons learned

The evaluation offers the following overarching lessons for the sub-programme and similar interventions.

- ▶ In a dynamically changing world, with shifting political trends, technological development and social and economic upheavals, standards related to the judiciary are never fully determined and can always be questioned. There is thus a continuous need for standard setting and advisory work of bodies such as the CCJE, CCPE and CEPEJ.
- ▶ The challenges facing different states are not the same. There are also political, social, institutional, cultural and other differences between countries that should be accounted for in the development and interpretation of human rights standards. The intergovernmental work, such as that of the CCJE, CCPE and CEPEJ, which involves professionals and practitioners representing different contexts, provides a good forum for appreciating all the similarities and differences and developing standards that can be applicable and acceptable across various countries. The composition of the bodies thus increases the legitimacy of their messages. Therefore, an equitable representation of different members within the decision-making and working structures of such bodies is also an important consideration.
- ▶ The evaluation shows the importance of internal communication and co-operation for smooth and effective operation of complex programmes, combining multiple thematic and institutional components. While informal exchanges and ad hoc co-operation may be helpful and preferred by staff, they are not sufficient to maximise effectiveness. Therefore, more formalised or systematic processes should be put in place to induce regular communication and co-operation between different programme constituents, and make the internal communication independent from individual knowledge, preferences and attitudes.
- ▶ Institutional memory, including on co-operation programmes implemented in specific countries, is of key importance for organisations such as the Council of Europe, whose interventions are based on accumulated expertise. When institutional memory regarding co-operation programmes lies mainly with their staff, it poses a challenge for continuity and coherence of interventions inside and across countries, given short project lifespans and staff rotation. In such a context, a more lasting knowledge management system is necessary in addition to systematic information sharing.
- ▶ For interventions whose effectiveness is strongly dependent on the political will and country contexts, as in the case of the sub-programme, it is key to maximise internal and external political support, leverage all organisational strengths and ensure unified messaging. Designing interventions in a way that is coherent with political processes of other strong international actors, e.g. the EU pre-accession negotiations, can support achievement of objectives.
- ▶ Interventions such as the sub-programme require a long-term perspective in thinking about impact. In countries where the lack of political will hinders bigger reforms, there is a value in maintaining some presence and finding avenues to continue the work. This builds credibility and allows for a quicker reaction when the political climate becomes more favourable.

4. Conclusions and recommendations

Overall, the evaluation presents a positive judgment on the sub-programme, even if issues have also been identified. The assessments under specific criteria may differ, but the evaluation findings reflect a high level of appreciation for the sub-programme and the efforts of those involved in its work.

The relevance of the work carried out under the sub-programme has been confirmed and the context justifies continued support for the sub-programme and composite bodies. The findings testify to the urgency of determining the sub-programme's direction in view of the current and future challenges. In many member states, judicial independence or the length of proceedings remain a problem. Some countries are seeing democratic backsliding and rule of law crises. However, they are also testing new opportunities, such as cyberjustice. The sub-programme's objectives and interventions are well aligned to respond to those needs. The CCJE and CCPE standards address important issues regarding independence, competence and status of judges and prosecutors, respectively. Moreover, specific country opinions on ongoing changes – in particular, challenges and threats to the independence of justice emerging in some of the Council of Europe member states – are of increasing importance. The work of CEPEJ is also very topical, addressing the challenges related to different aspects of judicial efficiency and access to justice. The interventions in the field of digitalisation were particularly demanded and appreciated. At the same time, field missions revealed that in some countries, there is a need for CEPEJ support in the countries where CEPEJ is not present. A wide needs assessment should be carried out to identify those needs.

Recommendation #4.c: CEPEJ should consider carrying out a broader assessment of the demand for its services across member states to further develop its co-operation programmes in countries where it currently does not operate. Expanding CEPEJ co-operation programmes should be accompanied by the allocation of adequate resources.

While all three bodies have their specialisation areas, there is a potential risk of overlap if those are not clearly delineated. This is particularly relevant for CEPEJ when it comes to the issues of the independence and competence of judges and prosecutors. The latter are the principal fields of expertise of the CCJE and CCPE, respectively. Whenever the activities of CEPEJ concern these aspects in particular, the CCJE and CCPE should be informed and involved in those.

Recommendation #4.a: CEPEJ's work should be delineated and focused primarily on the efficiency and quality of justice. Whenever independence and competence of judges and prosecutors is concerned by CEPEJ's work, CEPEJ should co-operate closely with the CCJE or CCPE.

One of the main factors contributing to the relevance of CCJE's and CCPE's work is their composition, bringing together representatives of the two key justice professions. This provides for a unique opportunity to gather first-hand information on the needs and challenges in the Council of Europe member states from the practitioners' perspective. At the same time, this potential is not yet fully used. The needs and challenges differ between regions and countries of the Council of Europe. The standards developed by the CCJE and CCPE are to be applied across different legal systems and cultures of the continent. This poses a difficult task for the sub-programme's standard setting. While those challenges are met rather successfully, there are examples where the standards have been instrumentalised in country contexts (see sections 2.1.2 and 2.4.2). Given the political sensitivity around the status and independence of judges and prosecutors in some countries, it is important that the CCJE and CCPE pay equal attention to the needs of different member states.

Moreover, the evaluation shows that the position of the CCJE and CCPE in the context of the broader rule of law programming needs strengthening. The objectives and activities of the two bodies concerning the independence of the judiciary are at the heart of the rule of law. However, this is not always appropriately reflected within the broader Council of Europe framework, including the internal visibility of the two bodies and their associated budgets. The latter, considering the scope of mandates of the CCJE and CCPE, is assessed as overly limiting and should be increased. While the primary role of the CCJE and CCPE – issuing opinions – needs to be appreciated, the present budget does not allow for implementing additional activities, as envisaged by the respective terms of reference, for example networking and dissemination events.

Both the relevance and effectiveness of their work could be improved through the implementation of an extended scope of activities; this should be accompanied by an increased number of plenary meetings per year. There are challenges ahead where both the CCJE and CCPE work will be relevant. In this context, the CCJE should play a stronger role. It gives a voice to a profession that is currently under attack in various countries, a profession that is key for the success of the Council of Europe's rule of law objectives. In this sense, the Council of Europe should stand fully behind this unique judicial forum, symbolically, politically and financially. The evaluation makes a case for strengthening the CCJE, in particular, which does not lessen the importance of other sub-programme bodies.

Recommendation #3.a: The Secretary General should consider proposing to the Committee of Ministers an increase in the CCJE and CCPE budgets to enable more targeted activities, including at member state levels, and increase the number of staff.

Recommendation #3.b: If proposed by the CCJE and CCPE Secretariat, the Committee of Ministers should approve an increase in the number of CCJE and CCPE plenary meetings to two per year. The increase in the number of meetings should be accompanied by proportionate budget increases (see Recommendation #3.a).

The assessment of effectiveness is also overall positive, but needs to be nuanced. Where the outcomes are defined in a way that is dependent on the sub-programme actors, the effectiveness is high. With dedicated members and Council of Europe staff, the sub-programme is able to deliver on its commitments. Yet there are both internal and external factors which, on the one hand, limit the sub-programme's potential to do more and, on the other, hinder achievement of higher-level outcomes on the ground. Shortages of resources affect the capacity of the sub-programme bodies to disseminate the results on their own, for example through translation of outputs. The sub-programme's visibility could be strengthened if the co-operation between the sub-programme and other Council of Europe actors were more structured and systematic.

In terms of co-operation with other Council of Europe bodies, there are close links between the area of work of the CCJE and CCPE and that of the Venice Commission. The independence of justice is a constitutional matter, which creates both an opportunity for synergy and a risk of overlap between the Venice Commission and the CCJE and CCPE. While the two bodies co-operated on different occasions with the Venice Commission on joint country opinions, this has not always been consistent. As identified during the evaluation, divergencies in the content of opinions of those bodies have happened, albeit not regularly (see Section 2.4.2). However, even accidental miscommunication can undermine the effectiveness of interventions, as well as the reputation and political leverage of the Council of Europe in the eyes of its partners. It is therefore of key importance that standards and guidance from different Council of Europe bodies are at all times coherent. The evaluation highlights the need for improved internal co-operation between different bodies of the pillar, and primarily with the Venice Commission. Such co-ordination should include, where appropriate, exchanging information between the bodies about their respective planned interventions at the working stage, as well as enhanced co-operation on joint opinions between the Venice Commission, CCJE and CCPE. To facilitate such exchanges, regular co-ordination and information exchange procedures should be established.

Recommendation #1.b: The Director General for Human Rights and Rule of Law should consider designating a focal point for the rule of law at the level of the Directorate General to facilitate communication and co-ordination, ensure consistency of messaging, mutual synergies and support between the sub-programme and other relevant Council of Europe bodies working in that thematic area, in particular the Venice Commission and GRECO.

Recommendation #1.d: The secretariats of the CCJE, CCPE, CEPEJ and the Co-operation Programmes Division should establish a consultation process with the Venice Commission secretariat (and other competent bodies, if appropriate) to consult each other consistently and systematically as a matter of good practice on each thematically relevant draft text that is being prepared, allowing time for comments whenever possible and ensuring consistency between their outputs.

Internal co-ordination between the sub-programme bodies should also be improved. While there are established channels of communications between the sub-programme bodies – including participation in respective plenary meetings, operational meetings between staff of both departments where the CCJE, CCPE and CEPEJ are respectively placed and communications between the secretariats on a needs basis – multiple stakeholders expressed concerns that this is insufficient. The evaluation team recommends the establishment of a co-ordination mechanism and regular meetings at the sub-programme level.

Recommendation #1.a: The Directorate of Human Rights should establish a sub-programme co-ordination mechanism (e.g. a task force) involving representatives of the secretariats of the sub-programme bodies, the Department of Human Rights, Justice and Legal Co-operation standard-setting activities and the Department of Implementation of Human Rights, Justice and Legal Co-operation Standards (including the Co-operation Programmes Division) to ensure a unified governance structure for the sub-programme and the flow of information. The Directorate of Programme and Budget and the Directorate of Programme Co-ordination could also take part in meetings of this mechanism.

Moreover, both internal and external communication and dissemination of sub-programme outputs are not fully satisfactory. The evaluation highlighted that internal knowledge about the sub-programme and its tools is limited, including among (non-CEPEJ) co-operation programmes staff as well as the Department for the Execution of Judgments. This limits the application of those tools in relevant contexts and, in effect, the sub-programme's effectiveness. To facilitate the awareness and use of tools across the Council of Europe, the evaluators suggest establishing an internal knowledge hub encompassing available tools by topic and use of tools in co-operation projects. This could be done, for example, by ensuring that the files from the Document Management System can be shared across the directorate. This would also facilitate monitoring of results, which will be discussed in more detail below.

Recommendation #1.c: The Human Rights Directorate should develop a shared working and knowledge management space to include information about available standards and tools per thematic area to facilitate consistent use of sub-programme outputs by other Council of Europe bodies and, as much as possible, actors outside the Council of Europe.

As regards external communication and dissemination of tools, the evaluation team finds that translation of outputs into national languages is an important factor that facilitates their use at the national level. However, this is not done systematically for all available sub-programme standards, guidelines and tools. They are translated only selectively within co-operation programmes, by volunteering members of the bodies or by governments. As their availability in national languages strongly determines the legal professionals' access to and familiarity with these soft law and tools, the translations should be provided by the Council of Europe or partners on a regular basis. Moreover, the evaluation shows that networking and training events – for example workshops or conferences – are a very useful vehicle for communicating and disseminating the Council of Europe's standards. These are widely used tools across the Organisation; however, not by the CCJE and CCPE due to limited resources. The direct link to national judges and prosecutors, which the two consultative bodies already have, should be further strengthened via in-person events. This could not only inform the CCJE and CCPE about the challenges “on the ground” but also increase effectiveness of the sub-programme interventions and, in the long term, contribute to its impact.

Recommendation #2.c: The CCJE, CCPE, CEPEJ and co-operation programmes should consistently and systematically translate sub-programme opinions and tools into national languages to improve dissemination. The Directorate of Programme and Budget in co-operation with the secretariats of the sub-programme bodies should ensure that some translation budgets are foreseen, while the Directorate of Programme Co-ordination and the Co-operation Programmes Division should consistently earmark translation funds in project budgets.

Recommendation #3.c: The CCJE and CCPE should intensify their activities to include more in-person events for international and national networks of legal professionals (conditional on Recommendation #3.a).

CEPEJ is also effective in its activities, and the expertise and specialisation of its working group members and secretariat staff largely contribute to that. The structure, comprising intergovernmental activities, expert-based working groups and thematic networks, provides for generally effective results, too. At the same time, the evaluation shows that the networks could be involved to a greater extent to support achievement of results. In particular, the pilot courts network is not used to its full potential – even though in countries where it is, the implementation of tools at pilot courts level is often an important first step to their country-scale application. CEPEJ also successfully implements co-operation programmes focused on its tools.

Recommendation #4.b: CEPEJ should increase engagement and use of its pilot courts network. A more effective incentive scheme for participation could be developed. The verification process conducted every year could be an opportunity to agree specific and select commitments that individual members of the pilot court network could take on board. These could include minimum and voluntary commitments.

The co-operation programmes are a gateway to disseminating sub-programme standards, including by providing translations and bringing those to the most relevant stakeholders. The co-operation programmes are a vehicle for effecting major policy, legislative and institutional changes in member states. However, their effectiveness in achieving this relies strongly on the political will of national authorities and legal professionals. The evaluation shows that it is very hard to overcome this particular hurdle. At the same time, the continued presence of the Council of Europe through its programmes is important even in the face of such obstacles. In particular, suspension of co-operation risks creating institutional vacuums in some countries – no support on the ground could lead to further degradation of human rights. The findings rather speak to the need for intensive and consistent co-operation among like-minded actors in such countries (internal and external).

Recommendation #5.c: In the absence of the political will of national authorities, the Co-operation Programmes Division together with all sub-programme bodies should continue implementing strategies for a strengthened engagement with civil society organisations and justice professionals at national levels to ensure continuous presence and results, looking for new partnerships and innovative forms of engagement.

In terms of efficiency, the sub-programme bodies are able to deliver on the commitments made in programming documents, although this has placed considerable pressure on staff. The budget for intergovernmental work and related human resources, especially the CCJE and CCPE, are not sufficient in view of the needs. While CEPEJ also experiences some difficulties, it has more flexibility and is able to mitigate financial constraints with extrabudgetary resources behind co-operation programmes. As a result, its secretariat is visibly better staffed. The CCJE and CCPE do not have that recourse to extrabudgetary resources from co-operation programmes. The resources do not reflect the importance of the bodies' work; nor do they create appropriate conditions for this work to be developed further.

In terms of organisational structure, the evaluation supports the existing one for co-operation programmes. After the restructuring that took place in 2021, it is too early to evaluate whether the newly setup structure is efficient. The Co-operation Programmes Division is still fairly new and in the process of defining its vision and related organisational structure. The evaluation findings suggest that this structure may benefit if it reconciles both geographical and thematic divisions. As a unit responsible for mainstreaming standards of many standard-setting bodies, it should also pay particular attention to smooth and systemic co-operation. Once the reforms and structures are properly put in place, the division may benefit from a dedicated evaluation. The evaluators agree that when a project concentrates on the implementation of CEPEJ tools, then it should be led by CEPEJ due to the technical nature of tools and necessary expertise. However, this should not preclude projects run by the CPD from using CEPEJ tools (and expertise), if these constituted a small aspect of a wider intervention dedicated to independence and efficiency. What is important in such cases is early notification of CEPEJ and CEPEJ's openness to co-operation, as well as continuous joint work throughout.

Recommendation #5.a: The Co-operation Programmes Division should implement a fitting organisational structure that would reflect both the thematic and geographic dimensions of its work and enable systematic and consistent mainstreaming of sub-programme standards in co-operation programmes. The CPD is thus encouraged to pursue its plans on appointing thematic focal points responsible for certain thematic areas across current geographic units.

Recommendation #5.b: The Department for Implementation of Human Rights, Justice and Legal Co-operation Standards should introduce a process to ensure that the overlap between co-operation programmes run by CEPEJ and Co-operation Programmes Division is limited. CEPEJ should be solely responsible for the practical implementation of its tools and guidelines when efficiency and quality of justice and these tools and guidelines are the main focus of the project. If CEPEJ tools are to be used as part of other projects (which should in principle be done only if there is no CEPEJ programme in the country), the Co-operation Programmes Division should involve CEPEJ in the design and implementation of programmes in that respect from the start, to ensure synergies and build on the CEPEJ Secretariat's expertise for the implementation of that specific part.

Preliminary findings show that the perceptions of the sub-programme impact are largely positive, with 87% of respondents assessing its contribution to the implementation of Article 6 of the Convention as very or somewhat positive (56% and 31%, respectively). The standards are referred to in the case law of the Court; data collected by CEPEJ provide a point of reference, help with diagnosing problems and inspire reform ambitions to address the identified challenges. However, the work of the sub-programme is embedded in a wider rule of law ecosystem and as such depends to a great extent on external factors as explained above. The research indicates that the impact of the sub-programme is rather organic and exerted through multiple indirect

channels. Collaboration with external partners, especially the EU in the enlargement countries, provides an important political and financial leverage, contributing to positive effects and – in the longer term – achievement of impact by facilitating reforms in those member states. This synergy is valuable and highlights the importance of identifying potential synergies and allies within and outside the Council of Europe, as well as collaborating in a targeted manner with external actors. At the same time, the coherence and continuity of the Council of Europe’s message should be ensured.

Lastly, the evaluation sheds light at the ToC and results-based management in the sub-programme. While the activities, outputs and outcomes of the sub-programme align well with the overall expected impact on Article 6 of the Convention, the impact remains very broad and vague. This broad formulation renders impact difficult to measure. Moreover, the current ToC does not sufficiently account for the context, as well as the assumption and risks related to the achievement of states’ ambitions. Namely, external factors such as political will and legal culture may determine the implementation of Article 6 of the Convention despite the efforts and interventions of the sub-programme bodies. It is suggested that the ToC is redefined to account for these factors and determine expected intermediate outcomes and impact in a more concrete and measurable way (see Recommendation #1.d). Moreover, the updated ToC could better reflect the mandates of sub-programme bodies by foreseeing separate outcomes for the independence and impartiality strand of work, on the one hand, and the efficiency of justice, on the other. Distinguishing between these two aspects of Article 6 of the Convention at the ToC level can help to better account for the different external factors that affect the work on those issues (e.g. more political pressure around the independence and impartiality) and to more comprehensively track trends and progress on different aspects of the sub-programme. In terms of results-based management, it is crucial that regular and systematic monitoring of results and outcomes is introduced across the sub-programme. At present, information about achieved outcomes is fragmented and does not allow for an accurate tracking and measurement of the sub-programme’s contribution to the change it sets out to achieve.

Recommendation #2.a: The sub-programme reference points, especially the secretariats of sub-programme bodies and representatives of the Co-operation Programmes Division, with the support of the Directorate of Programme and Budget and the Directorate of Programme Co-ordination, should consider reformulating the sub-programme’s Theory of Change to define the sub-programme impact in more concrete and measurable terms and reframe the intermediate outcomes so as to better reflect the mandates of the sub-programme’s bodies, i.e. a focus on independence and impartiality, on the one hand, and efficiency, on the other.

Recommendation #2.b: More tailored monitoring should be implemented across the sub-programme, at the level of outputs, outcomes and impact. Outcome and impact indicators should be developed for the sub-programme and reported on by all involved parties.

In the view of the evaluation findings and conclusions, the evaluation team proposes the following recommendations which concern different Council of Europe administrative levels and are assigned different levels of priority (high (H), medium (M), low (L)).

Recommendations	Priority
1. Overarching recommendations at the directorate level	
<p>a. The Human Rights Directorate should establish a sub-programme co-ordination mechanism (e.g. a task force) involving representatives of the secretariats of the sub-programme bodies, the Department of Human Rights, Justice and Legal Co-operation standard-setting activities, the Department of Implementation of Human Rights, Justice and Legal Co-operation Standards (including the Co-operation Programmes Division) to ensure a unified governance structure for the sub-programme and the flow of information. The Directorate of Programme and Budget and the Directorate of Programme Co-ordination could also take part in meetings of this mechanism.</p>	H
<p>b. The Director General for Human Rights and Rule of Law should consider designating a focal point for the rule of law at the level of the Directorate General to facilitate communication and co-ordination and to ensure consistency of messaging, mutual synergies and support between the sub-programme and other relevant Council of Europe bodies working in that thematic area, in particular the Venice Commission and GRECO.</p>	M
<p>c. The Human Rights Directorate should develop a shared working and knowledge management space to include information about available standards and tools per thematic area to facilitate consistent use of sub-programme outputs by other Council of Europe bodies and, as much as possible, actors outside the Council of Europe.</p>	H

Recommendations	Priority
<p>d. The secretariats of the CCJE, CCPE, CEPEJ and the Co-operation Programmes Division should establish a consultation process with the Venice Commission secretariat (and other competent bodies, if appropriate) to consult each other consistently and systematically as a matter of good practice on each thematically relevant draft text that is being prepared, allowing time for comments whenever possible and ensuring consistency between their outputs.</p>	H
<p>2. Recommendations at the sub-programme level</p>	
<p>a. The sub-programme reference points, especially the secretariats of sub-programme bodies and representatives of the Co-operation Programmes Division, with the support of the Directorate of Programme and Budget and the Directorate of Programme Co-ordination, should consider reformulating the sub-programme's Theory of Change to define the sub-programme impact in more concrete and measurable terms and reframe the intermediate outcomes so as to better reflect the mandates of the sub-programme's bodies, i.e. a focus on independence and impartiality, on the one hand, and efficiency, on the other.</p>	M
<p>b. More tailored monitoring should be implemented across the sub-programme, at the level of outputs, outcomes and impact. Outcome and impact indicators should be developed for the sub-programme and reported on by all involved parties.</p>	H
<p>c. The CCJE, CCPE, CEPEJ and co-operation programmes should consistently and systematically translate sub-programme opinions and tools into national languages to improve dissemination. The Directorate of Programme and Budget in co-operation with secretariats of the sub-programme bodies should ensure that some translation budgets are foreseen, while the Directorate of Programme Co-ordination and the Co-operation Programmes Division should consistently earmark translation funds in project budgets.</p>	M
<p>3. Recommendations concerning the CCJE and CCPE</p>	
<p>a. The Secretary General should consider proposing to the Committee of Ministers an increase in the CCJE and CCPE budgets to enable more targeted activities, including at member state levels, and increase the number of staff.</p>	H
<p>b. If proposed by the CCJE and CCPE Secretariat, the Committee of Ministers should approve an increase in the number of CCJE and CCPE plenary meetings to two per year. The increase in the number of meetings should be accompanied by proportionate budget increases.</p>	M
<p>c. The CCJE and CCPE should intensify their activities to include more in-person events for international and national networks of legal professionals (conditional on point a.).</p>	M
<p>4. Recommendations concerning the CEPEJ Secretariat</p>	
<p>a. CEPEJ's work should be delineated and focused primarily on the efficiency and quality of justice. Whenever independence and competence of judges and prosecutors is concerned by CEPEJ's work, CEPEJ should co-operate closely with the CCJE or CCPE.</p>	H
<p>b. CEPEJ should increase engagement and use of its pilot courts network. A more effective incentive scheme for participation could be developed. The verification process conducted every year could be an opportunity to agree specific and select commitments that individual members of the pilot court network take on board. These could include minimum and voluntary commitments.</p>	M
<p>c. CEPEJ should consider carrying out a broader assessment of the demand for its services across member states to further develop its co-operation programmes in countries where it currently does not operate. Expanding CEPEJ co-operation programmes should be accompanied by the allocation of adequate resources.</p>	M
<p>5. Recommendations concerning the Co-operation Programmes Division</p>	
<p>a. The Co-operation Programmes Division should implement a fitting organisational structure that would reflect both the thematic and geographic dimensions of its work and enable systematic and consistent mainstreaming of sub-programme standards in co-operation programmes. The CPD is thus encouraged to pursue its plans to appoint thematic focal points responsible for certain thematic areas across current geographic units.</p>	H

Recommendations	Priority
<p>b. The Department for Implementation of Human Rights, Justice and Legal Co-operation Standards should introduce a process to ensure that the overlap between co-operation programmes run by CEPEJ and Co-operation Programmes Division is limited. CEPEJ should be solely responsible for the practical implementation of its tools and guidelines when efficiency and quality of justice and these tools and guidelines are the main focus of the project. If CEPEJ tools are to be used as part of other projects (which should in principle be done only if there is no CEPEJ programme in the country), the Co-operation Programmes Division should involve CEPEJ in the design and implementation of programmes in that respect from the start, to ensure synergies and to build on the CEPEJ Secretariat's expertise for the implementation of that specific part.</p>	M
<p>c. In the absence of the political will of national authorities, the Co-operation Programmes Division together with all sub-programme bodies should continue implementing strategies for a strengthened engagement with civil society organisations and justice professionals at national levels to ensure continuous presence and results, looking for new partnerships and innovative forms of engagement.</p>	M

5. Appendices

5.1. CASE STUDIES

Link to the case studies: <https://rm.coe.int/dio-eva-2023-39-cepej-appendix5-1-case-studies-2785-8258-3303-v-3/1680ab46f4>

5.2. RESEARCH INSTRUMENTS

5.2.1 Interview guide used for scoping interviews

Link to the guide used for scoping interviews: <https://rm.coe.int/dio-eva-2023-39-cepej-appendix5-2-1-interview-guide-used-for-scoping-i/1680ab4f8a>

5.2.2. Combined interview guides for IDIs

Link to the combined interview guides for IDIs: <https://rm.coe.int/eva-cepej-annex5-2-2-combined-interview-guides-for-idis-2771-5534-0295/1680aad081>

5.2.3. Topic guide for FGIs

Link to the topic guide for FGIs: <https://rm.coe.int/dio-eva-2023-39-cepej-annex5-2-3-topic-guide-for-fgis-pdf/1680aad082>

5.2.4. Survey questionnaire for Group 1 – the members of CCJE, CCPE and CEPEJ

Link to the survey questionnaire for Group 1: <https://rm.coe.int/eva-cepej-annex5-2-4-survey-questionnaire-for-group-i-2764-1727-3863-v/1680aad083>

5.2.5. Survey questionnaire for Group 2 – the sub-programme staff and other relevant Council of Europe staff

Link to the survey questionnaire for Group 2: <https://rm.coe.int/eva-cepej-annex5-2-5-survey-questionnaire-for-group-ii-2754-1070-6439-/1680aad084>

5.2.6. Survey questionnaire for Group 3 – national authorities, permanent representations, civil society and/or international organisations

Link to the survey questionnaire for Group 3: <https://rm.coe.int/eva-cepej-annex5-2-6-survey-questionnaire-for-group-iii-2786-4870-9127/1680aad085>

5.2.7. Evaluation terms of reference

Link to the evaluation terms of reference: <https://rm.coe.int/eva-cepej-5-2-7-evaluation-terms-of-reference-2773-7377-1783-v-2/1680aad07f>

5.2.8. Updated sub-programme Theory of Change

Link to the updated sub-programme Theory of Change: <https://rm.coe.int/eva-cepej-annex-5-2-8-updated-sub-programme-theory-of-change-2762-1653/1680aad086>

5.3. REFERENCES TO SUB-PROGRAMME DOCUMENTS IN COURT JUDGMENTS

Link to the references to sub-programme documents in Court judgments: <https://rm.coe.int/eva-cepej-annex5-3-references-to-sub-programme-documents-in-the-court-/1680aad097>

5.4. EVALUATION MATRIX

Link to the evaluation matrix: <https://rm.coe.int/eva-cepej-annex5-4-evaluation-matrix-2790-1839-7703-v-4/1680aad098>

5.5. SUB-PROGRAMME'S INDICATORS AND TARGETS BETWEEN 2018 AND 2025

Link to the sub-programmes indicators and targets between 2018 and 2025: <https://rm.coe.int/eva-cepej-annex-5-5-sub-programmes-indicators-and-targets-between-2018/1680aad099>

This report presents the results of the evaluation of the Council of Europe's Independence and Efficiency of Justice sub-programme. The purpose of the evaluation was to assess whether the work under the sub-programme had contributed to more robust, independent, transparent and accessible judicial institutions and procedures based on the rule of law. Overall, the findings reveal that the sub-programme work is highly relevant and generally effective. There is, however, space for improvement, and potential for increased effectiveness and impact. The evaluation provides strategic and operational recommendations to further improve internal co-ordination and communication; to review the Theory of Change and systematise monitoring of the sub-programme; and to clearly delineate areas of expertise between sub-programme bodies. In addition, specific recommendations are made concerning the allocation of additional resources to the Consultative Council of European Judges and the Consultative Council of European Prosecutors and the organisation of co-operation programmes according to thematic, as well as geographic focus areas.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.