



European judicial systems

**Edition 2014 (2012 data):
Efficiency and quality of justice**

An overview

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

The European Commission for the Efficiency of Justice

The European Commission for the Efficiency of Justice (CEPEJ) is entrusted by the Committee of Ministers of the Council of Europe with proposing concrete solutions, suitable for use by Council of Europe member states for promoting the effective implementation of existing Council of Europe instruments relating to the organisation of justice, promoting the public justice service and ensuring that policies concerning the courts take account of the needs of users of the justice system and preventing violations of Article 6 of the European Convention on Human Rights by offering states effective solutions prior to application to the Court. The CEPEJ is today a unique body for all European States, made up of qualified experts from the 47 Council of Europe member states, to assess the efficiency of judicial systems and propose practical tools and measures for working towards an increasingly efficient service to the citizens.

The CEPEJ website: www.coe.int/CEPEJ

1. Presentation

With this fifth biennial evaluation cycle, the CEPEJ aims to provide policy makers and justice professionals a practical and detailed tool to better understand the operation of the public service of justice in Europe in order to improve its efficiency and its quality in the interest of more than 800 million Europeans.

The CEPEJ presents today the 2014 Edition of its report, based on the 2012 data. The report has been adopted by the CEPEJ in July 2014¹. The number of subjects and states that are addressed make it unique.

The methodology used, alongside the important contribution and support of the member states of the Council of Europe, makes it possible to present a analysis, which is increasingly detailed from one edition to another, of the judicial systems of 45 European states². For the first time, an observer State to the CEPEJ, Israel, participated in the exercise.

The quality of the data available allows to compose and analyse statistical series. These series are designed to measure the main trends in Europe as regards the evolution of judicial systems and reform processes. Relying on those data, the CEPEJ can propose concrete solutions to evaluate and improve the quality and efficiency of justice in Europe.

The CEPEJ highly encourages policy makers, legal professional and researchers to use this unique information to develop studies and feed the indispensable European debate and reforms, the necessity for which is regularly reminded by the case-law of the European Court of Human Rights and the events in the member states and entities.

The purpose of this document is not to provide a synthesis of a voluminous report, but is only to highlight, in an easily readable format, some of its elements and incite the readers into taking time “to go further”. In this overview, only brief comments follow the graphs and

¹ The report is based on a draft prepared by the CEPEJ working group chaired by Jean-Paul JEAN (France) and composed of Munira DOSSAJI (United Kingdom), Beata Z. GRUSZCZYŃSKA (Poland), Ramin GURBANOV (Azerbaijan), Adis HODZIC (Bosnia and Herzegovina), , Stéphanie MOUROU-VIKSTRÖM (Monaco), Georg STAWA (Austria), Frans van der DOELEN (Netherlands).

² 45 member states out of 47 have participated in the evaluation process. Only Liechtenstein and San Marino have not been able to provide data. For the first time, Israel participated in this exercise as an observer of the CEPEJ. The results for the United Kingdom are presented separately for England and Wales, Scotland and Northern Ireland, as the three judicial systems are organised on different basis and operate independently from each other.

tables extracted from the report, but they refer to the full report which enables a deeper approach with all the necessary methodological elements for rigorous analysis and comparisons (see www.coe.int/CEPEJ).

All the data given by the member states are available on the CEPEJ website. The national answers also contain descriptions of the judicial systems and explanations which contribute to a large extent to the understanding of the given data. Thus, a genuine database is easily accessible to citizens, policy makers, legal practitioners, academics and researchers.

Warning

Throughout its report, the CEPEJ has highlighted the numerous methodological problems encountered and the choices which have been made. It is advisable to refer to them constantly to avoid hasty analyses and meaningless conclusions. Comparing quantitative figures from different states or entities, with different geographical, economic, and judicial situations is a difficult task which must be addressed cautiously. To compare the judicial systems of various states, it is in particular necessary to highlight the specificities which explain variations from one state to another (level of wealth, different judicial structures, data collection). A detailed attention was paid to the terms used and to the definition and use of concepts, which were specified with the national correspondents entrusted with the coordination of data collection in the states or entities. Only a careful reading of the report and a rigorous comparison of data can make it possible to draw analyses and conclusions. Figures cannot be passively taken one after the other, but must be interpreted in the light of the methodological notes and comments.

Comparing is not ranking. But each rigorous reader has with this report a sum of data and methodological elements for an in-depth study by choosing relevant clusters of states or entities: according to the characteristics of the judicial systems (for instance civil law and common law entities; countries in transition or with old judicial traditions), geographical criteria (size, population) or economic criteria (for instance within or outside the Euro zone). Other complementary comparisons are proposed, by using ratios such as the GDP and the average gross annual salary.

2. Public expenditures allocated to courts, prosecution system and legal aid

According to the states, there are common or distinct modalities for funding courts, public prosecution systems and legal aid. These three elements have been divided as much as possible so as to allow comparisons, both of the means allocated to prosecution or judgement activities (despite the differences between the organisation of the systems) and of the amounts allocated to access to justice. This information thus gives an overall view of the budgets concerning most of the member states of the Council of Europe.

The data of the wealthiest states or entities must here be reported to the level of prosperity of the state; otherwise it might be wrongly interpreted that they allocate a little amount of budget to their judicial system, because of their high GDP. This is namely the case for **Norway, Ireland, Luxembourg, Finland, France, Sweden** and to a certain extent for **Austria and Belgium**. This fact must be taken into account if relevant comparisons between comparable states had to be drawn (cf. figure 2.30).

The distribution of the financial allocations to courts, prosecution services and legal aid have been established for 34 states or entities. For these states, on average, 65 % of the budgets allocated to the judicial systems were devoted to the operation of courts, 25 % to the prosecution services and 10 % to the legal aid system.

Some member states give a very high priority to the functioning of courts (more than 70% of the budgets allocated to the judicial system): **Slovenia, Malta, “the former Yugoslav Republic of Macedonia”, Spain, Croatia, Czech Republic, Poland, Portugal, Bosnia and Herzegovina, Hungary, Estonia**.

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

Traditionally, prosecution services in some Eastern and South-eastern European states boast a strong position (more than 30 % of the budget) such as in **Albania** (more than 50 % of the budget), **Azerbaijan, Georgia, Bulgaria,**

Latvia, Lithuania, Republic of Moldova, Romania, Slovakia, but this is also the case in Cyprus, Italy, Netherlands or Switzerland.

One can also observe that some countries have not allocated major priorities (less than 1 % of the budget) to legal aid yet: Albania, Azerbaijan, Croatia, Hungary, Malta, Russian Federation, Slovakia, “the former Yugoslav Republic of Macedonia”).

Figure 2.29 Total annual public budget allocated to the judicial system (courts, legal aid and public prosecution) per inhabitant and GDP per capita in 2012

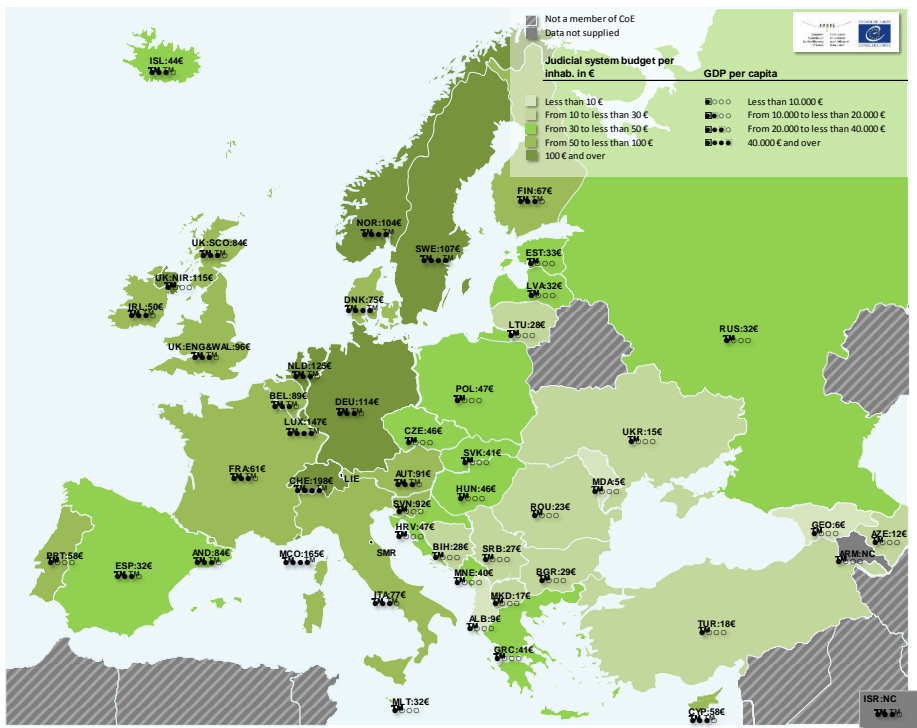
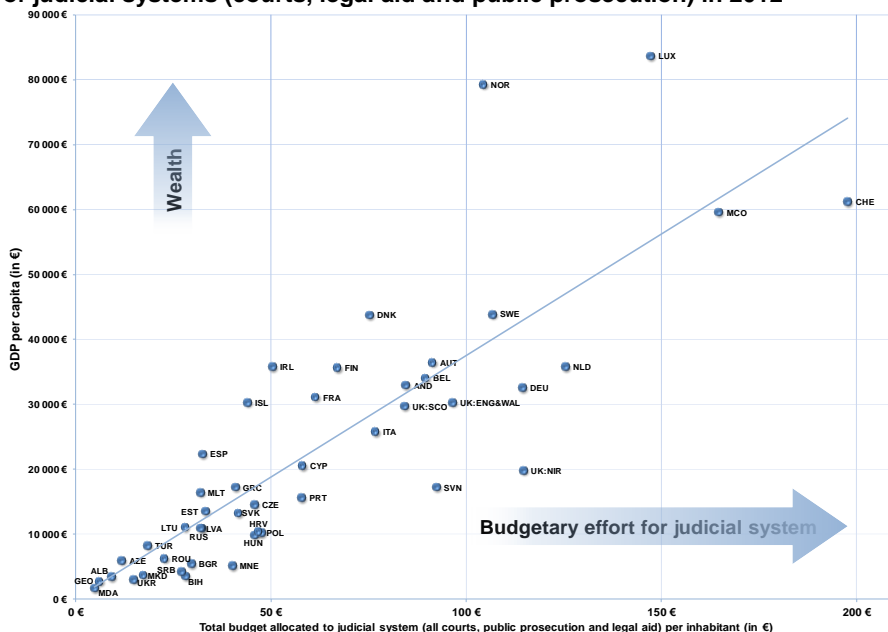


Figure 2.30 Correlation between the GDP per capita and the total budget of judicial systems (courts, legal aid and public prosecution) in 2012



This analysis between the level of prosperity of states or entities and the budgetary commitment to the judicial system shows that there is a strong correlation between the GDP per inhabitant and the level of resources allocated per capita to the operation of the judicial system. One must highlight the differences between the states and entities for which GDP per inhabitant is comparable, for example a group such as **Austria, Belgium, France, Finland, Germany, Ireland, Iceland, Netherlands, UK England and Wales, UK-Scotland**. Within such a group, it can be highlighted that **Netherlands** and **Germany** dedicate the biggest budgetary effort to their judicial systems and that **Iceland** and **Ireland** invest proportionally quite less in their judicial systems.

Another way of reading from the amount of euros invested per capita in the judicial systems, quite close in absolute value for several states, makes it possible to highlight, for instance, that the budgetary effort devoted to the judicial systems by **Portugal** or **Cyprus** is more significant, taking into account the respective levels of wealth in the various states, than **France** or **Finland**.

3. Access to justice

Figure 3.7 Total number of legal aid per cases per 100.000 inhabitants and amount allocated in the public budget for legal aid per case in 2012

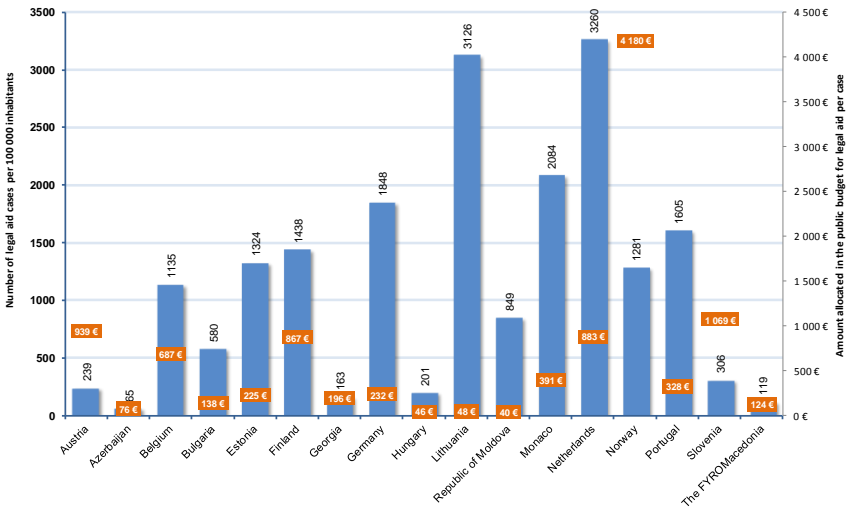
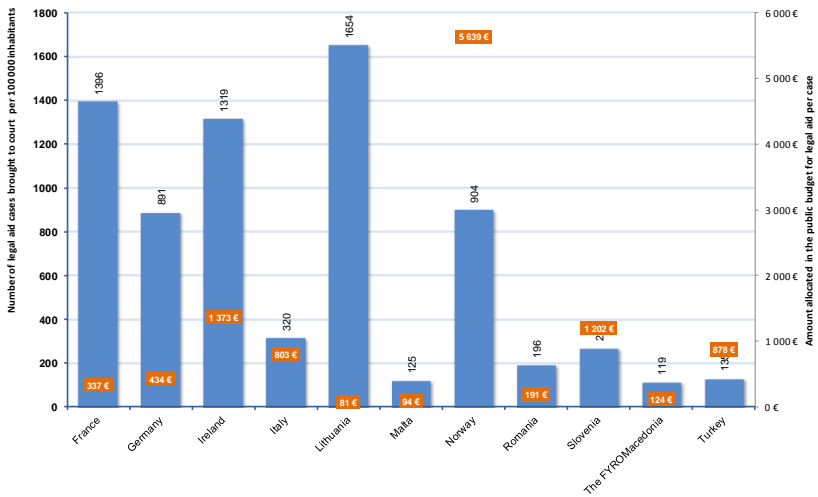


Figure 3.8 For cases brought to court, total number of legal aid cases per 100.000 inhabitants and amount allocated in the public budget for legal aid per case in 2012



The two above figures make it possible to specify various policy options for legal aid among the member states, taking into account legal aid globally

(supporting contentious and non-contentious cases) or focused on contentious cases:

- a high number of cases are eligible for legal aid (over 900 per 100.000 inhabitants) and a very high amount of legal aid (between 4000 and 6000 €) is granted per case in **Norway; Netherlands, Ireland** also spend a significant amount per case (over 800 €) while granting legal aid to a large number of cases (between 1000 and 3000 per 100.000 inhabitants); these countries implement the most generous legal aid policies in Europe;
- other member states extend legal aid to a large number of cases while granting relatively substantial amounts (**Finland, Monaco, Belgium, France, Germany, Portugal, Estonia**.);
- a third group of states remain generous as to the eligibility of cases, but allocating more modest financial means (**Bulgaria, Lithuania, Republic of Moldova**);
- other states have made the opposite choice to grant individual cases relatively large amounts, while limiting the number of cases eligible (**Austria, Italy, Slovenia, Turkey**);
- finally, others restrict the eligibility of cases while limiting the amount of public budget allocated per case (**Azerbaijan, Hungary, Malta, Georgia, Romania, "the former Yugoslav Republic of Macedonia"**).

4. Users of the courts (rights and public confidence)

In more and more European states can be noticed a trend by which citizens and legal professionals can retrieve information about relevant laws, court activity and legal proceedings easily and free of charge via the Internet. Only a few states have specific arrangements to inform the court users on the foreseeability of procedures (i.e. the expected timeframes of a procedure) or on the efficiency of procedures. Specific information, intended to victims of crime, seems to be widespread since it is provided in 43 states or entities.

For vulnerable persons (victims of rape, terrorism, children witnesses/victims, victims of domestic violence, ethnic minorities, disabled persons, juvenile offenders), special mechanisms may be used to protect and to strengthen their rights during court proceedings, for example by introducing specific information mechanisms (telephone hotlines, Internet, leaflets, etc.) for the various vulnerable groups. Another possibility is the use of quasi generalized specific hearing modalities for the protection of minors (46 states), rape victims (44 states) or the now very developed modalities for persons with disabilities (36 states) and victims of domestic violence (32 states). Specific procedural rights can also strengthen the status of vulnerable persons.

All states or entities participating in the Evaluation exercise now have a compensation mechanism in case of dysfunctions of justice. Among these dysfunctions, most states have a procedure for wrongful arrest (except **Monaco**) and a large majority considers wrongful conviction eligible (all states or entities except for **Belgium, Georgia, Malta, UK-Northern Ireland** and **UK-Scotland**). Almost two thirds of states or entities (34) report having compensation procedures for excessive length of proceedings and half of the states (24) provide such proceedings for the non-enforcement of court decisions.

The attention devoted to the expectations and needs of court users is increasing. There is a growing trend in Europe towards the introduction and use of specific tools, such as surveys, to evaluate the court users' level of satisfaction or public confidence in courts. In many European countries, it is common practice to conduct a survey at national level or court level on a regular basis.

Table 4.5 System for compensating users in various particular circumstances

States/entities	Excessive length of proceedings	Non execution of court decisions	Wrongful arrest	Wrongful condemnation	
Albania					3
Andorra					4
Armenia					2
Austria					4
Azerbaijan					4
Belgium					2
Bosnia and Herzegovina					4
Bulgaria					4
Croatia					3
Cyprus					4
Czech Republic					3
Denmark					3
Estonia					2
Finland					3
France					4
Georgia					1
Germany					4
Greece					4
Hungary					4
Iceland					3
Ireland					4
Italy					3
Latvia					2
Lithuania					3
Luxembourg					2
Malta					2
Republic of Moldova					4
Monaco					1
Montenegro					4
Netherlands					2
Norway					4
Poland					4
Portugal					4
Romania					4
Russian Federation					4
Serbia					4
Slovakia					3
Slovenia					3
Spain					4
Sweden					4
Switzerland					3
The FYROMacedonia					4
Turkey					3
Ukraine					2
UK-England and Wales					2
UK-Northern Ireland					1
UK-Scotland					1
Number of countries	34	24	46	42	
Israel					

	Yes
	No

5. The courts

Figure 5.4 Variation of the absolute number of all courts (geographic locations) between 2008 and 2012

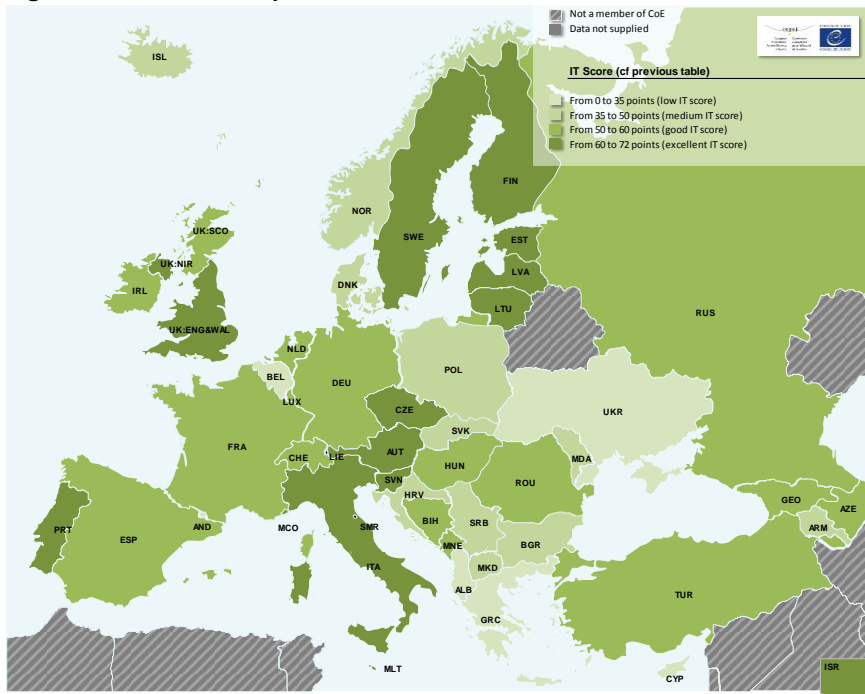


In many member states, the judicial organisation is old. To take into consideration demographic trends, new technical means of transport and communication of court users, and the increased specialization of judges, many states are currently thinking about a new division of jurisdictions that would improve the efficiency of justice while creating economies of scale. These reforms of the judicial system are designed to lead to a better management of property assets, by grouping jurisdictions together and transferring staff from different small courts into one single place. These reforms have not always generated the anticipated savings, nor been implemented in full consultation with court staff; however, they constitute a real challenge for the distribution of the courts on the territory and for the equal access to justice for court users, and even for the redefinition of powers between various courts.

The variation 2008-2012 clearly demonstrates the trend of reducing the number of courts in the Council of Europe member states. The largest decrease in the

number of geographic locations (over 10%) between 2008 and 2012 can be observed in **Bulgaria, Croatia, Finland, France, Georgia, Ireland, Serbia and Sweden**. Overall, the number of courts (geographic locations) decreased in 22 states or entities and increased in 8. A significant increase can be observed in **Cyprus and Poland**. This dominant trend continued after 2012, through draft reforms of the judicial systems.

Figure 5.8 Level of computerization of courts



A positive evolution as concerns ICT in courts may be noted. The development of e-justice and of e-courts is a significant European trend.

Many states or entities are proceeding with reforms in ICT through the introduction or the expansion of computer equipment to constitute an electronic database of jurisprudence, electronic case files, electronic records etc. Many states focus on communication between individuals and courts, by improving the system of procedural management (**Andorra** through electronic forms (**Estonia, Germany, Hungary, Netherlands**) or electronic case tracking

(Norway), or by improving the case management system ("**the former Yugoslav Republic of Macedonia**", **Slovenia** and **Spain**).

A growing trend can be noted in the use of videoconferencing in European judicial systems, especially in criminal cases. In many European states, these new reforms or projects aim at introducing or extending the use of videoconferencing (**Germany, Croatia, Denmark, France, Italy, Lithuania, Republic of Moldova, Monaco, Norway, Romania, Russia, Czech Republic**).

Furthermore, some courts are setting up means for measuring the quality of the activity of courts. Among the states which defined performance and quality standards, 5 in particular have been highlighted.

1. indicator of the length of proceedings (36 states or entities),
2. indicator of the number of closed cases (35 states or entities),
3. indicator of pending cases and backlogs (33 states or entities),
4. indicator of the number of incoming cases (26 states or entities), and
5. indicator of the productivity of judges and court staff (16 states or entities – only 11 in 2008).

6. Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) when implemented within a judicial framework contributes to limiting the need to bring issues before a court and to involving professionals other than judges.

Table 6.3 Types of cases concerned by judicial mediation in 2012

State/entities	Civil and commercial cases					Family law cases (ex. divorce)					Administrative cases					Employment dismissals					Criminal cases					Total		
	①	②	③	④	⑤	①	②	③	④	⑤	①	②	③	④	⑤	①	②	③	④	⑤	①	②	③	④	⑤			
Albania																										9		
Andorra																											2	
Armenia																											0	
Austria																											6	
Azerbaijan																											0	
Belgium																											8	
Bosnia and Herzegovina																											8	
Bulgaria																											4	
Croatia																											13	
Cyprus																											2	
Czech Republic																											11	
Denmark																											5	
Estonia																											8	
Finland																											13	
France																											8	
Georgia																											3	
Germany																											17	
Greece																											9	
Hungary																											12	
Iceland																											6	
Ireland																											5	
Italy																											5	
Latvia																											0	
Lithuania																											10	
Luxembourg																											8	
Malta																											4	
Republic of Moldova																											5	
Monaco																											2	
Montenegro																											4	
Netherlands																											8	
Norway																											10	
Poland																											5	
Portugal																											9	
Romania																											8	
Russian Federation																											15	
Serbia																											13	
Slovakia																											3	
Slovenia																											8	
Spain																											11	
Sweden																											10	
Switzerland																											0	
The FYROMacedonia																											4	
Turkey																											7	
Ukraine																											0	
UK-England and Wales																											9	
UK-Northern Ireland																											6	
UK-Scotland																											0	
Number of countries	23	34	11	13	1	22	32	18	13	1	6	13	0	6	0	16	27	15	13	2	11	11	13	3	9	10		
Israel																												10

Average number of country per type of authorities	
① Court annexed mediation	16
② Private mediator	23
③ Public authority (other than the court)	11
④ Judge	10
⑤ Public prosecutor	3

both their significant level of professionalization and the important place conferred to non-professional judges.

Figure 7.5 Distribution (in %) of professional judges between first instance courts, second instance courts and supreme courts

States/entities	Total of professional judges (FTE)	1st instance professional judges	2nd instance professional judges	Supreme court professional judges
Albania	380	78,9%	16,8%	4,2%
Andorra	24	50,0%	50,0%	0,0%
Armenia	219	74,9%	17,4%	7,8%
Austria	1547	85,6%	10,2%	4,2%
Azerbaijan	600	NC	NC	NC
Belgium	1598	80,9%	19,1%	1,9%
Bosnia and Herzegovina	962	69,1%	21,0%	9,9%
Bulgaria	2239	53,1%	38,4%	8,6%
Croatia	1932	71,3%	26,6%	2,1%
Cyprus	103	87,4%	NC	12,6%
Czech Republic	3055	60,8%	31,6%	7,7%
Denmark	372	69,6%	25,3%	5,1%
Estonia	228	73,2%	18,4%	8,3%
Finland	981	75,8%	19,8%	4,4%
France	7032	70,6%	24,1%	5,3%
Georgia	242	69,4%	24,0%	6,6%
Germany	19832	74,9%	20,5%	4,6%
Greece	2574	59,0%	31,5%	9,5%
Hungary	2767	60,4%	36,9%	2,7%
Iceland	55	78,2%	NC	21,8%
Ireland	144	94,4%	NC	5,6%
Italy	6347	77,7%	17,6%	4,7%
Latvia	439	59,9%	28,7%	11,4%
Lithuania	768	89,1%	6,6%	4,3%
Luxembourg	212	87,7%	NC	19,3%
Malta	40	85,0%	15,0%	NC
Republic of Moldova	441	73,0%	19,5%	7,5%
Monaco	37	43,2%	13,5%	43,2%
Montenegro	263	68,4%	24,7%	6,8%
Netherlands	2410	77,0%	21,5%	1,5%
Norway	557	66,2%	30,2%	3,6%
Poland	10114	93,3%	4,9%	1,7%
Portugal	2009	73,7%	22,2%	4,2%
Romania	4310	46,4%	51,4%	2,2%
Russian Federation	33232	NC	NC	0,4%
Serbia	2916	76,4%	22,4%	1,2%
Slovakia	1307	66,6%	26,9%	6,4%
Slovenia	970	81,0%	15,5%	3,5%
Spain	5155	70,7%	27,8%	1,5%
Sweden	1123	68,2%	28,9%	2,9%
Switzerland	1271	68,7%	28,3%	3,0%
The FYROMacedonia	668	79,6%	17,4%	3,0%
Turkey	8126	93,5%	NC	6,5%
Ukraine	7754	79,5%	19,9%	0,6%
UK-England and Wales	2016	NC	NC	NC
UK-Northern Ireland	70	81,5%	4,3%	14,2%
UK-Scotland	185	90,8%	9,2%	NC
Average	2971	73,5%	22,8%	6,7%
Median	981	74,3%	21,5%	4,6%
Minimum	24	43,2%	4,3%	0,0%
Maximum	33232	94,4%	51,4%	43,2%
Israel	651	70,5%	27,2%	2,3%

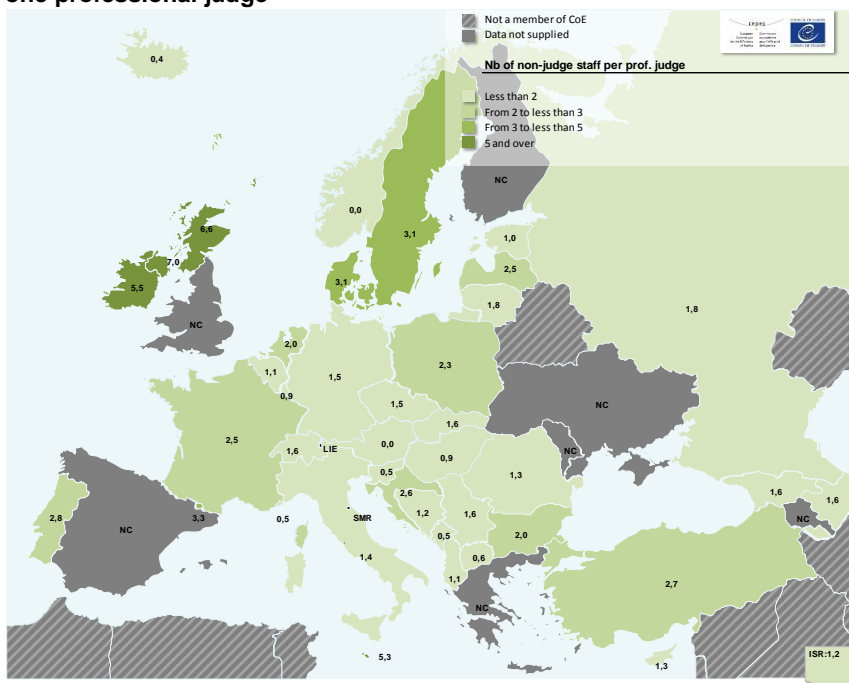
In 20 states or entities, 70% to 85% of all professional judges are judges of first instance, judges of the second instance representing then 15% to 30% of the total, except **UK-Northern Ireland** where judges of second instance constitute 4%. Only **Romania** has reported having more judges of second instance (51%) than judges of first instance (46%). This ratio should be qualified by the specific competence of the courts of appeal to deal with some cases at first instance. In **Hungary** and **Bulgaria**, the number of judges of appeal remains significant (respectively 37% and 38%), even if it is decreasing since the last exercise. The noticeable difference noticed in **Lithuania**, **Poland** and the **Russian Federation** between the number of judges of first instance and the number of judges of second instance to the detriment of the latter should be construed in the light of the comments provided by these states.

Logically, in most states or entities, judges of Supreme Courts represent less than 10% of all judges. With the exception of the very small states such as **Monaco** and **Andorra**, which cannot be compared to other states because of their size and consequently, the specific organization of their judicial systems, **Bosnia and Herzegovina**, **Greece**, **Latvia** and **UK-Northern Ireland** are the states which have the highest proportion of judges of Supreme Courts. The data of **Iceland** can be explained by the absence of judges intervening at second instance, whereas those of **Luxembourg** are justified by the specific status of judges sitting at third instance who, very often, originally belong to other tribunals. Finally, the data of **Cyprus** should be interpreted in the light of the peculiarity of its judicial system which is organised on two levels and where the second instance judges are basically sitting as last instance.

8. Non-judge staff

A distinction is made between four types of non-judge staff. A specific category of non-judge staff are the "Rechtspfleger", inspired by the German system. The second category is composed of staff that have the task to assist judges directly. The third category concerns staff responsible for different administrative matters, as well as court management. The last category relates to technical staff attached to courts.

Figure 8.4 Number of non-judge staff whose task is to assist the judge per one professional judge



In most member states or entities, the majority of non-judge staff working in courts assist judges directly. Important disparities are also to be highlighted between member states with respect to non-judge staff in courts. Thus, the non-judge staff (*Rechtspfleger*) has quasi-judicial responsibilities in 16 states, which directly affects the functioning of the courts.

9. Court activity and fair trial

The CEPEJ analyses the different methods of processing cases, based on the two main indicators that it implemented. The **clearance rate** is obtained when the number of resolved cases within the year is divided by the number of incoming cases within the same period and the result is multiplied by 100:

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

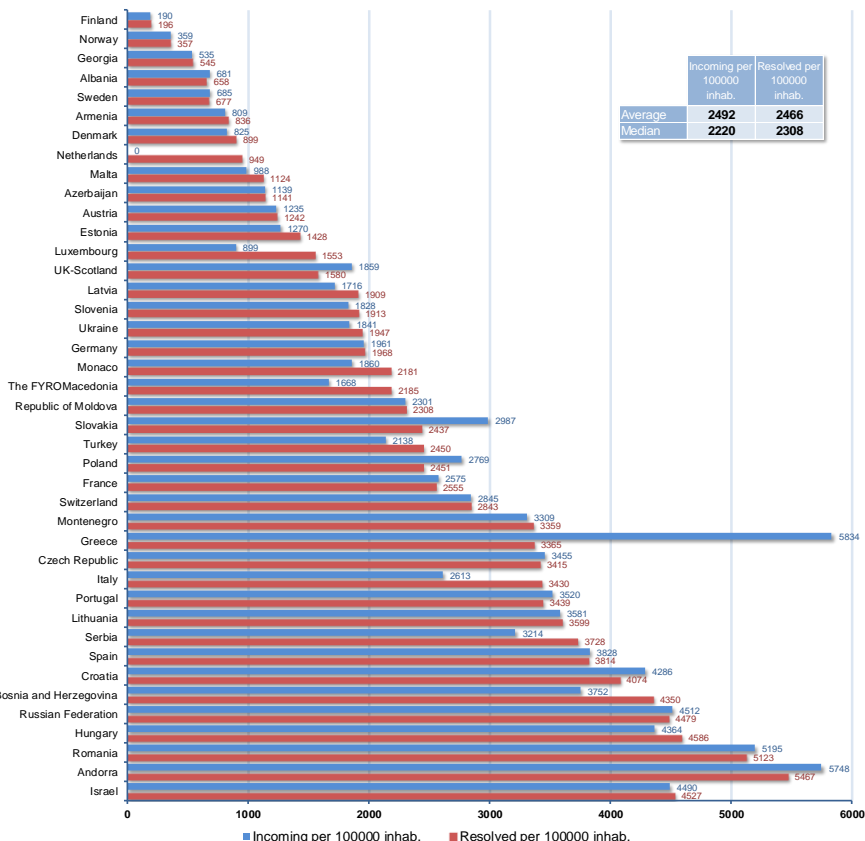
A clearance rate close to 100 % indicates the ability of the court or of a judicial system to resolve more or less as many cases as the number of incoming cases within the given time period. A clearance rate above 100 % indicates the ability of the system to resolve more cases than received, thus reducing any potential backlog. Essentially, a clearance rate shows how the court or judicial system is coping with the in-flow of cases.

The **disposition time** indicator provides further insight into how a judicial system manages its flow of cases. The estimated disposition time compares the number of resolved cases during the observed period with the number of unresolved cases at the end of the observed period. The ratios measure in number of days the estimated time needed for terminating a pending case.

$$\text{DispositionTime} = \frac{365}{\text{CaseTurnoverRatio}}$$

The analysis of the data currently available indicates that first instance courts in Europe are generally better able to cope with the flows of criminal cases than civil cases.

Figure 9.4 Number of 1st instance incoming and resolved civil (and commercial) litigious cases per 100 000 inhabitants in 2012

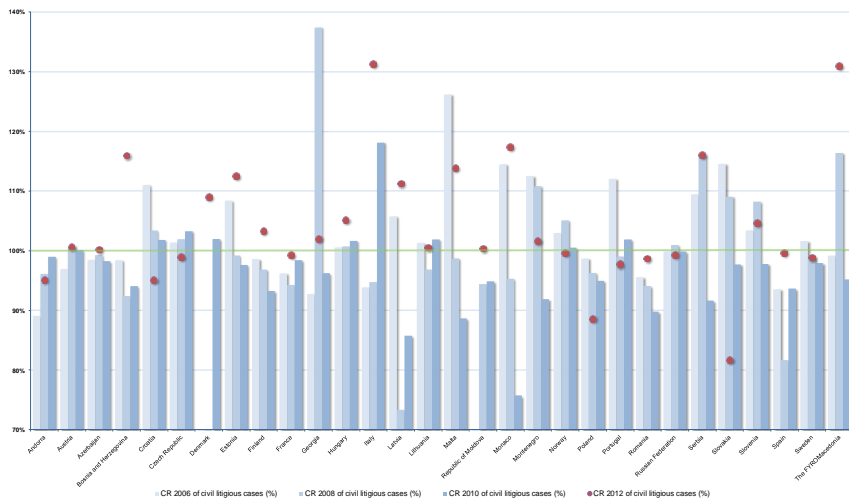


On average, at the European level in 2012, the first instance courts were able to resolve more or less the same number of cases as the number of new incoming cases: around 2500 cases per 100 000 inhabitants. Nevertheless, at the state or entity level, key variations can be highlighted.

When considering the volume of civil (commercial) cases addressed by first instance courts, serious discrepancies can be noticed between the member states. Individuals seem to be more prone to go to court to solve disputes (more than 3000 new cases per 100 000 inhabitants) in the Central and Eastern European states (**Russian Federation, Lithuania, Czech Republic, Croatia**), South-eastern European states (**Bosnia and Herzegovina,**

Romania, Serbia) and in the countries of southern Europe (Spain, Italy, Greece) than in the countries of northern Europe (Finland, Norway, Sweden, Denmark, Netherlands) and the states of the South Caucasus (Georgia, Azerbaijan, Armenia) where less than 1000 new cases were filed per 100 000 inhabitants per year.

Figure 9.8 Evolution of the Clearance Rate (CR) of civil litigious cases between 2006 and 2012



Considering the data available, it is possible to highlight the evolution of the Clearance Rate for litigious civil (commercial) law cases between 2006 and 2012 in 30 states or entities. The analysis must be developed cautiously, as the quality of some data might have differed within the period observed, which can partly explain variations.

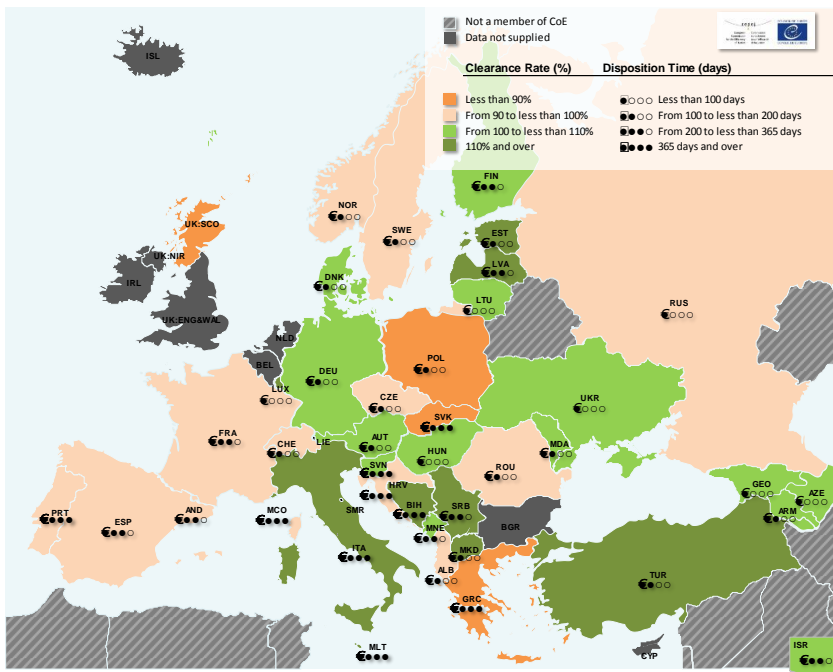
In 9 of the 30 states concerned, the Clearance Rate of civil litigious cases at first instance remained relatively stable ($\pm 5\%$) when comparing data between 2006 and 2012.

Other trends to be observed can be divided into two quite equal groups: negative trends can be noted in 10 states and positive trends are characteristic of 11 states. Major improvements in the Clearance Rate can be observed in particular in **Italy**, which can be explained rather by a decrease in the number of incoming cases (introduction of new court taxes that litigants are required to pay to initiate particular types of proceedings) than an increase in the number of solved cases. **Hungary** has experienced a regular improvement of its Clearance Rate. The same overall trend, though not linear throughout the

years, can be observed for **Bosnia and Herzegovina, Estonia, Finland, Latvia, Romania, Spain, and “the former Yugoslav Republic of Macedonia”**.

On the contrary, the Clearance Rate has decreased sharply (though not always with a linear trend) in **Slovakia, Georgia, Croatia, Montenegro, Poland and Portugal**. The situation is mainly a concern for **Slovakia and Poland**, where the Clearance Rate is below 100%. It must be followed with care also in the other states, as the performance of the relevant bodies could be altered in the future should this trend be confirmed.

Figure 9.10 Clearance Rate (CR) and Disposition Time (DT) of litigious civil (and commercial) cases in first instance courts in 2012

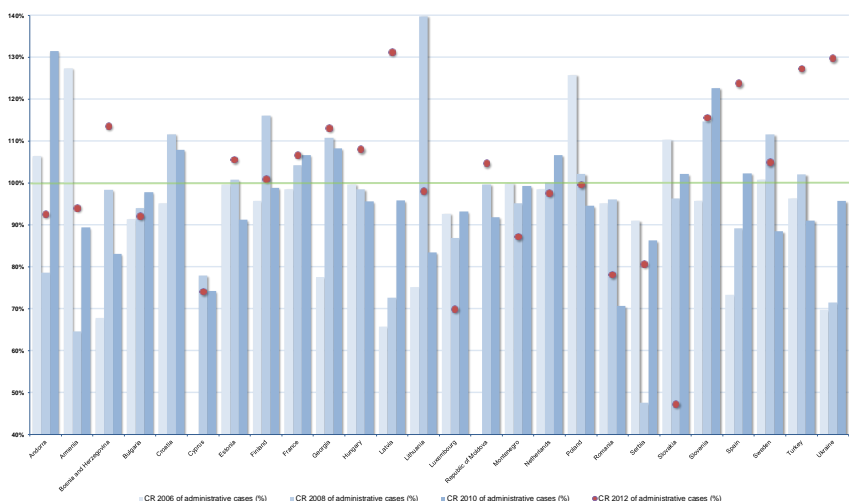


When reading the results presented in this map, the most productive civil (and commercial) first instance court systems which do not generate backlogs (Clearance Rate equal to or higher than 100 %) and can quickly resolve a filed case (less than 100 days) can be found in **Azerbaijan, Georgia, Hungary, Lithuania, Luxembourg and Ukraine**. The indicators also show that **Austria**,

Armenia, Denmark, Estonia, Germany, Russian Federation, “the former Yugoslav Republic of Macedonia”, and Turkey had relatively productive first instance civil (commercial) courts in 2012. On the contrary, the first instance courts have serious difficulties in addressing the incoming cases in **Greece, Slovakia, as well as in Croatia, Poland, and Portugal.**

Of the 12 states which have the highest Disposition Time (more than 300 days), only 4 (**Italy, Bosnia and Herzegovina, Malta, Slovenia**) have Clearance Rates equal to or higher than 100%, which resulted in an improvement, even a limited one, of their situation in 2012. **Croatia, Portugal, and Monaco** have not reached a 100% Clearance Rate for civil litigious cases which means that the backlog of unresolved cases in these court systems is growing and their Disposition Time is deteriorating. To a lesser extent, the situation remains fragile in **Andorra, France, Montenegro, Spain.**

Figure 9.13 Evolution of the Clearance Rate (CR) of administrative law cases between 2006 and 2012



It was possible to measure the evolution of the Clearance Rate for administrative law cases between 2006 and 2012 in 26 states. The analysis must be developed cautiously, as the quality of some data might have differed within the period observed, which can partly explain variations.

Netherlands, Poland, Finland have more or less stabilised their Clearance Rate for administrative law cases around 100 % over the six year period observed. A rather regular increase of the Clearance Rate is encouraging for

the court management in **France, Latvia, Spain and Ukraine**. Though quite drastic over the period observed, a general increase in the Clearance Rate, now higher than 100 %, can also be emphasised for **Bosnia and Herzegovina, Estonia, Finland, Georgia, Hungary, Lithuania, Republic of Moldova, Slovenia, Sweden and Turkey**.

As of the diminution of the Clearance Rate for administrative law cases over the six year period observed, -reaching a Clearance Rate below 100 %- can be noticed in particular for **Slovakia, Luxembourg**, as well as for **Andorra, Armenia, Montenegro, Romania and Serbia**.

Figure 9.20 Clearance Rate of criminal cases (severe criminal offences) and misdemeanour cases (minor offences) in 2012, in %

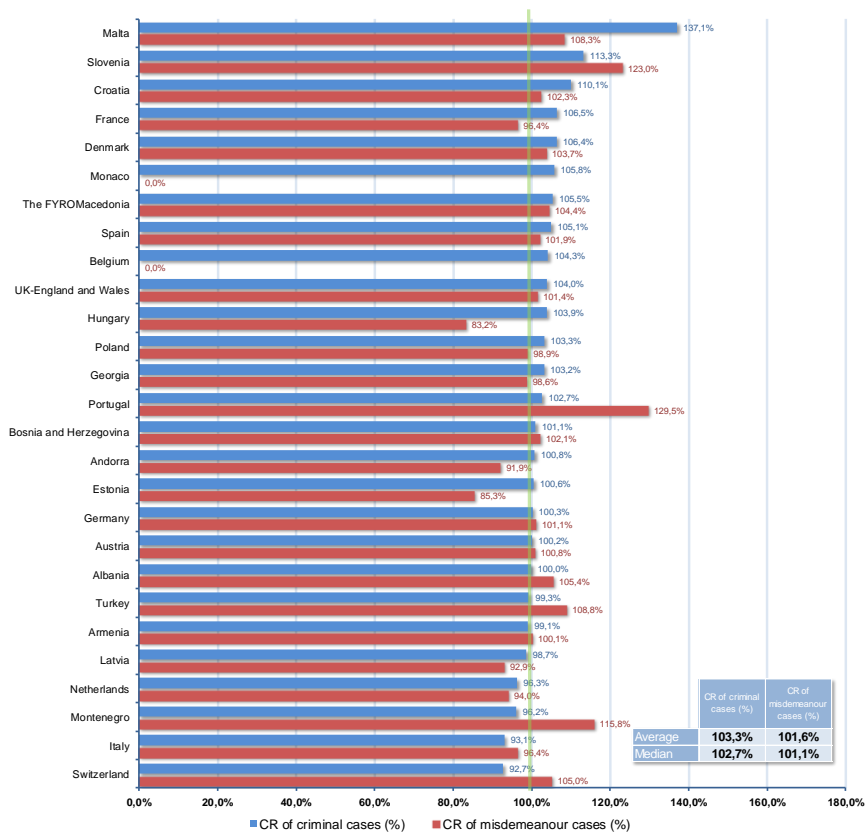
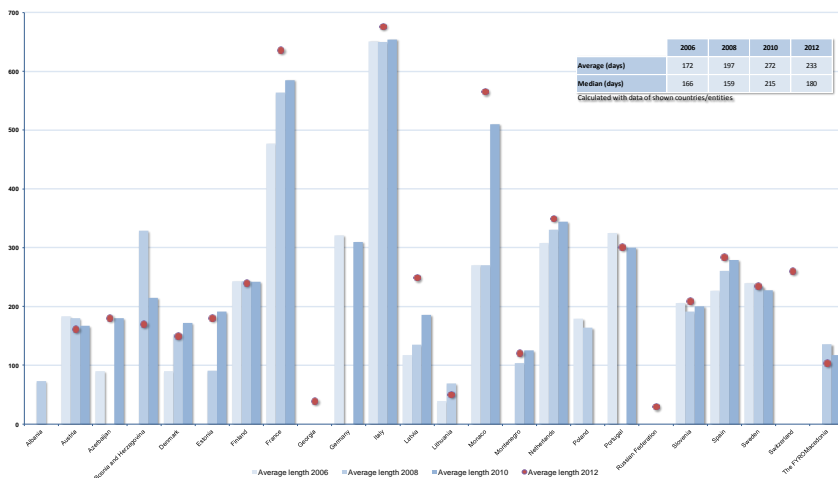


Figure 9.29 Average length of proceedings for litigious divorce cases in first instance courts in 2006, 2008, 2010 and 2012, in days



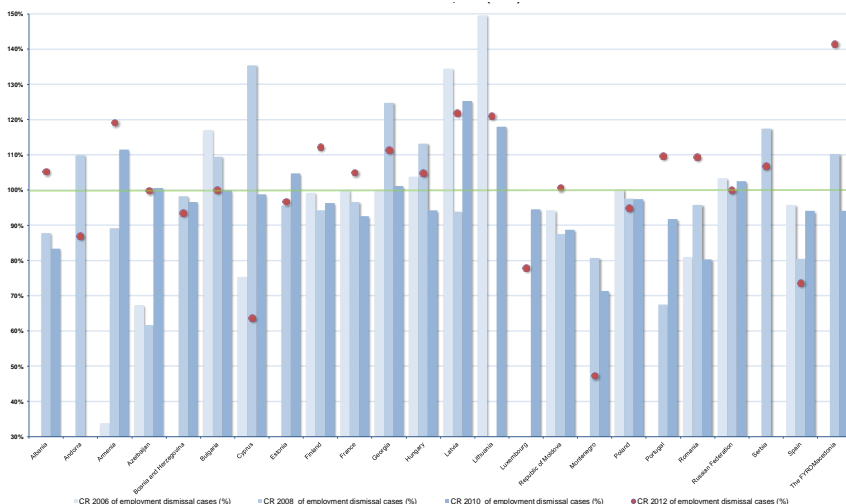
An increase in the length of proceedings does not necessarily mean that the courts' efficiency has decreased. The length of litigious divorce proceedings in first instance varies between the states and entities concerned according to the family law procedure (legal timeframe, degree of complexity, proportion of divorces by mere registration) and the volume of cases filed in courts.

Rapid procedures (less than 100 days) can be noted in **Georgia, Lithuania, Russian Federation** and longer procedures (more than 500 days) in **Italy, France, Monaco**.

Divergent trends are present in some of the states. Lengths of proceedings are decreasing consequently over the past six years in **Bosnia and Herzegovina** and to a lesser extent in **Denmark, Lithuania** and **“the former Yugoslav Republic of Macedonia”**. On the contrary they are still increasing in **France, Italy, Latvia, Monaco** and **Spain**. However such duration must be studied against the number of cases addressed by the courts to measure the real situation of court efficiency in this field. **Latvia** or **Spain** are seeing the number of incoming divorce cases reduced since 2006, whereas their average length of proceedings for litigious divorce cases in first instance courts is increasing. It appears that in other states such as **Bosnia and Herzegovina**, a decrease in the number of incoming divorce cases is followed by a shorter average length of proceedings.

A comparative analysis of the length of divorce litigation procedures cannot be made without taking into account the specific features of divorce proceedings in different states, briefly presented below, which can influence significantly the result of the proceedings.

Figure 9.30 Evolution of the Clearance Rate of employment dismissal cases in first instance courts between 2006 and 2012



Although the average Clearance Rate for the 21 states concerned is a little bit above 100%, a number of courts in the states have difficulties in coping with the volume of cases, which leads to backlogs. **Montenegro** has a very low Clearance Rate and a high Disposition Time (758 days). **Cyprus**, **Spain**, **Luxembourg** and **Slovakia** also experience serious difficulties in this field, in particular when considering at the same time the very high Disposition Time for **Cyprus** (more than 1000 days).

Andorra, **Bosnia and Herzegovina** must monitor the capacity of their courts to further cope with the volume of cases, in particular bearing in mind their already high Disposition Times. The same applies, to a lesser extent, to **Estonia** and **Poland**.

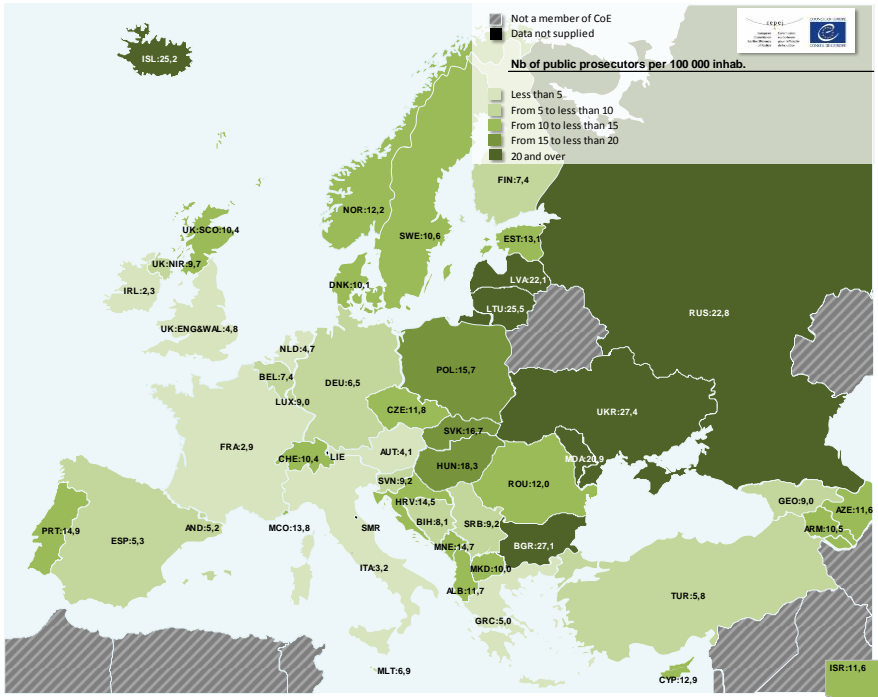
In 16 states, the Clearance Rate is around or higher than 100 %, with a clear increasing trend noted over the past six years in **Albania**, **Armenia**, **Finland**, **France**, **Republic of Moldova**, **Portugal**, **Romania** and “**the former Yugoslav Republic of Macedonia**”.

However, in such procedures, court efficiency cannot be the only issue at stake. States may wish to establish, through their judicial procedures, a proper balance between the functioning of the economic system and the individual protection of the employees. Then, as for divorce cases, there is in some states a preliminary system of attempt of conciliation or mediation, mandatory or not.

10. Prosecutors

Every state or entity has, sometimes under a different name, a public authority entrusted with qualifying and carrying out prosecutions. In all the European states or entities, they play an important role in the prosecution of criminal cases. In most of the member states or entities, they also have a responsibility in the civil and even administrative law area.

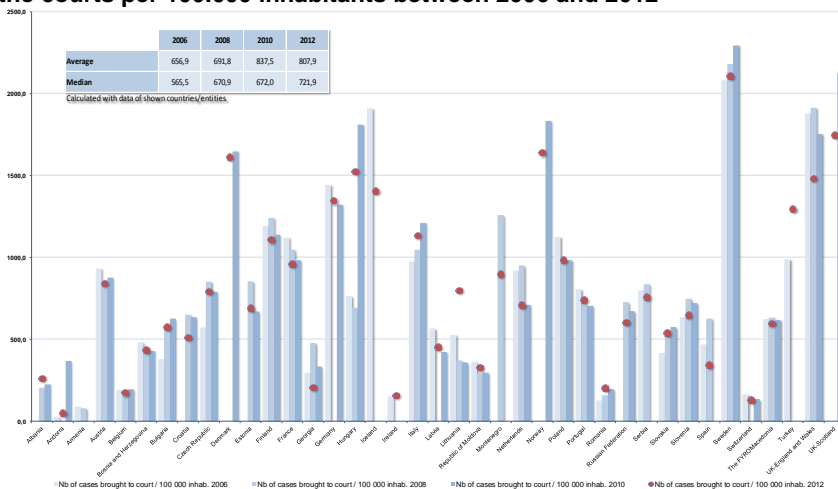
Figure 10.2 Number of public prosecutors per 100.000 inhabitants in 2012



The highest number of public prosecutors (20 or more prosecutors per 100.000 inhabitants) can be found in Eastern European states (**Bulgaria, Lithuania, Latvia, Republic of Moldova, Russian Federation, Ukraine**), as well as in **Iceland**. Seven states (**UK-England and Wales, Austria, France, Greece, Ireland, Italy, and Netherlands**) have the lowest number (less than 5 prosecutors per 100.000 inhabitants).

Only 9 states or entities were able to provide data on persons fulfilling tasks similar to the task of a public prosecutor (**Austria, Estonia, Germany, Ireland, Italy, Luxembourg, Monaco, Switzerland, UK-England and Wales**), even though persons exercising these functions also exist in some states or entities. They may be counted within the overall number of prosecutors. In **Austria**, specifically trained officers of the Public Prosecutor's Office (*Bezirksanwälte*) are allowed to act under the supervision of a prosecutor (similar to the Rechtspfleger but with a lower range of competences and fewer qualifications). Police officers and public prosecutors have similar competences in **Greece, Malta, Poland and France** (*officier du ministère public*). In **UK-England and Wales**, some government Departments have prosecutors specialised in offences specifically related to the areas of the Departments concerned. In **Finland**, the Chancellor of Justice of the Government and the Parliamentary Ombudsman may also prosecute. In **Ireland**, much of the work of the Director of Public Prosecutions is carried out by lawyers in private practice rather than by lawyers employed by the state.

Figure 10.14 Number of cases brought by the public prosecutor before the courts per 100.000 inhabitants between 2006 and 2012



11. Status and career of judges and prosecutors

Recommendations from the Council of Europe take on as fundamental principles the protection and strengthening of judges' independence (in particular Recommendation R(2010)12 on judges: independence, efficiency and responsibilities) and try to guarantee the statutory protection of prosecutors (Recommendation R(2000)19 on the role of public prosecution in the criminal justice system).

Salaries of judges and prosecutors

The salaries of judges and prosecutors must be in accordance with their status and their responsibilities. The European trend is to increase judges' and prosecutors' salaries at a significant level compared to the average gross salary in the state, though large discrepancies can be noted between the states. The ratio between the salary of judges or prosecutors at the Supreme Court or at the Highest Appellate Court and the national average gross annual salary is an interesting indicator to measure differences between countries by removing the biases which are the modes of recruitment, age, previous career, exchange rate or GDP.

Table 11.13 Gross and net annual salaries of judges and prosecutors at the Supreme Court or at the last instance in 2012

States/entities	Judges			Prosecutors		
	Gross annual salary	Gross salary in regard to national average gross annual salary	Net annual salary	Gross annual salary	Gross salary in regard to national average gross annual salary	Net annual salary
Albania	14 965 €	3,5	12 030 €	10 500 €	2,4	8 640 €
Andorra	39 823 €	1,7	37 633 €	106 186 €	4,4	99 283 €
Armenia	1 877 €	0,7	1 485 €	NA	NC	NA
Austria	119 771 €	4,0	71 418 €	119 771 €	4,0	71 418 €
Azerbaijan	20 852 €	4,4	17 200 €	17 213 €	3,7	14 880 €
Belgium	118 643 €	2,9	56 536 €	120 815 €	2,9	57 409 €
Bosnia and Herzegovina	41 098 €	5,2	25 788 €	41 098 €	5,2	25 788 €
Bulgaria	28 019 €	6,2	25 217 €	28 019 €	6,2	25 217 €
Croatia	63 120 €	5,0	31 320 €	63 120 €	5,0	31 320 €
Cyprus	133 219 €	5,5	NA	NA	NC	NA
Czech Republic	54 272 €	4,4	NA	46 635 €	3,7	NA
Denmark	176 769 €	3,4	NA	88 200 €	1,7	NA
Estonia	48 077 €	4,5	37 924 €	39 733 €	3,7	30 526 €
Finland	128 700 €	3,3	78 553 €	82 018 €	2,1	54 484 €
France	110 082 €	3,2	93 762 €	110 082 €	3,2	93 762 €
Georgia	24 170 €	NC	19 336 €	NAP	NC	NAP
Germany	104 711 €	2,3	NA	104 711 €	2,3	NA
Greece	57 009 €	NC	47 030 €	57 009 €	NC	47 030 €
Hungary	35 289 €	3,9	25 476 €	34 121 €	3,7	21 235 €
Iceland	89 746 €	3,3	NA	55 665 €	2,0	NA
Ireland	197 272 €	5,9	NA	85 127 €	2,6	NA
Italy	179 747 €	6,3	97 833 €	179 747 €	6,3	97 833 €
Latvia	37 616 €	4,2	25 573 €	25 788 €	2,9	17 412 €
Lithuania	29 103 €	3,9	22 118 €	23 742 €	3,2	18 044 €
Luxembourg	129 943 €	3,1	NA	121 421 €	2,9	NA
Malta	40 221 €	2,6	32 919 €	32 434 €	2,1	27 861 €
Republic of Moldova	5 012 €	1,9	3 701 €	3 701 €	1,4	2 776 €
Monaco	132 592 €	NC	125 152 €	132 592 €	NC	125 152 €
Montenegro	27 934 €	3,2	18 716 €	26 892 €	3,1	NA
Netherlands	128 900 €	2,4	67 000 €	94 585 €	1,8	NA
Norway	212 295 €	3,3	159 836 €	103 842 €	1,6	101 729 €
Poland	60 998 €	5,9	43 445 €	60 998 €	5,9	43 445 €
Portugal	66 204 €	3,3	NA	66 204 €	3,3	NA
Romania	42 049 €	7,6	29 493 €	35 344 €	6,4	24 791 €
Russian Federation	NA	NC	NA	NA	NC	NA
Serbia	28 174 €	4,6	16 752 €	28 174 €	4,6	16 752 €
Slovakia	42 916 €	4,4	NA	42 916 €	4,4	NA
Slovenia	63 664 €	3,5	34 212 €	55 812 €	3,0	31 536 €
Spain	107 565 €	4,7	66 690 €	107 565 €	4,7	66 690 €
Sweden	94 500 €	2,3	NA	73 378 €	1,8	NA
Switzerland	294 565 €	5,2	276 361 €	157 690 €	2,8	126 152 €
The FYROMacedonia	21 454 €	3,6	14 241 €	18 858 €	3,2	12 536 €
Turkey	42 638 €	3,5	32 991 €	42 638 €	3,5	32 991 €
Ukraine	21 456 €	6,1	17 266 €	6 326 €	1,8	4 959 €
UK-England and Wales	256 206 €	7,7	NA	111 027 €	3,3	NA
UK-Northern Ireland	234 229 €	8,0	129 502 €	53 000 €	1,8	NA
UK-Scotland	241 196 €	7,8	NA	NA	NC	NA
Average	90 188 €	4,2	52 780 €	67 017 €	3,4	45 919 €
Median	62 059 €	3,9	32 955 €	56 410 €	3,2	31 320 €
Minimum	1 877 €	0,7	1 485 €	3 701 €	1,4	2 776 €
Maximum	294 565 €	8,0	276 361 €	179 747 €	6,4	126 152 €
Israel	125 304 €	5,5	NA	78 771 €	3,5	NA

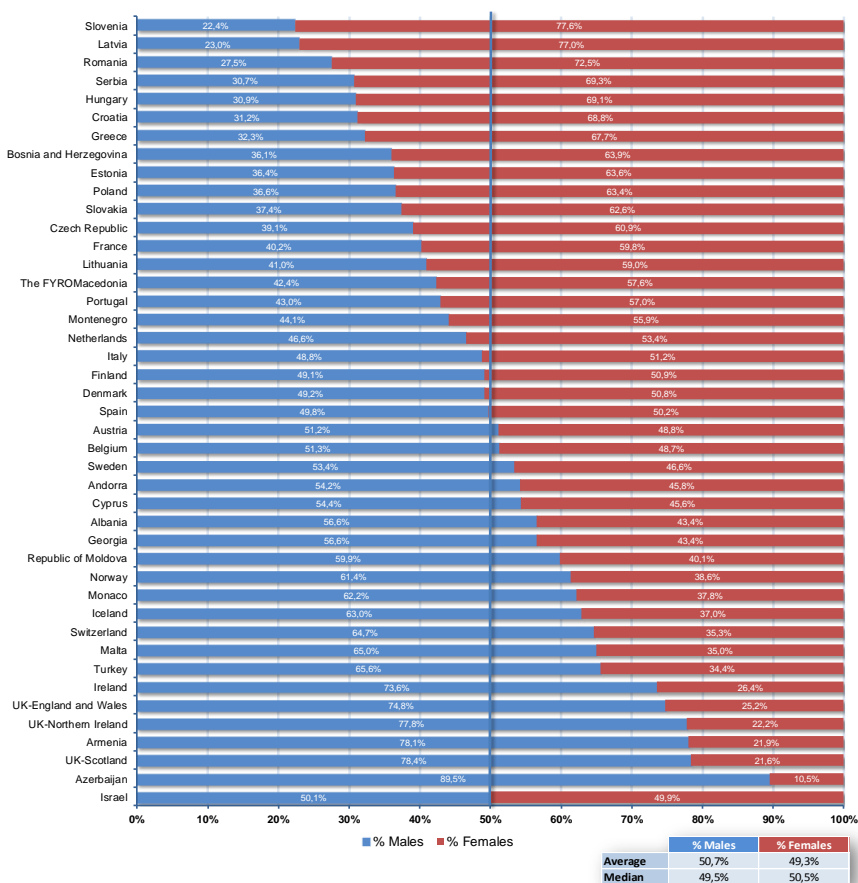
In relation to the national average gross salary, the salaries of judges and prosecutors at the end of their career are almost two times higher than at the beginning of the career (4,2 times higher for judges and 3,4 times higher for prosecutors). The difference between start-of-career-and end-of-career pay is the most marked, both for judges and for prosecutors in **Romania, Italy,**

Bulgaria, Poland, Bosnia and Herzegovina, Croatia. It is also significant in common law countries (**UK-Northern Ireland, UK-Scotland, UK-England and Wales, Ireland**), but only with regard to judges; which can be explained through their specific types of recruitment, among experienced lawyers.

Gender issues within the judiciary

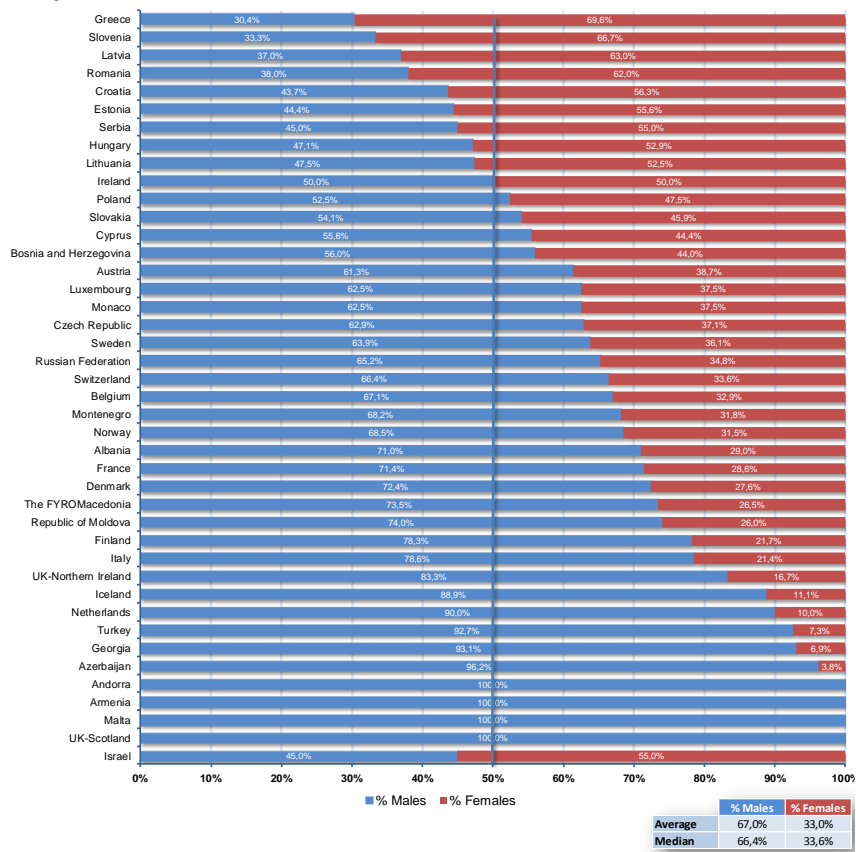
The Council of Europe is implementing a policy of equality between men and women within its member States. In this context, the CEPEJ collects specific data on male/female distribution amongst professional judges and public prosecutors, as well as their respective access to decision-making positions.

Figure 11.23 Distribution of male and female professional judges within the total number of professional judges in 2012



In general, the male/female distribution in the judiciary is almost equal. The average for all states or entities is 51% for men and 49% for women. 17 states or entities (14 in 2010) stay in line with an appropriate male-female parity within a range from 40% to 60%. While 21 states or entities have more than 50% of women among their judges, some countries such as **Slovenia**, **Latvia** and **Romania** have more than 70% women judges. In contrast, 20 states or entities have more than 50% male judges and 6 of them have more than 70% male judges. In this group, the percentage of male/female distribution in small states should be interpreted with care taking into account their low total number of judges, as in **Andorra** (24), **Malta** (40) and **Monaco** (37).

Figure 11.25 Distribution of male and female court president (professional judges) within the total number of court presidents (professional judges) in 2012



As regards the access to decision-making positions, data on gender balance reveals its frailness when it comes to positions such as Court Presidents. Although many European countries start to reach such a balance for judges, the objective has not yet been reached concerning heads of Court. Generally, there are fewer women than men as Court presidents, and this is especially true when going further up the ladder of judicial hierarchy.

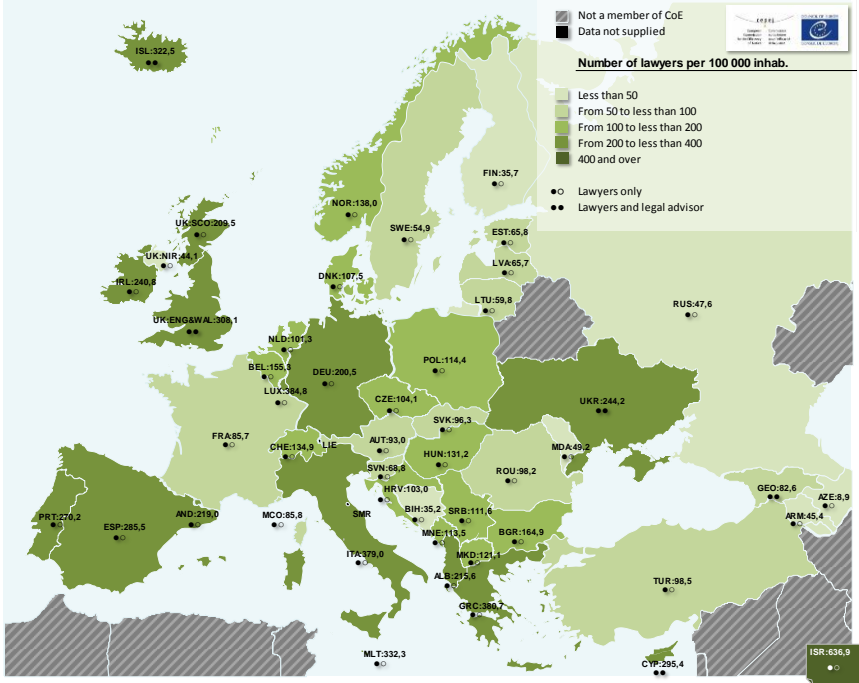
In 31 states or entities, the proportion of male presidents is higher than 50%; in 17 of them, it is above 70% and in 7 of them, it exceeds 90%: **Turkey, Georgia, Azerbaijan, Armenia**, as well as **UK-Scotland, Malta** and **Andorra**. In these three countries, the situation has to be seen in perspective, inasmuch

as the number of court presidents is very low (**Andorra**: 2 court presidents and **Malta**: 3 presidents). A perfect balance can be found in **Ireland**, while among the 9 states or entities in which the proportion of female Court presidents is higher than that of male presidents, there are 4 countries in which that number even exceeds 60%: **Romania**, **Latvia**, **Slovenia** and **Greece**.

12. Lawyers

The word "lawyer" is used according to Recommendation Rec(2000)21 of the Council of Europe: “a person qualified and authorised according to the national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters”.

Figure 12.2b Number of lawyers per 100.000 inhabitants in 2012



When analysing the numbers of lawyers with and without legal advisors, it can be noted that several Eastern and Northern European states have a low number of lawyers, whereas Southern states tend to have larger bar associations: **Cyprus, Greece, Italy, Malta, Spain and Portugal** have more than 250 lawyers per 100.000 inhabitants. In these states, individuals are more prone to go to court than in other parts of Europe (see chapter 9). **Luxembourg's** high numbers must be put into perspective considering its number of inhabitants and its specific judicial activities. The number of lawyers has increased in almost all member States between 2006 and 2012.

13. Execution of court decisions

It is difficult to assess the smooth execution of court decisions in civil or commercial matters on the basis of relevant statistics, as execution belongs to the parties. Therefore, this report focuses on the organisation of the execution and the role of enforcement agents.

The timeframe for notification, which also depends on its procedural form, may be approached in a concrete way either through an enforcement agent or in a simplified way by registered mail. Therefore the timeframe either depends on the diligence of the enforcement agent, or on the more or less proper functioning of the postal service. Each state or entity in such a situation evaluates an average timeframe as an indicator of efficiency.

Almost two thirds of the states or entities (29) have indicated that it is possible to notify the relevant person within a timeframe between 1 and 10 days. Only **Greece** indicated that it needed more than 30 days to notify the decision to the concerned party. Compared to 2010, 5 states have reduced these timeframes: **Croatia, Latvia, Lithuania, Netherlands** and **Serbia**. Two states (**Bulgaria** and **Greece**) declared that these timeframes had increased.

Table 13.16 Estimated timeframe for the notification of a court decision on debt recovery to a person living in the city where the court is sitting

States/entities	Between 1 and 5 days	Between 6 and 10 days	Between 11 and 30 days	More than 30 days
Albania				
Andorra				
Armenia				
Austria				
Azerbaijan				
Belgium				
Bosnia and Herzegovina				
Bulgaria				
Croatia				
Cyprus				
Czech Republic				
Denmark				
Estonia				
Finland				
France				
Georgia				
Germany				
Greece				
Hungary				
Iceland				
Ireland				
Italy				
Latvia				
Lithuania				
Luxembourg				
Malta				
Republic of Moldova				
Monaco				
Montenegro				
Netherlands				
Norway				
Poland				
Portugal				
Romania				
Russian Federation				
Serbia				
Slovakia				
Slovenia				
Spain				
Sweden				
Switzerland				
The FYROMacedonia				
Turkey				
Ukraine				
UK-England and Wales				
UK-Northern Ireland				
UK-Scotland				
Yes	19	10	6	1
No	17	26	30	35
Not available (NA)	9	9	9	9
Not applicable (NAP)	2	2	2	2
Israel				

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Edition 2014 (data 2012)**

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The full report is available on the CEPEJ Web site:

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