European judicial systems
Efficiency and quality of justice

CEPEJ STUDIES No. 23

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An overview

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Table of contents

1. INTRODUCTION

With this sixth 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 so as to help to improve their efficiency and quality in the interest of the nearly 850 million in the Council of Europe Member states.

The CEPEJ presents today the 2016 Edition of its report, based on the 2014 data. The report was adopted by the CEPEJ in July 2016[1]. 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 an analysis of the judicial systems of 46 States[2], which is increasingly detailed from one edition to another.

For the first time, the CEPEJ has decided to modify the manner of presentation of the results of its evaluation cycle, and to make available:

- a general report including key data and comments (key facts and figures) which makes it possible to evaluate the state of the judicial systems and their evolution;
- a specific report focused on the use of IT in courts;
- a dynamic data base opened to the public on the Internet, including a data processing system, which will allow all stakeholders to analyse independently, and according to their needs, a comprehensive volume of data for a specific group of States, or for all States concerned (see: www.coe.int/cepej).

When approaching the analytical topics, the CEPEJ has sought to keep in mind all the priorities and fundamental principles of the Council of Europe. Beyond the statistics, the interest of the CEPEJ report consists in highlighting the main trends, evolutions and common issues of the European States.

The quality of the data available makes it possible to compose and to 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 strongly encourages policy makers, legal professional and researchers to use this unique information to develop studies and take forward the indispensable European debate and

[1] The report is based on a draft prepared by the CEPEJ working group chaired Jean-Paul JEAN (France), and composed of Ramin GURBANOV (Azerbaijan), Adis HODZIC (Bosnia and Herzegovina), Simone KREβ (Germany), Mirna MINAUF (Croatia), Georg STAWA, President of the CEPEJ (Austria), Frans van der DOELEN (The Netherlands), Jaša VRABEC (Slovenia). They were supported by the scientific experts Julinda BEQIRAJ (Associate Senior Research Fellow in the Rule of Law, Bingham Centre for the Rule of Law, London, United Kingdom), Didier MARSHALL (Honorary Judge, Dean of the Department of Justice Administration at the French Ecole Nationale de la Magistrature, France) and Ludivine ROUSSEY (Researcher in economic sciences, University of Paris Descartes, Sorbonne, France).

[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. 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.

1. INTRODUCTION

reforms, the need for which is regularly recalled in 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 the above-mentioned reports, but only to highlight, in an easily readable format, some of its elements and to motivate the readers to take the time "to go further". In this overview, only brief comments accompany the graphs and tables extracted from the report, but they refer to the full report which enables an in-depth approach with all the necessary methodological elements for rigorous analysis and comparisons (see www.coe.int/CEPEJ).

Warning

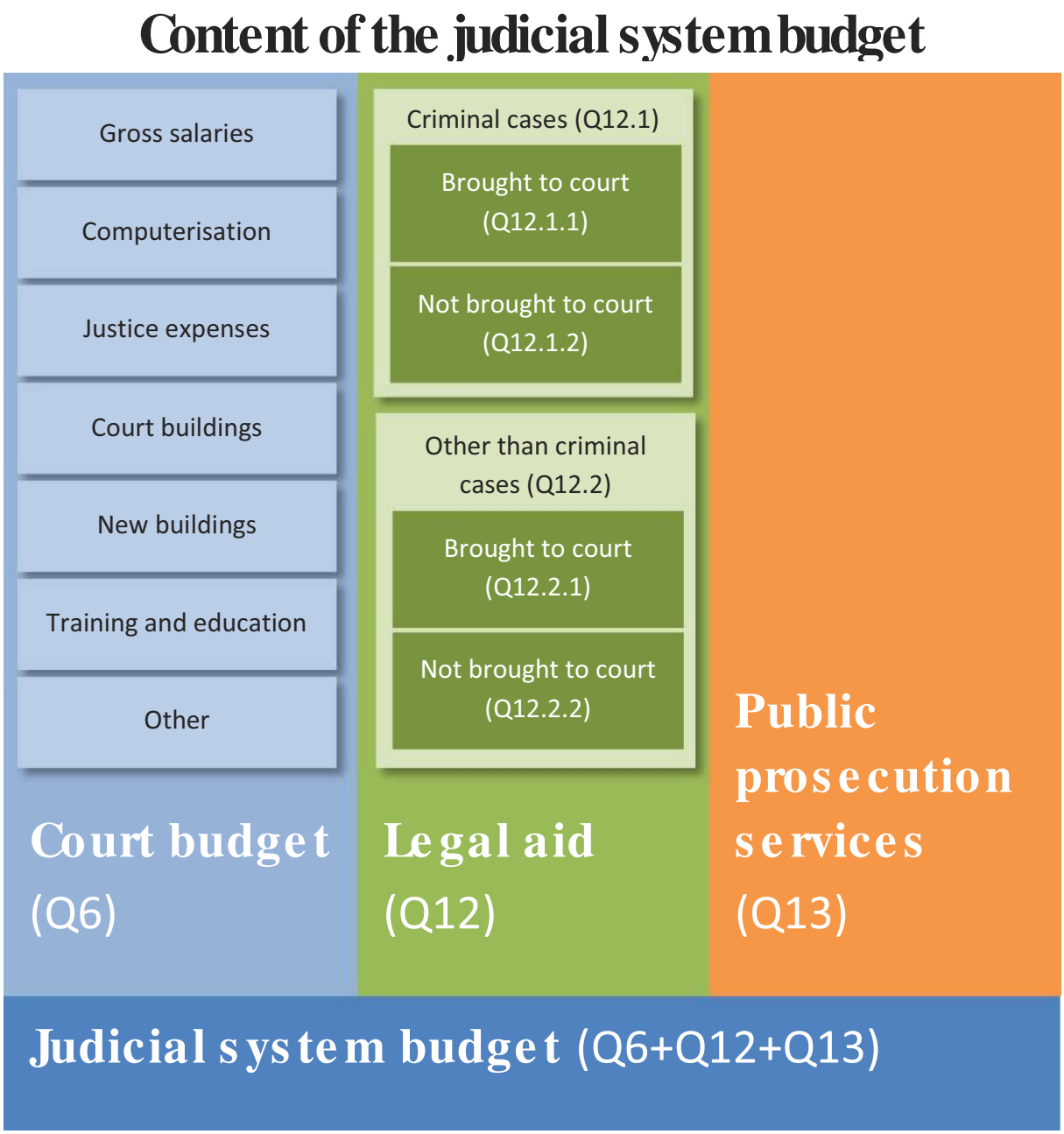
Throughout its report, the CEPEJ has highlighted the numerous methodological issues encountered and the choices made for its overcoming. Comparing quantitative figures from different States or entities, with different geographical, economic, and judicial background is a difficult task which must be addressed 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). Careful attention has been paid to the terms used and to the definition and use of concepts, which were clarified 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 make it possible to draw analyses and conclusions. Data cannot be read as they are, 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 set 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 countries with older 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 with GDP, population and the average gross annual salary.

2. BUDGET

2.1 Budget of Judicial systems

One of the goals of the CEPEJ is to know, understand and analyse the budgets allocated to the functioning of justice in the States and entities. This document focuses primarily on the budgets allocated to the courts, the public prosecution services, and legal aid, the total of which defines **the judicial system budget within the meaning of the CEPEJ**.



Public budget allocated to the judicial system per capita in €

►Figure 2.6 and table 2.10

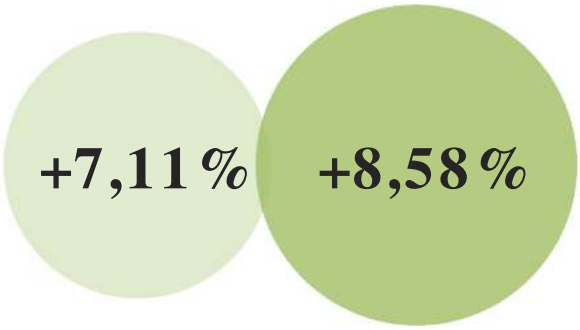
	2012	2014
		approved budget
		implemented budget
ALB	9 €	9 €
AUT	91 €	96 €
AZE	12 €	16 €
BEL	89 €	85 €
BIH	28 €	30 €
BGR	29 €	33 €
HRV	47 €	51 €
CYP	58 €	NA
CZE	46 €	45 €
DNK	75 €	NA
EST	33 €	40 €
FIN	67 €	71 €
FRA	61 €	64 €
GEO	6 €	10 €
DEU	114 €	NA
GRC	41 €	44 €
HUN	46 €	41 €
IRL	50 €	48 €
ITA	77 €	73 €
LVA	32 €	37 €
LTU	28 €	33 €
LUX	152 €	139 €
MLT	32 €	36 €
MDA	5 €	8 €
MCO	165 €	NA
MNE	NA	42 €
NLD	131 €	122 €
NOR	104 €	78 €
POL	47 €	49 €
PRT	60 €	52 €
ROU	23 €	35 €
RUS	32 €	32 €
SVK	40 €	41 €
SVN	89 €	90 €
ESP	91 €	88 €
SWE	107 €	103 €
CHE	198 €	219 €
MKD	17 €	18 €
TUR	18 €	21 €
UKR	NA	9 €
UK:ENG&WAL	103 €	92 €
UK:NIR	119 €	144 €
UK:SCO	84 €	78 €
Average	65 €	60 €
Median	50 €	45 €

If there was no (valid) information, this is shown by writing "**NA**" (not available).

Following the title of each graphic, the reader can find a specific reference (e.g. ►Table 1.1) to the full CEPEJ Report: "European judicial system – Edition 2016" containing detailed figures, information and comments.

Average increase of the budget of the judicial systems*

►Table 2.10



* Increase of absolute values, excluding impact of exchange rate or inflation

Budgets allocated to the judicial systems per capita compared with the GDP in 2014

►Figure 2.7

On average, European States have increased the budget of their judicial system significantly (+ 7,11 % in 2010-2012; + 8,87 % in 2012-2014). This positive trend - which should be confirmed during the next evaluation exercise - seems to mark for most States the end of the budget cuts imposed in recent years as a result of the economic and financial crisis.

It may be noted that for 7 States or entities, the trend changed positively between 2012 and 2014 compared to the previous evaluation (2010-2012). Budgets, which were reduced between 2010 and 2012, have increased between 2012 and 2014 in **Croatia**, **Greece**, **Lithuania**, **Montenegro**, **Romania**, **Slovenia** and **UK-Northern Ireland**.

It should be recalled that the previous evaluation highlighted budgetary restriction measures adopted relatively late by some of these States (especially **Croatia**, **Greece**, **Lithuania**, **Romania** and **Slovenia**).

Greece still mentions a tight control of expenditure by the Ministry of Finance given the economic situation. However the increase of its budget allocated to the judicial system can be noted. This feature can be explained primarily by major financial efforts accompanying the launch of a computerization project of the courts and by an increase in expenses relating to legal aid. **Lithuania** clearly reports a resumption of investments following the end of the economic and financial crisis. Since 2012-2013, the National Courts Administration is responsible for financing real estate projects, IT, training of personnel and enhancing courts' security. **Lithuania** receives financial support from **Norway** and **Switzerland** in relation to some of these undertakings. A budget increase in **Romania** is partly due to a sharp increase in legal costs following the implementation of the new Code of Criminal Procedure as from February 2014. A significant increase in expenses related to salaries is also linked to regularisations for court staff and prosecution and a growing number of posts filled (resulting in the payment of additional social contributions and more repayments related to transportation expenses, medical expenses, housing, etc.). **Romania** emphasizes the continuous commitment on the part of the State since 2008 to promote legal aid.

Some States which introduced budgetary restraint measures relatively soon after the crisis of 2007-2008 were already able to increase their budget during the period 2010-2012. The continuation of the budgetary catching-up between 2012 and 2014 in **Albania**, **Bosnia and Herzegovina**, **Estonia**, **Finland**, **Georgia**, **Latvia** and **Slovakia**, may be noted, which confirms the end of budgetary crisis implications for these States. If in **Estonia** the recent increase of the budget allocated to the judicial system is mainly explained by an increase in payroll (increase of salary, pensions of judges and number of judicial assistants), in **Finland** it is mainly due to an increase in legal costs (costs of translation and interpretation, compensation of witnesses), while in **Albania**, it is mainly explained by expenses related to installing IT systems in seven new administrative courts and by replacing IT systems in ten other courts. The financial efforts of **Latvia** (including through support from the European Union) cover all components of the judicial system. They target courts, through programmes of modernisation of computer equipment, strengthening the security of courts, or legal aid - through the development of a dedicated system – as well as the prosecution service.

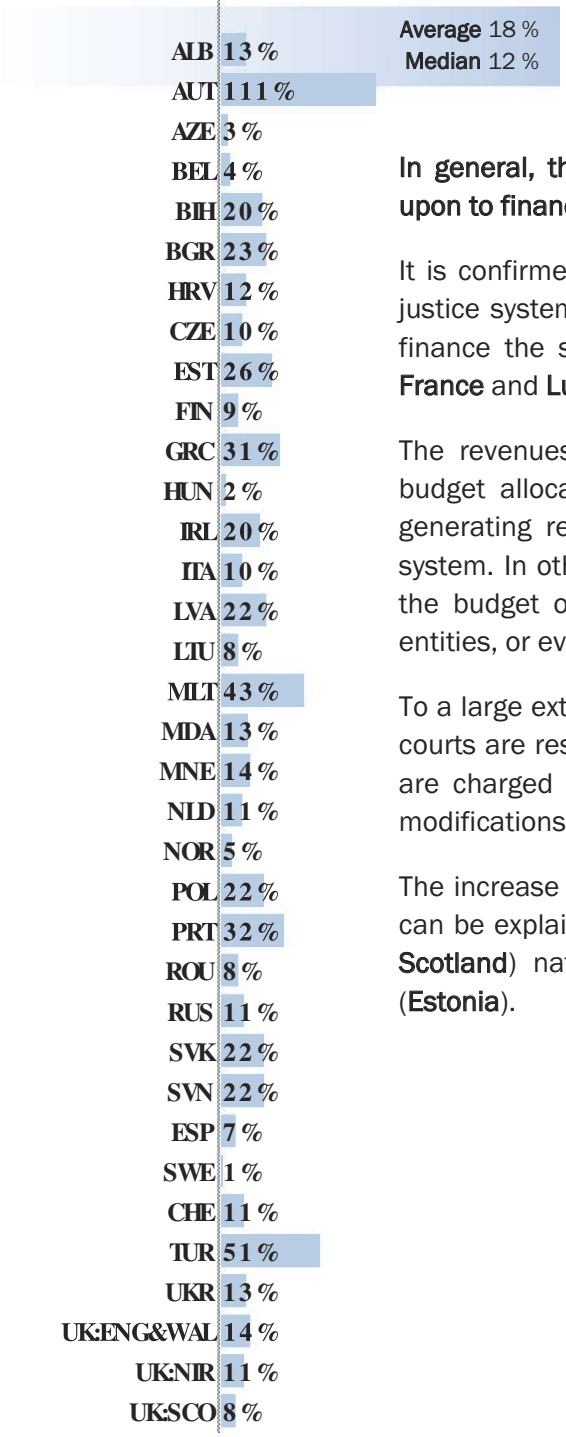
The continued increase over the period (2010-2014) of the budgets allocated to the judicial system in **Austria**, **Azerbaijan**, **Bulgaria**, **France**, **Malta**, **Republic of Moldova**, **Poland**, **Russian Federation**, **Switzerland** and **Turkey** may also be emphasized (as well as in **Czech Republic** and **Sweden** after taking into account the depreciation of the exchange rate between 2012 and 2014). In **Azerbaijan** and the **Republic of Moldova**, the overall increase in the budget allocated to the judicial system is mainly explained by the deployment of financial resources necessary for the implementation of plans for reform and modernisation of the justice sector. In the **Republic of Moldova** this reform is supported financially by the European Union. Organizational changes may also explain the increase in the budget allocated to the judicial system. **Bulgaria** refers to a structural reform of the prosecution service, and **Austria** to mergers between courts involving accompanying reconstructions.

Budget cuts have been increased or extended in recent years in **Ireland**, **Portugal** and **Spain**. In these 3 States, budgetary restraint measures continue to adversely affect the resources allocated to the judicial system.

Finally, it may be noted that **Belgium**, **Hungary**, **Italy**, **Luxembourg**, the **Netherlands**, **Norway** and **UK-England and Wales**, which increased their budget between 2010 and 2012, decreased it between 2012 and 2014.

Part of the taxes and court fees in the budget of the judicial system

►Figure 2.30



In general, the users of the public service of justice are increasingly called upon to finance the judicial system, through taxes and judicial fees.

It is confirmed that payment of court fees is now a key characteristic of the justice system in many states in Europe: the tax payer is not the only one to finance the system, as the court user is requested to contribute too. Only **France** and **Luxembourg** foresee access to court free of fees.

The revenues generated by court fees can cover a significant part of the budget allocated to the judicial system; **Austria** is even in the position of generating revenues that exceeds the operating cost of the whole judicial system. In other states, the revenues generated by court fees exceed 20% of the budget of the judicial system in more than a quarter of the states or entities, or even 50% of this budget in **Turkey**.

To a large extent, the high level of court fees can be explained by the fact that courts are responsible for registers (mainly land and business registers). Fees are charged for retrieving information from these registers or for recording modifications.

The increase in the revenues from court taxes/fees in some states or entities can be explained by changes of a legislative (**Romania**) or organisational (**UK-Scotland**) nature, or as a result of an increase in the number of cases (**Estonia**).

2.2 Legal aid

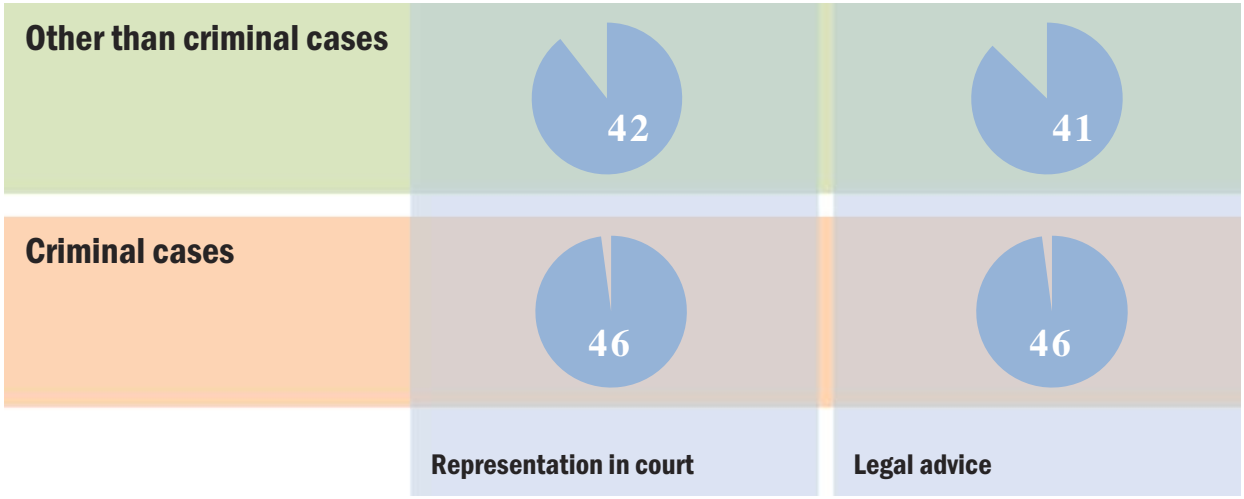
Legal aid is defined as the assistance provided by the State to persons who do not have sufficient financial means to defend themselves before a court or to initiate court proceedings (access to justice).This is in line with Article 6.3 of the European Convention on Human Rights as far as criminal law cases are concerned. The CEPEJ makes the distinction between legal aid granted in criminal matters and legal aid granted in other than criminal matters.

The CEPEJ has strived to collect data on legal aid granted by the States or entities outside the courts, to prevent litigation or to offer access to legal advice or information (access to law). This approach makes it possible to identify and separate both public instruments of access to justice and access to law. Accordingly, the concept of legal aid has been given a broad interpretation, covering both jurisdictional aid (allowing litigants to finance fully or partially their court fees when acting before tribunals) and access to information and to legal advice.

Almost all States and entities have a legal aid system in criminal matters, in compliance with the requirements of the European Convention on Human Rights. Moreover, 32 States or entities report having such a system for mediation in criminal matters.

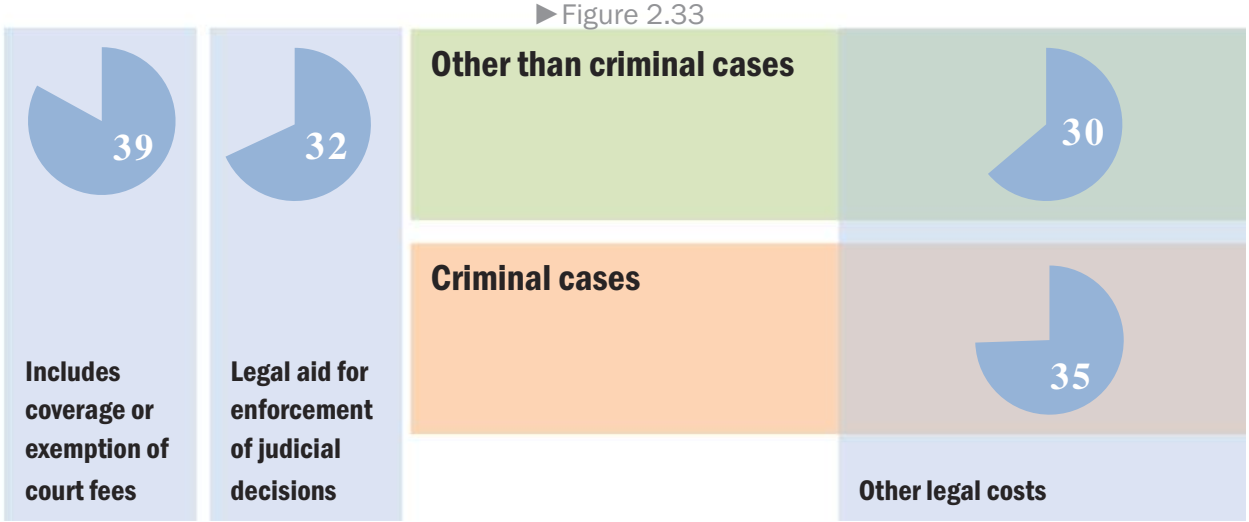
Number of countries or entities which provide legal aid

►Figure 2.32



Costs covered (number of States)

►Figure 2.33



Implemented budget of legal aid per capita in 2014

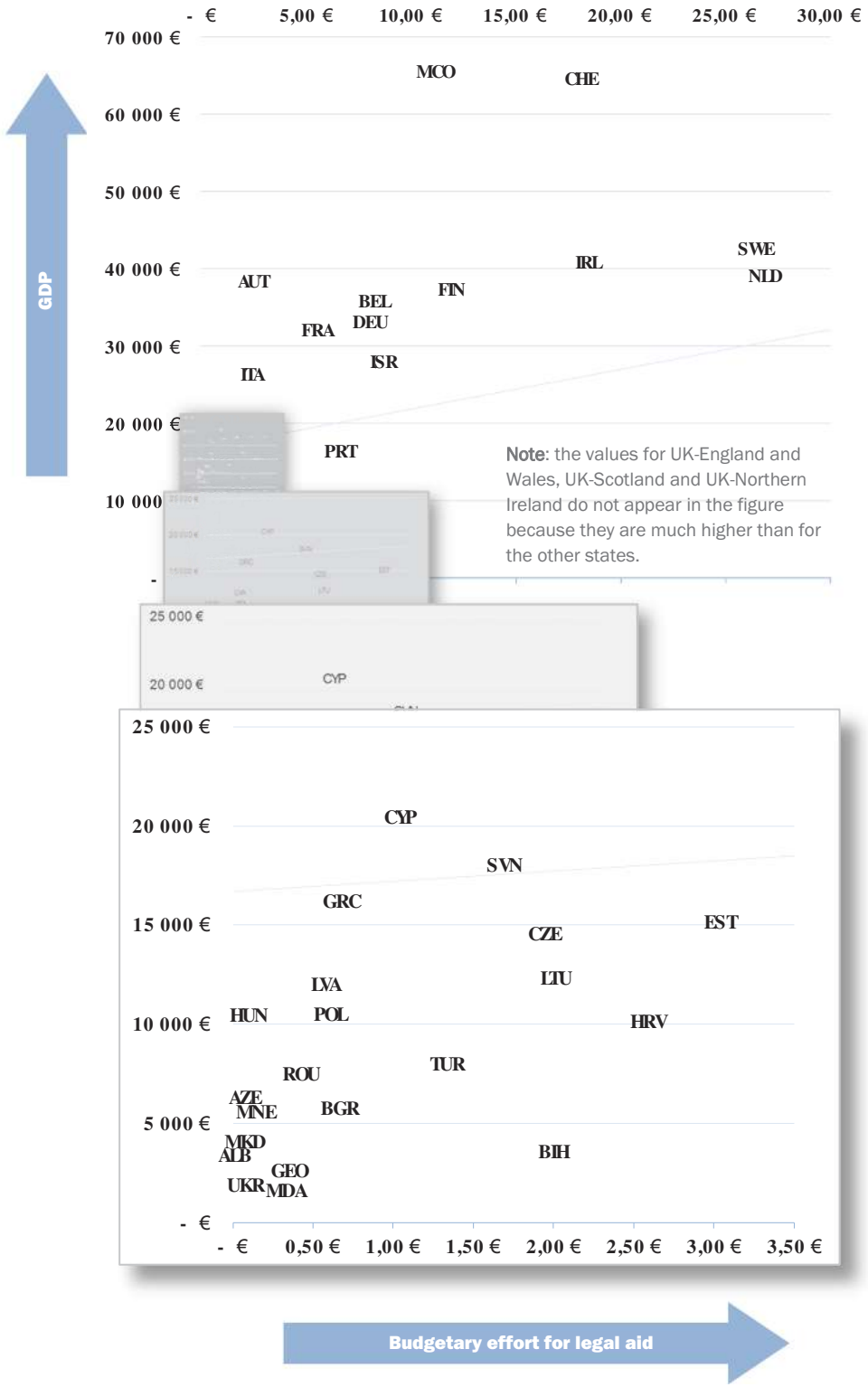
▶ Figure 2.39

Average 8,64 €
Median 2,01 €

ALB	0,01 €
AUT	2,45 €
AZE	0,08 €
BEL	8,21 €
BIH	2,00 €
BGR	0,67 €
HRV	2,59 €
CYP	1,04 €
CZE	1,94 €
EST	3,04 €
FIN	11,93 €
FRA	5,49 €
GEO	0,35 €
DEU	8,01 €
GRC	0,68 €
HUN	0,10 €
IRL	18,45 €
ITA	2,37 €
LVA	0,58 €
LTU	2,01 €
MDA	0,33 €
MCO	11,14 €
MNE	0,14 €
NLD	26,92 €
POL	0,61 €
PRT	6,59 €
ROU	0,43 €
SVN	1,69 €
SWE	26,46 €
CHE	18,14 €
MKD	0,08 €
TUR	1,33 €
UKR	0,08 €
UK:ENG&WAL	38,14 €
UK:NIR	73,53 €
UK:SCO	33,28 €
ISR	8,69 €

Implemented budget of legal aid linked with the GDP in 2014, per capita and in €

▶ Figure 2.40



Note: the values for UK-England and Wales, UK-Scotland and UK-Northern Ireland do not appear in the figure because they are much higher than for the other states.

A note of caution is necessary, as the analysis of legal aid expenditures in the States cannot be complete without taking into consideration the demand (the number of individuals and cases requiring legal aid), the granting criteria (criteria of scope and eligibility used by the State), the case complexity and the level of professional and administrative expenses. It is therefore necessary to always interpret budgetary data with caution.

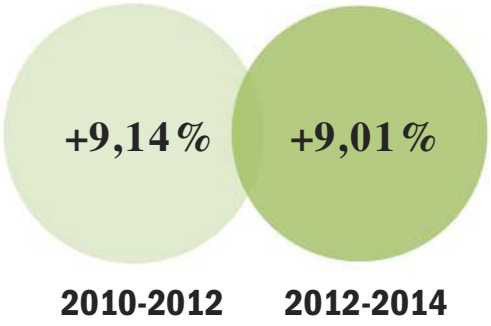
Around 9 € per capita are spent on average by the European States on legal aid. It is noteworthy that behind this average there are significant variations depending on the States. The median is 2 € per capita which implies that half of the responding States or entities spent less than 2 € per capita on legal aid in 2014. Moreover, 13 States are situated under the threshold of 1 € (**Albania**, **Azerbaijan**, **Bulgaria**, **Georgia**, **Greece**, **Hungary**, **Latvia**, **Republic of Moldova**, **Montenegro**, **Poland**, **Romania**, **"the former Yugoslav Republic of Macedonia"** and **Ukraine**).

UK-Northern Ireland committed the most substantial amount of legal aid per capita in 2014: 73,50 €. The amount per capita allocated by **UK-England and Wales**, the second entity in terms of budgetary efforts in the field of legal aid, is almost two times lower than that of **UK-Northern Ireland** (38 €). Generally speaking, the Common Law countries and Northern European States commit the largest budgets per capita to legal aid (33,30 € in **UK-Scotland**, 26,90 € in **the Netherlands**, 26,50 € in **Sweden**, 18,40 € in **Ireland**, 11,90 € in **Finland**). A relatively high amount of the budget can also be noted in **Switzerland** (18,10 € per capita) and **Monaco** (11,10 € per capita).

When linking the approved budget of legal aid with the GDP per capita, significant efforts can be highlighted for **Bosnia and Herzegovina** and **Portugal**, to facilitate access to justice through legal aid.

Evolution of the European average of approved public budget allocated to legal aid

▶Table 2.45



Over the period 2010-2014, it is worth underlining the sustained efforts of **Albania**, **Azerbaijan**, **Greece**, **Lithuania**, **Monaco**, **Republic of Moldova**, **Poland**, **Romania**, **Sweden** and **Switzerland**.

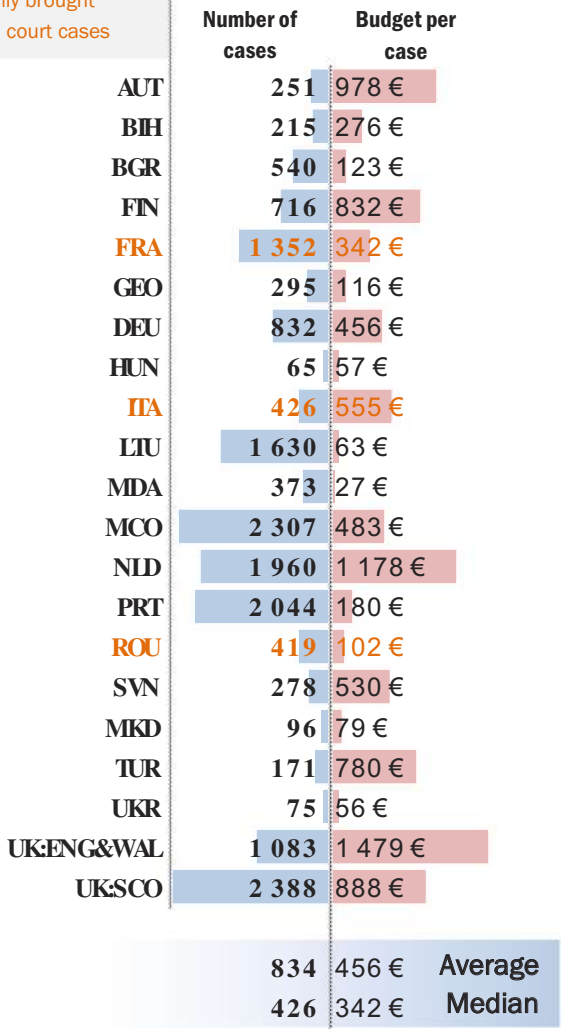
Austria, **Ireland**, **Slovenia** and **Turkey** have budgets for legal aid that are in steady decline since 2010.

Some states which had made significant efforts with regard to legal aid between 2010 and 2012 have restricted their budget between 2012 and 2014. These are **Belgium**, **Finland**, **France**, **Georgia**, **Hungary**, **Luxembourg**, **Netherlands**, **Norway**, **Portugal** and **Spain**.

By contrast, other states or entities have increased the budget allocated to legal aid between 2012 and 2014, having decreased it between 2010 and 2012: **Bulgaria**, **Malta** and **UK-Northern Ireland**.

Total number of cases granted legal aid (per 100 000 inhabitants) and amount of the implemented budget allocated to legal aid per case (in €) in 2014 ▶Figures 2.41 and 2.42

all cases
only brought to court cases



In order to fine-tune the analysis of policies related to securing access to law and justice through legal aid, the CEPEJ's aim has been to link the demand (the number of cases granted legal aid for 100 000 inhabitants) with the amounts granted by case. The information is available for 18 States or entities for all types of case (brought to court and not brought to court).

Focusing on litigious cases brought to court and the corresponding budget, it is possible to draw conclusions for a few more states and entities.

Austria, **Bosnia and Herzegovina**, **Italy**, **Slovenia** and **Turkey** have made the choice to allocate significant amounts per case while limiting the number of eligible cases.

On the contrary, **Lithuania, Portugal** and to a lesser extent **Bulgaria**, **Republic of Moldova** and **Romania** extend the eligibility to a relatively large number of cases but limit the amounts allocated.

Finally, **Georgia**, **Hungary**, **Malta**, **"the former Yugoslav Republic of Macedonia"** and **Ukraine** limit both eligibility and the amount spent per case.

In conclusion, two opposing trends coexist in Europe:

- the **states and entities endowed with the most generous legal aid systems** (**Portugal**, having regard to its wealth, **Slovenia**, having regard to the ratio amount of legal aid granted/number of cases, **Netherlands**, **Norway**, **UK-Scotland**) tend to restrict the budget allocated to legal aid;

- on the contrary, the **states where the amounts allocated to legal aid are the lowest** (**Albania**, **Azerbaijan**, **Bulgaria**, **Latvia**, **Malta**, **Poland**, **Romania**) tend to increase the legal aid budget in order to comply with the requirements of the European Convention on Human Rights.

3. PROFESSIONALS

3.1 Judges

A judge is a person entrusted with giving, or taking part in, a judicial decision opposing parties who can be either legal or natural persons, during a trial. This definition should be viewed in the light of the European Convention on Human Rights and the case law of the European Court of Human Rights. More specifically, "*the judge decides, according to the law and following an organised proceeding, on any issue within his/her jurisdiction*".

To better take into account the diversity in the status and functions which can be linked to the word "judge", three types of judges have been defined in the CEPEJ's scheme:

- **professional judges** are described in the explanatory note of the evaluation scheme (Q46) as “those who have been trained and who are paid as such”, and whose main function is to work as a judge and not as a prosecutor; the fact of working full-time or part-time has no consequence on their status;

- **professional judges who practice on an occasional basis** and are paid as such (Q48);

- **non-professional judges** who are volunteers, are compensated for their expenses, and give binding decisions in courts (Q49 and 49.1).

A variable part of the litigation can also be ensured according to the State by *Rechtspfleger* (see the part about non-judge staff for a specific analysis about this professional body).

The quality and efficiency of justice depend very much on the conditions of recruitment and training of judges, their number, the status that guarantees their independence, and the number of staff working in courts or directly with them as assistants or in the exercise of jurisdictional activity.

Professional judges per 100 000 inhabitants in 2014

►Table 3.7

Average 21
Median 18

ALB	13
AND	31
ARM	8
AUT	19
AZE	6
BEL	14
BIH	26
BGR	31
HRV	41
CYP	11
CZE	29
DNK	6
EST	18
FIN	18
FRA	10
GEO	7
DEU	24
GRC	21
HUN	29
IRL	3
ITA	11
LVA	24
LTU	26
LUX	40
MLT	10
MDA	11
MCO	95
MNE	41
NLD	14
NOR	11
POL	26
PRT	19
ROU	21
RUS	NA
SRB	38
SVK	24
SVN	45
ESP	12
SWE	12
CHE	16
MKD	30
TUR	11
UKR	19
UK:ENG&WAL	3
UK:NIR	4
UK:SCO	3
ISR	8

Evolution of the European average of professional judges

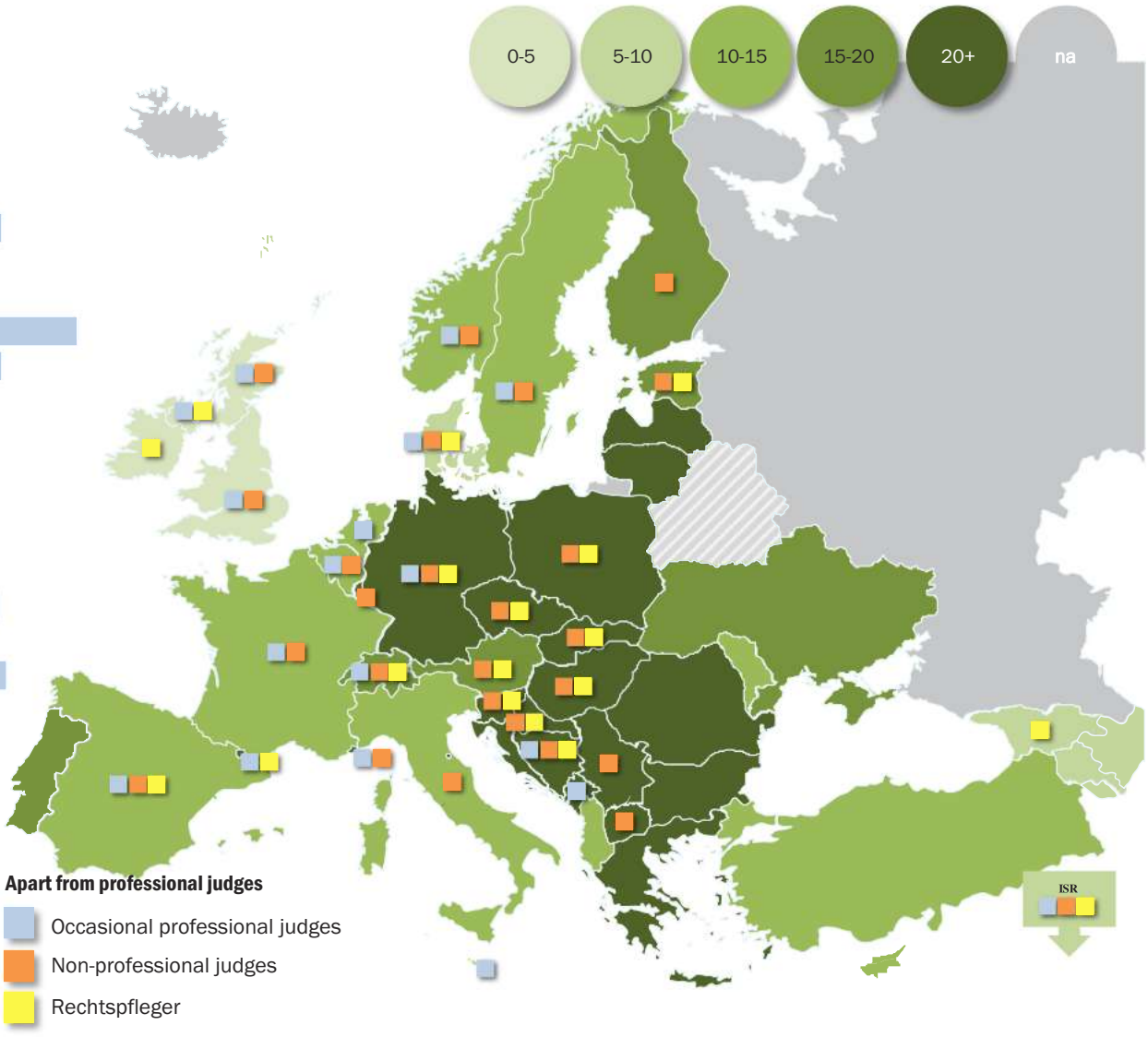
►Table 3.10

-0,03 %
2010-2012

-2,1 %
2012-2014

Professional judges per 100 000 inhabitants in 2014

►Tables 3.7 and 3.43



The situation of the very small States and of the States in which a substantial volume of the litigation is settled before the judge's intervention need to be considered with prudence, as do the common law States or entities (for example **UK-England and Wales** and **Malta**).

With all of these reservations, it appears that between countries of the same economic level, having equivalent judicial organisations, the number of professional judges may be very different, and this is likely to reflect the level of resources allocated to justice, as well as the scope of the judges' missions.

For the vast majority of the States and entities, this number has not changed significantly between 2010 and 2014. The average remains about 21 judges per 100 000 inhabitants.

However, this figure corresponds to very different realities shaped by the specificities of national judicial systems and the cultural, historical and socio-political context that defines them. Thus, the judicial apparatus of the States of Central and especially Eastern Europe continue to operate with a ratio of judges per capita substantially higher than that of the States of Western Europe. Moreover, this same group of States have a fully professional system, or rarely use lay judges. The use of lay judges remains an essential feature of common law countries and northern Europe.

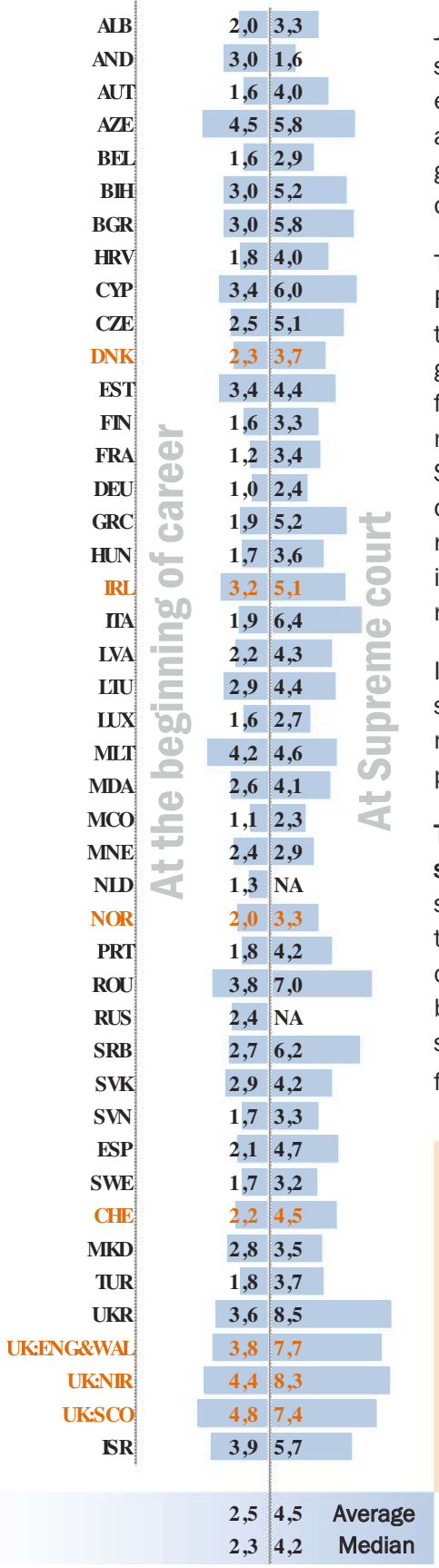
Common law countries traditionally resort to professional judges sitting on an occasional basis. The involvement of such judges is also justified in small States such as **Andorra** and **Monaco**. In **France**, these are *proximity judges* intervening only in the ordinary and not the administrative courts. In addition, in some States and entities, judges eligible for retirement may be designated to perform as substitute judges (**Belgium**, **Denmark**, **Montenegro**, **Norway**, **Israel**). This practice helps to cope with difficulties related to vacancies due to absences or to the backlog affecting the efficiency of the courts. In this regard, the Councils of Justice are often empowered to decide the temporary transfer of judges from one court to another. In **Bosnia and Herzegovina** and **Spain** reserve judges may be called upon to sit to ensure replacements or enhance the capacity of courts to eliminate backlogs.

Europe is divided on the use of juries, which exist in a little less than half of the States. This system remains an essential feature of Western Europe, while the majority of the countries of Central and Eastern Europe do not have it - or have abandoned it symbolically during the democratic transition. Sometimes the distinction is not very clear in practice between jurors and lay judges. Some States report having a jury while it is a mixed panel of professional judges and citizens involved as lay judges. However, besides the difference in the number (higher for a jury than for a mixed panel), the degree of autonomy in decision-making is not the same and constitutes the main trait of distinction.

The composition of the judiciary, more or less professionalised, has a strong impact on the budgetary aspects, including the share going to wages. The latter is very high in States resorting to professional judges and relatively low in countries using lay judges.

Average gross salaries of judges in relation to the national average gross salaries in 2014

►Table 3.21



Judges should be offered a level of remuneration corresponding to their status and their social role, taking into account the constraints of the exercise of this function and so as to facilitate resistance to any pressure aimed at impairing their independence or impartiality. The remuneration generally consists of a main tranche, to which can be added bonuses and other material or financial benefits.

The CEPEJ retains two indicators that allow comparisons between states. First, the salary of a judge at the beginning of his/her career, with the need to distinguish between countries that recruit judges following their graduation from the national school of magistracy, and those who recruit from the ranks of legal professionals with long professional experience, mostly as lawyers. The second indicator is the salary of judges of the Supreme Court/last instance. The comparison between these two sets of data allows one to appreciate the reality of the judges' career. Finally, the ratio between the salary of a judge and the national average salary makes it possible to better gauge his/her social status and what this salary represents at the level of the Member State or entity.

It is agreed that the salaries mentioned do not include the deductions of salaries that are often made under the social security charges and taxes, nor do they include the supplements that may be paid for various items, in particular depending upon the family situation of the judge.

The evolution of judges' salaries during their career has remained substantially unchanged since 2010. If one takes into account the average salary for all states and entities so as to maintain the same indicator as in the previous reports, the level of judges' salary at the beginning of their career compared to the average salary of the State increased slightly between 2010 and 2014 from a ratio of 2,2 to 1, to a ration 2,5 to 1. The salary level with regard to judges of the Supreme Court also increased from 4,2 to 4,5 to 1.

It has appeared appropriate to calculate also the average salary of a judge at the beginning of his/her career, excluding the 7 states or entities that recruit judges among experienced legal experts, that is to say among older professionals (**Denmark**, **Ireland**, **Norway**, **Switzerland**, **UK-England and Wales**, **UK-Northern Ireland**, **UK-Scotland**). The average gross salary is then 36 698 € for the European judges at the beginning of their career (2,4 times the average annual salary) and 65 760 € for judges at the level of the Supreme Court (4,3 times the average annual salary).

Distribution in % of professional judges per instance and by gender in 2014

►Figure 3.15

In all jurisdictions, despite large disparities between States and entities, the average gender distribution among judges balanced between women and men. However, the analysis by level of court highlights a majority of women in first instance courts (56 %), a situation close to gender balance at second instance, and a majority of men (65 %) in the Supreme Court. Thus, there is a decrease in the percentage of women judges compared to male judges as one moves up through the judicial hierarchy. In some States, the difference is explained by the relatively recent feminisation of the judiciary, whose effects are currently more noticeable at first instance than at second instance and in the Supreme Court. In **Montenegro**, women judges are a majority at all levels (respectively 56 %, 59 % and 56 %) as in **Bosnia and Herzegovina** (64 %, 65 % and 58 %). In **Romania**, the percentage of women increases with each instance (73 %, 74 % and 84 %).

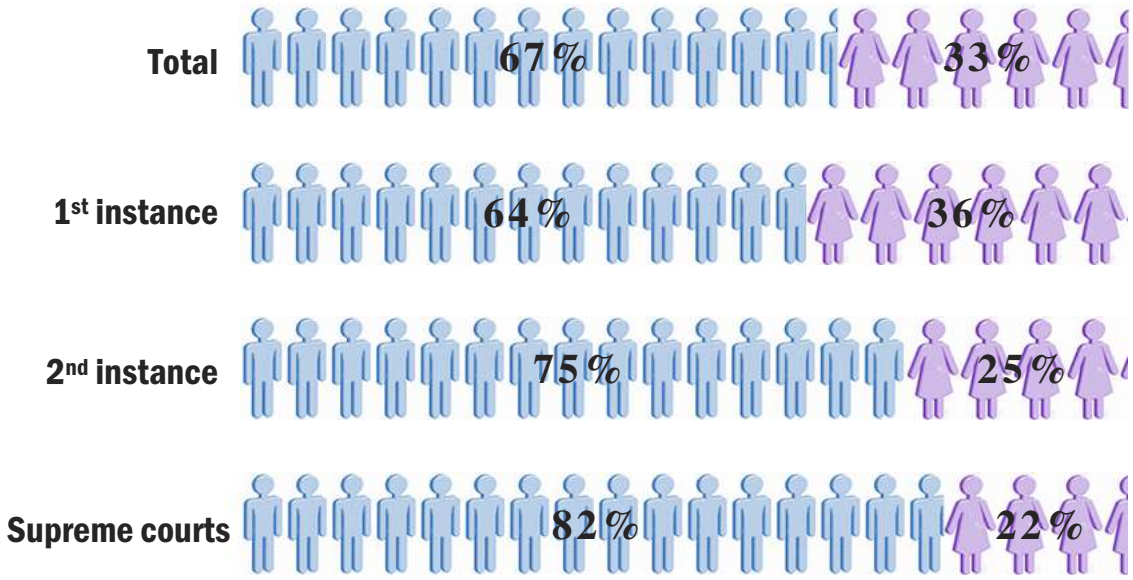
However, in some States or entities such as **Armenia**, **Azerbaijan**, **Ireland**, **Turkey** and the **entities of the United-Kingdom**, judges are for the majority part men in all instances, while in other States such as **Croatia**, **Greece**, **Hungary**, **Latvia**, **Luxembourg**, **Romania** and **Slovenia**, the situation is noticeably reversed especially at first and second instance.

These elements complement the observation made earlier by the CEPEJ, of the increasing feminisation of the group of professional judges.

This trend, already noted in the previous reports, continued over the years 2012 to 2014 with a further strengthening by 2 % of the female judges. Over a longer period, from 2010 to 2014, this number has increased by 5 %. Women and men are now very nearly equally numerous among the professional judges. Against this background, one would expect this strong and persisting trend to continue with concomitant changes at second instance courts and at Supreme Courts.

Distribution in % of presidents of courts between gender and instances

►Figure 3.16



This figure sets out the distribution of presidents of courts between women and men by level of responsibility. The presidents' offices are occupied by men in 67 % of jurisdictions, including 64 % of first instance courts, 75 % of second instance courts and 82 % of Supreme Courts. The situation of each State reveals either a strengthening of this trend in countries where between 90 % and 100 % of the presidents' offices are occupied by men (**Andorra**, **Armenia**, **Azerbaijan**, **Georgia**, **Malta** and **UK-Scotland**), or countries, where more than half of the presidents' offices are entrusted to women (**Croatia**, **Greece**, **Hungary**, **Latvia**, **Lithuania**, **Luxembourg**, **Romania** and **Slovenia**).

The approximation of data on the distribution of women and men in first instance courts, second instance courts and Supreme Courts, both as judges and presidents, clearly bears out that while women occupy 56 % of the positions at first instance, they preside these courts only in 36 % of cases. The same trend can be observed at second instance where they occupy 47 % of the positions of judge, but only 25 % of the positions of president. This should be taken as evidence of the existence of a "glass ceiling" which women judges face and which would block their access to higher responsibilities, despite their skills and number.

The situation as regards court presidents stands out, since men still largely predominate in this role. This fact reinforces the idea that, despite their number and their professional qualities, women face more difficulties than men in acceding to positions of higher responsibility.

3.2 Prosecutors

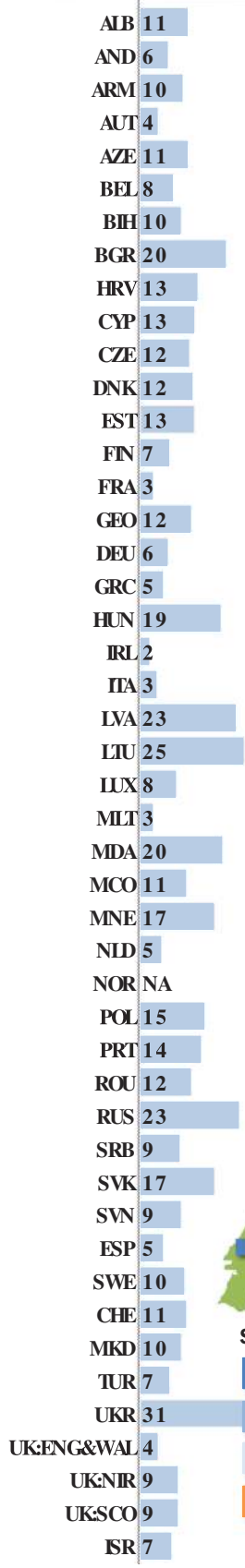
In Recommendation Rec(2000)19 on the Role of Public Prosecution in the Criminal Justice System, adopted by the Committee of Ministers of the Council of Europe on 6 October 2000, prosecutors are defined as: "public authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system" .

All States or entities have, sometimes under different titles, a public authority entrusted with qualifying and carrying out prosecutions. It can be noted that, while the role of the judge seems to be relatively homogeneous in the States or entities, that of the prosecutor is much less so. In all European States or entities, prosecutors play an important role in the prosecution of criminal cases. In most of the States or entities, they also have a responsibility in the civil and even administrative law area. Another important aspect to be taken into account relates to the different levels of autonomy of public prosecutors. In some States or entities, they benefit from protection of their independence on an equal level with judges, while in other States or entities, the criminal policies are directed from the Ministry of Justice and the level of independence is limited. In some States or entities (for example, **Denmark**, **Greece**, **Malta**, **Poland**, **UK-England and Wales**, **Israel**), specially authorised police officers have prerogatives during the preparatory phase before trial, or even in conducting the prosecution, held exclusively by public prosecutors in other States. A further contrast stems from the opposition between two main principles: legally mandatory prosecution and discretionary power to initiate or not prosecution. The possibility of initiating private prosecutions is another parameter of difference, as is the status of victims.

Prosecutors per 100 000 inhabitants in 2014

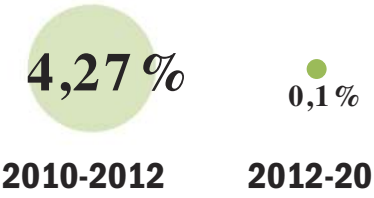
▶Table 3.25

Average 11
Median 10



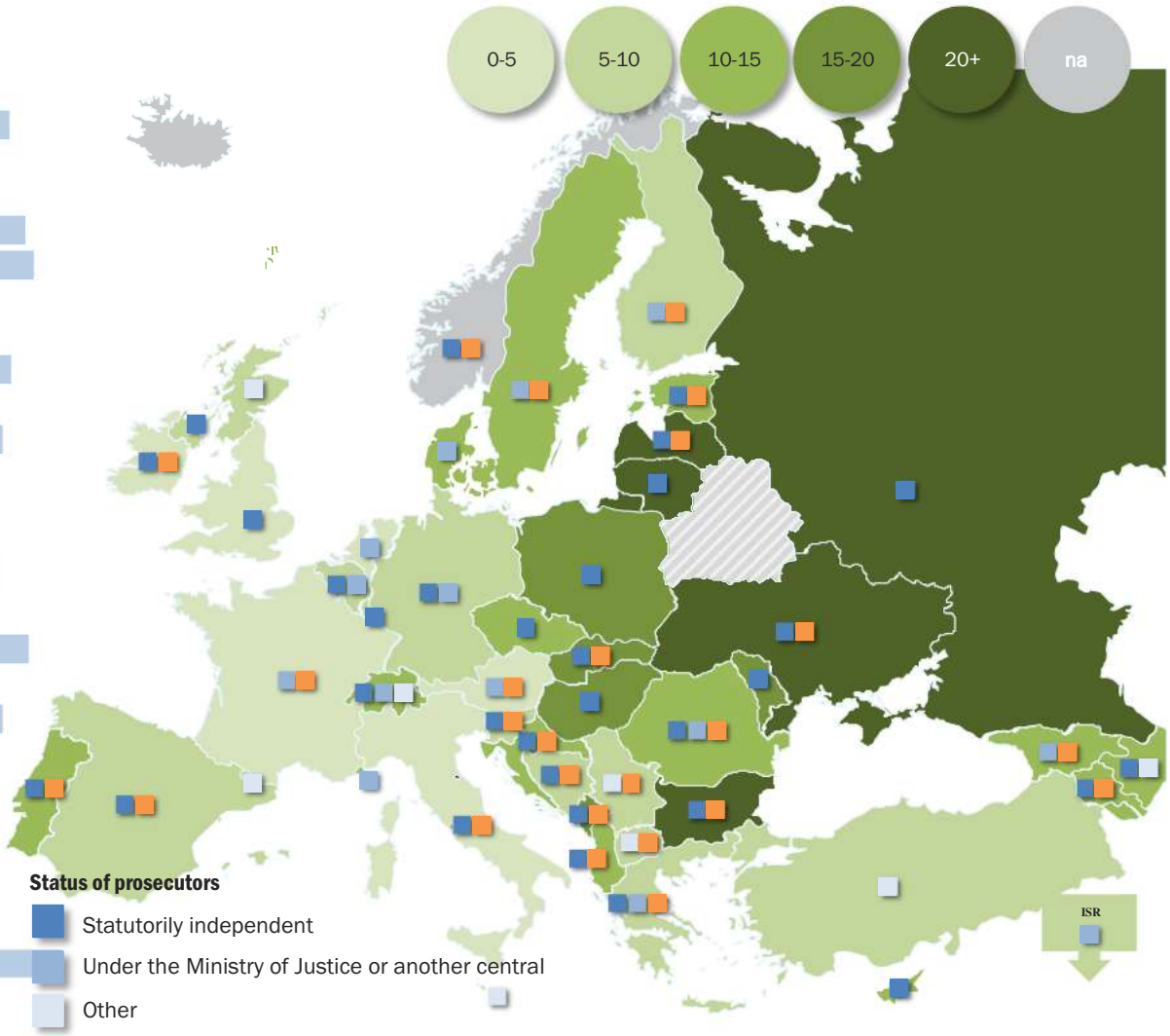
Evolution of the European average of prosecutors

▶Table 3.25



Prosecutors per 100 000 inhabitants in 2014

▶Tables 3.22 and 3.25



The average number of public prosecutors per 100 000 inhabitants remains stable (rising from 11,1 to 11,3 between 2010 and 2014).

Nevertheless, this average covers quite different situations given that some States have more than 20 public prosecutors per 100 000 inhabitants (**Bulgaria**, **Latvia**, **Lithuania**, **Russian Federation**, **Ukraine**), while in other States or entities the number of public prosecutors is less than 5 per 100 000 inhabitants (**Austria**, **France**, **Ireland**, **Italy**, **Malta**, **Netherlands**, **UK-England and Wales**).

Some States or entities have specified that, due to the peculiarities of their systems, the provided data include other staff than prosecutors.

While each State has its culture and history, two other factors may explain this disparity: the scope of the missions entrusted to public prosecutors and the number of proceedings they are dealing with.

In 11 States an upward trend in the number of prosecutors is to be noticed for the period 2010-2012-2014 (**Andorra**, **Bosnia and Herzegovina**, **Georgia**, **Greece**, **Hungary**, **Latvia**, **Russian Federation**, **Serbia**, **Slovenia**, **Switzerland** and **Ukraine**). This evolution is of a particular importance in respect of the first three countries mentioned. As for the substantial increase in the number of prosecutors in **Switzerland**, mainly between 2010 and 2012, it is due to the abolition of the system of investigating judge and the introduction of a system of criminal prosecution entrusted to prosecutors.

A downward trend in the number of prosecutors is observed in UK-England and Wales, but it is far from being noticeable in absolute terms due to the population increase between 2010 and 2012, and 2012 and 2014. A slight downward trend is also noted in respect of **France** and **Lithuania**.

An in-depth analysis reveals a strong decrease in the number of prosecutors in **Bulgaria** between 2012 and 2014. However, this is the result of a different methodology of classification of prosecutors used in 2012 and 2014, the 2014 data excluding the number of investigators. The decrease noticed in **Denmark** between 2010 and 2012 stems from the lack of information in 2012 as regards the number of prosecutors engaged in tasks concerning administrative cases (*Ledelsessekretatiat*) and prosecutors employed by the national police (*Rigspolitiet*).

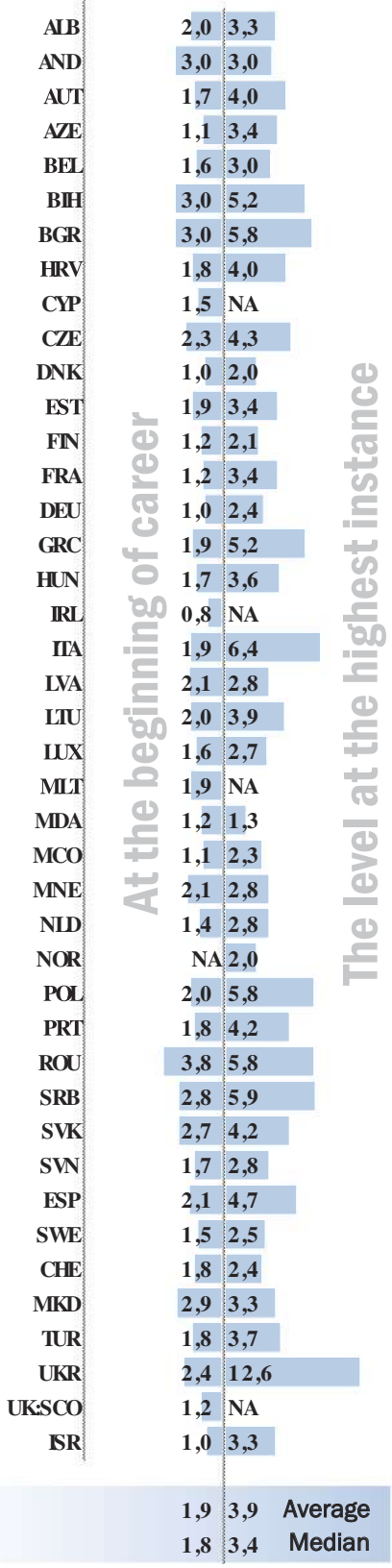
The institutional context of the prosecution service and particularly its relations with the executive vary according to the State or entity. However, the principle of functional independence of prosecutors is emerging as an essential guarantee which has become a true European standard. This independence is assessed vis-à-vis the executive, the legislative, but also all other external authorities or factors of the prosecution services system (external independence), as well as in terms of the organisation model of the public prosecution service (internal independence). The harmonisation of national laws is an increasingly clear trend in respect of these two aspects.

32 States or entities indicate that the independence of the prosecution is statutorily guaranteed, usually by the Constitution. 13 States indicate that their prosecution service is under the authority of the Minister of Justice or another central authority. Finally, 8 States, some of which have already responded positively to the first questions, specified being in a different situation. The comments provided by the States tend to qualify the responses.

One of the essential parameters for assessing the functional independence of the prosecution service is the distinction between general instructions and specific instructions addressed to its members by the executive. The general instructions fall under the responsibility of the Minister of Justice to define the general guidelines of criminal policy, while the prohibition of specific instructions constitutes the guarantee of prosecutors' independence. While only 25 States explicitly refer to constitutional texts (**Greece**, **Italy**, **Sweden**), legislative texts (e.g. **Armenia**, **Bosnia and Herzegovina**, **Bulgaria**, **Croatia**, **France**, **Finland**, **Georgia**, **Ireland**, **Latvia**, **Luxembourg**, **Monaco**, **Montenegro**, **Portugal**, **Slovenia**, **Spain**, **Ukraine**) or regulations prohibiting that instructions to prosecute or not to prosecute are given to a prosecutor, almost all States or entities explain in their comments that this distinction between general instructions and specific instructions is effective in their judicial systems.

Average gross salaries of prosecutors in relation to the national average gross salaries in 2014

►Table 3.39



The salary earned by public prosecutors is inevitably affected by the diversity characterising their statutory situation within the States, entities and observers, which makes comparisons more difficult than for judges. In some States, public prosecutors are in a similar situation to that of judges, whereas in other States, the prosecution office's activities are fulfilled, at least partially, by police authorities. The salary levels therefore differ significantly.

In **Albania**, **Austria**, **Belgium**, **Bosnia and Herzegovina**, **Bulgaria**, **Croatia**, **France**, **Germany**, **Greece**, **Hungary**, **Italy**, **Luxembourg**, **Monaco**, **Portugal**, **Slovakia**, **Spain** and **Turkey**, the salary of judges and that of public prosecutors are nearly identical, both at the beginning of the career, and at the Supreme Court.

Prosecutors at the beginning of their career are better paid than the average national gross salary (on average 1,9 times more), except for **Ireland** where following a constitutional amendment in 2011, legislation was passed to allow for the reduction in the remuneration of public servants, as a financial emergency measure adopted in the public interest. The difference is the most significant in **Romania** (3,8), as well as in **Andorra**, **Bosnia and Herzegovina**, **Bulgaria** (3), **Ukraine** (2,9), **Serbia** (2,8) and **Slovakia** (2,7). Conversely, in **Denmark**, **Germany**, **Monaco**, and, to a lesser extent, in **the Netherlands** and **Switzerland**, the gross salary of a public prosecutor at the beginning of the career is close to the national gross salary, but the latter is considerably higher in real figures in these countries compared to other European States or entities

With regard to the national average gross salary, prosecutors' remuneration at the end of the career is the highest in **Italy** (6,4), **Serbia** (5,9), **Bulgaria**, **Poland** and **Romania** (5,8). In respect of **Ukraine** and the important coefficient characterising prosecutors' salary at the end of the career in comparison with the national gross salary (12,6), it should be recalled that this State has indicated in 2014 the salary of the Prosecutor General.

The difference between salaries at the beginning and salaries at the end of the career is the less significant in "**the Former Yugoslav Republic of Macedonia**", **Switzerland**, **Montenegro**, **Latvia** and **Finland**. In **Switzerland**, provided that there is no Supreme Court prosecutor, the indicated salary corresponds to the highest salary of a federal prosecutor classified at the 29th level of remuneration scale. The difference is the most noticeable in **Ukraine**, **Italy**, **Greece**, **Poland** and **Serbia**. In this respect and as specified above, in **Italy**, the salaries of prosecutors do not depend on the position held but rather on experience.

Workload of prosecutors in 2014

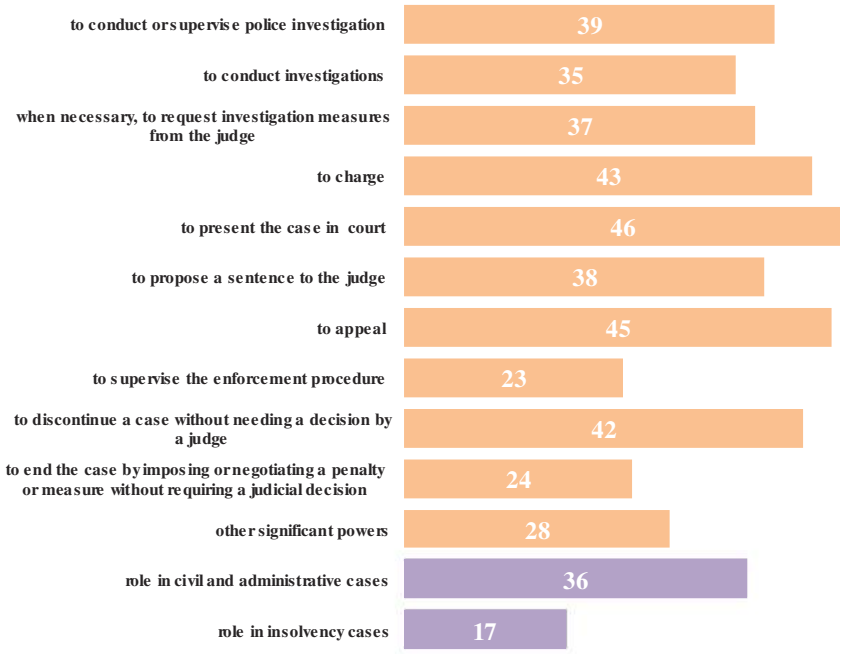
►Table 3.30

	Number of prosecutors per 100 000 inhab.	Number of cases received per 100 inhab.	Number of roles of prosecutors
ALB	11	1,5	12
AND	6	6,2	10
ARM	10	NA	9
AUT	4	6,1	10
AZE	11	NA	8
BEL	8	5,9	12
BIH	10	1,7	12
BGR	20	1,9	12
HRV	13	1,5	12
CYP	13	NA	6
CZE	12	3,8	11
DNK	12	3,6	8
EST	13	2,4	10
FIN	7	1,5	6
FRA	3	7,4	13
GEO	12	1,2	9
DEU	6	5,7	11
GRC	5	NA	11
HUN	19	1,8	13
IRL	2	0,3	6
ITA	3	5,5	8
LVA	23	0,7	12
LTU	25	3,5	12
LUX	8	10,8	13
MLT	3	NA	6
MDA	20	1,9	10
MCO	11	7,2	13
MNE	17	1,6	11
NLD	5	1,2	11
NOR	NA	7,4	8
POL	15	2,7	11
PRT	14	NA	12
ROU	12	3,5	11
RUS	23	0,6	10
SRB	9	2,8	9
SVK	17	1,8	12
SVN	9	4,2	10
ESP	5	NA	10
SWE	10	5,4	8
CHE	11	6,6	10
MKD	10	1,9	8
TUR	7	4,4	10
UKR	31	0,0	9
UK:ENG&WAL	4	1,1	5
UK:NIR	9	1,7	5
UK:SCO	9	4,6	8
ISR	7	1,3	6
	11	3,4	Average
	10	2,7	Median

Roles and powers of prosecutors in 2014

(Number of States)

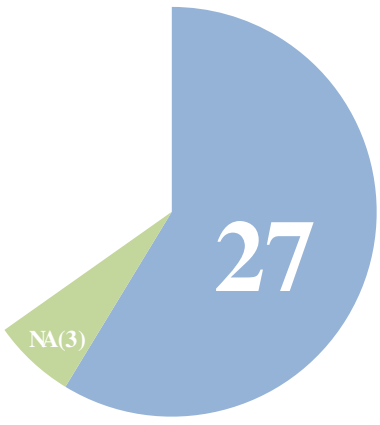
►Figures 3.27 and 3.28



Other persons with duties similar to those of prosecutors

(Number of States)

►Figure 3.32



The workload of prosecutors may be measured taking into account the number of public prosecutors (and, if appropriate, the number of other staff having similar duties to prosecutors), the number of proceedings received by prosecutors, and also the diversity of their functions. The figures above assess prosecutors' workload regard being had to these different parameters.

Beyond question, the prosecutors having the heaviest workload are to be found in **France**, which has nearly the lowest number of prosecutors in Europe (2,8 per 100 000 inhabitants), and must simultaneously cope with the largest number of proceedings received (7 cases per 100 inhabitants), while having to fill a record number of different functions (13). In the light of these criteria, prosecutors in **Austria**, **Ireland** and **Italy** also have a particularly heavy workload. This observation should be qualified by underlining that in these countries, other staff perform duties similar to those of prosecutors, although it is not possible, from the information available, to measure the impact of this factor on the workload of prosecutors. **The Netherlands** also have a small number of prosecutors, but the number of proceedings received is lower.

Conversely, most countries in Central and Eastern Europe have a significant number of prosecutors (over 10 or over 20 prosecutors per 100 000 inhabitants), for a relatively small number of proceedings received (less than 4 cases per 100 inhabitants), even if their jurisdiction is wide (around 10 different competences). This is particularly the case of **Ukraine** (more than 30 prosecutors per 100 000 inhabitants and less than 1 proceeding per 100 inhabitants), the **Russian Federation** (over 23 prosecutors per 100 000 inhabitants and 1 proceeding per 100 inhabitants), **Bulgaria**, **Hungary**, **Latvia**, **Lithuania**, **Republic of Moldova**, **Montenegro**, **Slovakia**, **Poland**. This phenomenon is accentuated in some countries where other staff exercise functions similar to those of prosecutors.

In 2014, the number of proceedings received by prosecutors was very low in **Ukraine** (18 985) and, to some extent, in **Ireland** and the **Russian Federation**. In **Ireland**, the police (*An Garda Síochána*) also exercise prosecution competence in relation to minor offences. Prosecution of offences is undertaken by members of the independent Bar acting on behalf of the Director of the prosecution services and 32 State Solicitors conduct prosecutions under contract for the Head of the prosecution office outside Dublin. The figures provided by both countries relate to cases considered only by the prosecution services themselves.

3.3 Non-judge staff

Having competent staff with defined roles and a recognised status alongside judges is an essential precondition for the efficient functioning of the judicial system.

As in the previous reports, a distinction is made between five types of non-judge staff:

- the "*Rechtspfleger*" function, which is inspired by the Austrian and German systems, is, according to the European Union of *Rechtspfleger* (EUR), an independent judicial body, anchored in the constitution and performing the tasks assigned to it by law; the *Rechtspfleger* does not assist the judge, but works alongside the latter and may carry out various legal tasks, for example in the areas of family or succession law; he/she also has the competence to make judicial decisions independently on the granting of nationality, payment orders, execution of court decisions, auctions of immovable goods, criminal cases, and enforcement of judgments in criminal matters; he/she is finally competent to undertake administrative judicial tasks. The *Rechtspfleger*, to a certain extent, falls between judges and non-judge staff, such as registrars;

- non-judge staff whose task is to assist judges directly. Both judicial advisors and registrars assist judges in their judicial activities (hearings in particular) and may have to authenticate acts;

- staff responsible for various administrative matters and for court management;

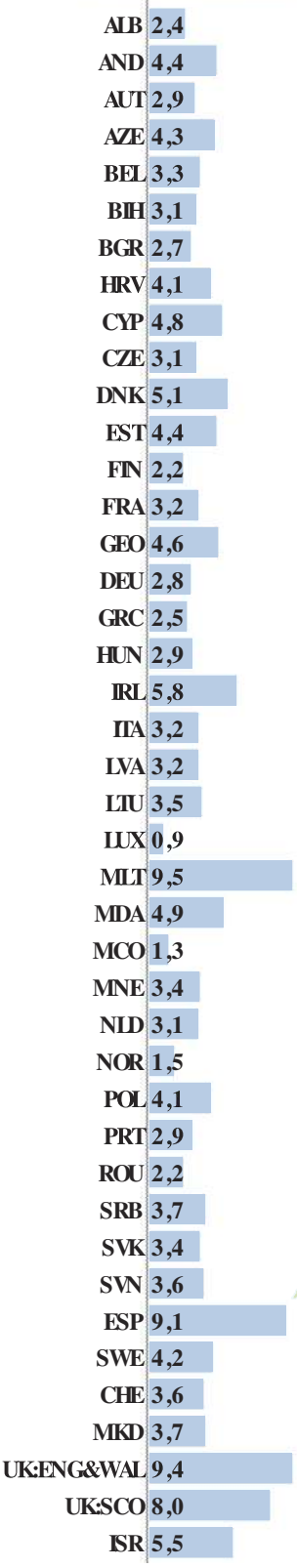
- technical staff responsible for IT equipment, security and cleaning;

- other non-judge staff.

Non-judge staff per professional judge in 2014

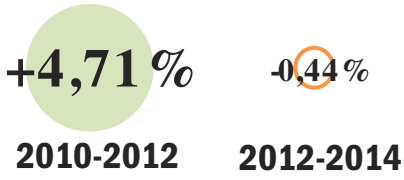
▶Table 3.40

Average 3,9
Median 3,4



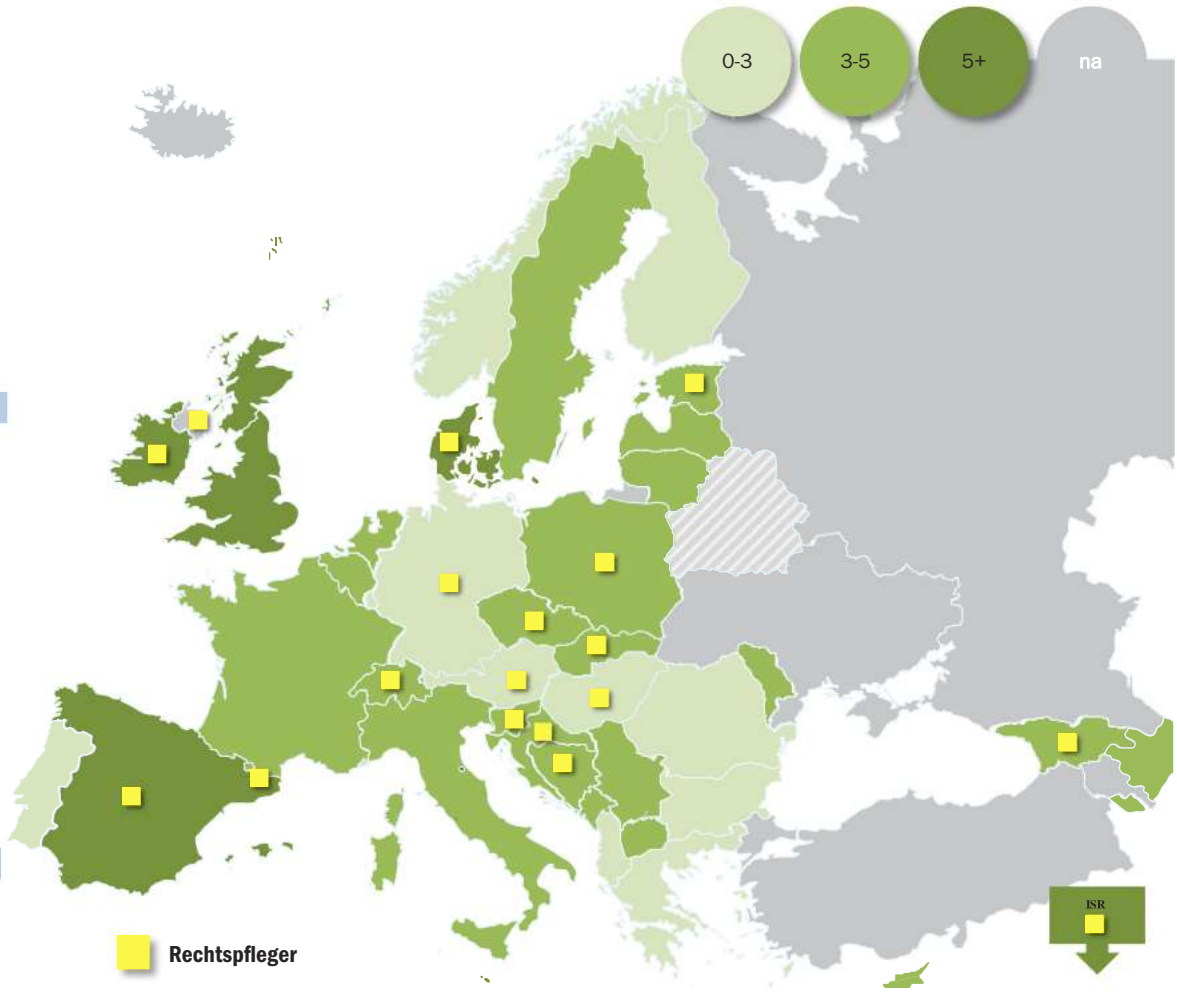
Evolution of the European average of non-judge staff per professional judge

▶Table 3.40



Non-judge staff per each professional judge in 2014

▶Tables 3.40 and 3.43



As concerns **Germany**, the 2014 data was not available. Accordingly, the 2013 data is used within this section. As concerns **Italy**, data related to the administrative courts is not taken into consideration for the reply to question 52.

This ratio between non-judge staff and professional judge makes it possible to assess how the judge is assisted and if this situation has changed.

This ratio must be construed with caution for different reasons:

- As mentioned for judges, a considerable part of the judicial functions may be entrusted to non-professional judges who must also be assisted, which means that some of the non-judge staff is in these cases assigned to non-professional judges activities, thereby modifying the implications of the ratio observed.

- 16 States indicated the number of *Rechtspfleger* or equivalent staff. The latter carry out judicial functions independently and therefore cannot be considered as assistant judges.

- The evolution of the ratio during the last three evaluation cycles must also be construed in the light of the evolution of the numbers of judges and non-judge staff. If a significant number of judges retire without being replaced immediately, the ratio will increase without this evolution originating in a reinforcement of non-judge staff. Similarly, if the recruitment of judges is increasing, then the ratio will decrease while the non-judge staff has remained the same.

- Finally, a review of the comments made by several States or entities shows that the situation in each State or entity is often quite different, especially as regards the scope of the tasks entrusted to these non-judge staff. Accordingly, it is difficult to be certain that the proposed differentiation between the five non-judge staff categories corresponds exactly to the situation of each State or entity. This may call into question the reliability of the data collected and the lessons that may be drawn from it.

It is with these reservations in mind in particular that the average of 3,9 for the 2014 data must be assessed. **It marks a slight increase compared to the 2010 data (3,8) and is identical to that of 2012 (3,9).**

But this stability over time encompasses considerable gaps for each evaluation cycle. While in some States or entities the team around the judge is very large (**Malta**, **UK-England and Wales**, **UK-Scotland**) with a workforce of between 7 and more than 10 staff members per judge, this is probably due to the judicial organisation specific to the common law. **Spain** also belongs to this group of States. In other States, the number of non-judge staff is much lower (**Albania**, **Austria**, **Belgium**, **Bosnia and Herzegovina**, **Bulgaria**, **Czech Republic**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Italy**, **Latvia**, **Luxembourg**, **Monaco**, **Montenegro**, **Netherlands**, **Norway**, **Portugal**, **Romania** and **Slovakia**) with an average of 3 staff or less.

Excluding Common Law States and entities (**entities of the United Kingdom**, **Ireland** and **Malta**), the average number of non-judge staff per professional judge for the 2014 drops from 3,9 to 3,5.

As mentioned above, 16 States or entities have communicated quantitative data in respect of the category of *Rechtspfleger* or similar bodies.

Half of the non-judge staff is composed of clerks and assistants whose task is to assist judges directly in their judicial activities.

The functions of administration and management of courts are provided by about 20 % of non-judge staff with certain unusual situations since 7 States declare that the staff specially dedicated to these functions represents more than 40 % of all their non-judge staff (**Belgium**, **Bosnia and Herzegovina**, **Denmark**, **Estonia**, **Slovenia**, **Switzerland**, "**the former Yugoslav Republic of Macedonia**"). In **Switzerland** for example, the category of staff entrusted with duties related to the administration and management of courts encompasses also the staff responsible for the administration and management of trial files.

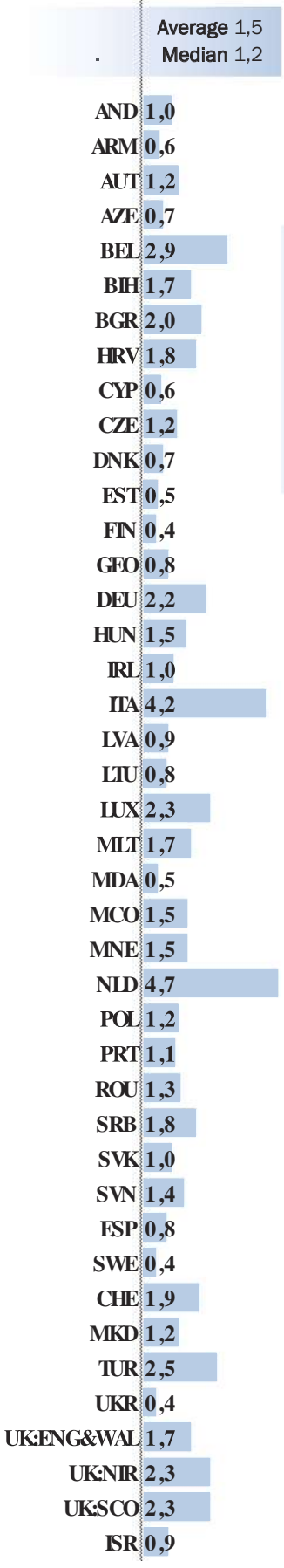
The most telling evidence concerning the difficulty of identifying a common denominator between European States and entities in matters of non-judge staff is provided by the subcategory "other non-judge staff". The content of the latter varies from the staff of specific courts or bodies as for example the Supreme Court and the Office for Administration of Judicial Budget in **Albania**, or the Division of Provision of Secrecy Regime and the Supreme Court Division of Case-Law in **Latvia**, to staff responsible for the handling of case files in **Austria** (*Kanzlei*), judicial trainees in the **Czech Republic**, staff in charge of court documentation in the **Czech Republic** and **Monaco**, court interpreters in **Estonia**, assistants, receptionists, porters and others in **Italy**, consultants of the Supreme Court in **Latvia**, translators and court psychologists in **Lithuania**, social workers in **Monaco**, counsellors, secretaries, couriers in **Montenegro**, assistant magistrates, judicial assistants and probation counsellors in **Romania**, court police in "**the former Yugoslav Republic of Macedonia**", court typists in **Israel** etc. **Hungary** included in this category for 2014 the staff in charge of different administrative tasks and of the management of the courts and the technical staff.

In conclusion, a category-by-category comparison in matters of non-judge staff proves to be inappropriate, or even impossible.

One should also attempt to better assess the management part within administrative tasks (3rd category of tasks of non-judge staff), and the weight of outsourced tasks. It could also be instructive to better identify innovative organisations in which the Constitution or the law assign judicial functions to independent non-judge staff, thus shortening the timeframe for dealing with a part of proceedings.

Non-prosecutor staff per public prosecutor in 2014

►Table 3.45



3.4 Staff attached to the public prosecution services

As in the case of judges, public prosecutors are assisted by staff performing widely varying tasks such as secretariat, research, case preparation, or assistance in the proceedings. The law may also entrust to non-prosecutor staff (*Rechtspfleger* or its equivalent) some functions of the prosecution services.

The average number of staff remained stable (1,5) between 2010 and 2014. The main reason for the variations observed for this period relates to changes in the methodology of presentation of data used by the States or entities, due to the existing discrepancies between national definitions of non-prosecutor staff and the CEPEJ terminology. Moreover, **Luxembourg** indicated that there had been a general increase in the number of public servants at all levels in 2012, affecting also the number of staff assisting prosecutors. In **Slovakia**, the increase in the number of non-prosecutor staff resulted from organisational changes in the prosecution services. The military prosecution services were abolished in 2011 and all the staff assigned to the prosecution services. Finally, the substantial increase in employments in State prosecutor's offices in **Slovenia** in 2014 is the result of the Government's decision to strengthen the fight against corruption and other fields of criminality defined within the prosecution policy.

In some states or entities, the staffing levels are proportionally low since they represent less than one staff member per public prosecutor (**Armenia**, **Azerbaijan**, **Cyprus**, **Denmark**, **Estonia**, **Finland**, **Georgia**, **Latvia**, **Lithuania**, **Republic of Moldova**, **Spain**, **Sweden**, **Ukraine** and **Israel**).

But in other states or entities, these staff represent more than 2 staff members per prosecutor (**Belgium**, **Bulgaria**, **Germany**, **Italy**, **Luxembourg**, **Netherlands**, **Turkey**, **UK-Northern Ireland** and **UK-Scotland**), which, however, in any case remains modest compared to the situation of non-judge staff in some states (*supra*).

The comments formulated on this point by the states and entities focus essentially on the assessment methods as regards the number of staff working sometimes simultaneously on other tasks, on the fluctuating count at times of this staff who may be attached to different bodies, or on the evolution of the field of their competences. In **France**, prosecutors' assistants are under the responsibility of the director of the register services who works in close cooperation with the president of the court and the respective prosecutor. Accordingly, data on non-prosecutor staff cannot be distinguished from the general data on staff provided in table 3.40. In addition, the specialised divisions of the prosecution offices can resort to specialised assistants attached to other administrations in order to deal with the more complex litigations (44 specialised assistants in 2014).

3.5 Lawyers

Respecting the lawyer's mission is essential to the rule of law. Recommendation Rec(2000)21 of the Committee of Ministers of the Council of Europe, on the freedom of exercise of the profession of lawyer, defines the lawyer as "*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*".

According to this definition, a lawyer may be entrusted with legal representation of a client before a court, as well as with the responsibility to provide legal assistance.

In certain States or entities, other titles and definitions of a lawyer are used, such as solicitor (a person who gives legal advice and prepares legal documents) and barrister (a person who represents his/her clients in court). In **UK- England and Wales**, in the 1990s solicitors gained additional qualifications of solicitor-advocate and were allowed to plead before the higher courts. Insofar as **Ireland** is concerned, solicitors have had full rights of audience in all courts since the early 1970s. The word "attorney" is also used and is similar to the term "lawyer" as mentioned in this report (a person authorised to practice law, conduct lawsuits or give legal advice).

For practical purposes, the report uses the definition of lawyer set out in Recommendation Rec(2000)21, provided that the possibility to take legal action on behalf of a client determines the activity of the courts. Where possible, a distinction will be made between the above-mentioned categories.

Quality of justice depends on the possibility for a litigant to be represented and for a defendant to mount his or her defence, both functions performed by a professional who is trained, competent, available, offering ethical guarantees and working at a reasonable cost.

Lawyers per 100 000 inhabitants in 2014

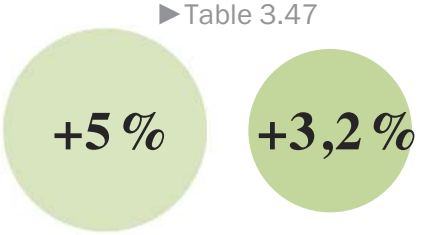
► Table 3.47

Average 149
Median 108

ALB	86
AND	242
ARM	53
AUT	94
AZE	10
BEL	162
BIH	37
BGR	176
HRV	106
CYP	363
CZE	113
DNK	108
EST	71
FIN	39
FRA	94
GEO	102
DEU	202
GRC	388
HUN	132
IRL	251
ITA	368
LVA	68
LTU	68
LUX	387
MLT	346
MDA	51
MCO	82
MNE	122
NLD	105
NOR	142
POL	137
PRT	283
ROU	104
RUS	48
SRB	118
SVK	107
SVN	79
ESP	291
SWE	57
CHE	140
MKD	108
TUR	112
UKR	NQ
UK:ENG&WAL	315
UK:NIR	41
UK:SCO	209
ISR	684

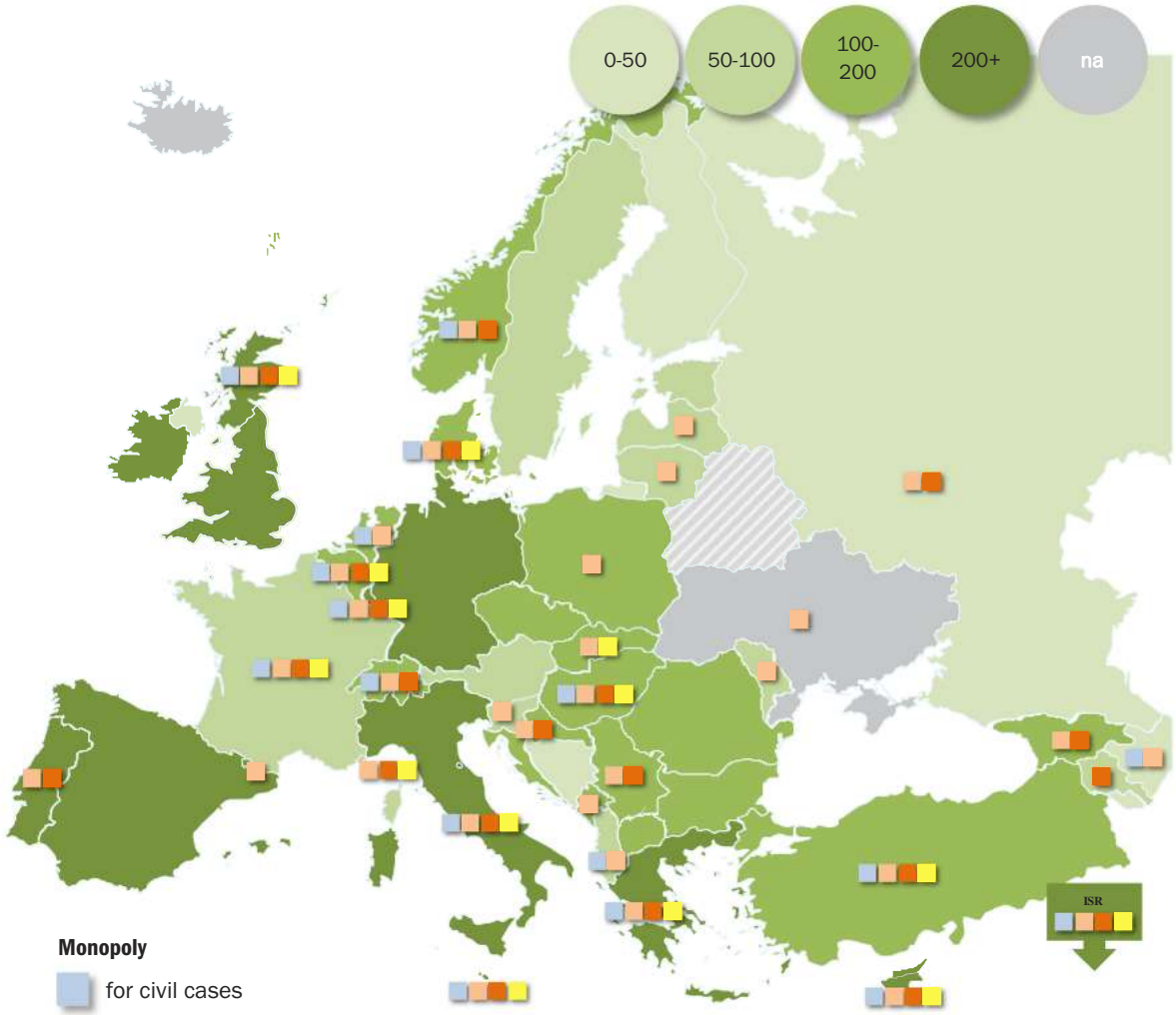
Evolution of the European average of Lawyers

►Table 3.47



Lawyers per 100 000 inhabitants in 2014

►Tables 3.47 and 3.49



With the exception of **Albania** and **Ukraine** which report a very significant drop in the number of lawyers, in almost every other member State or entity, the number of lawyers regularly and significantly increased between 2010 and 2014, passing on average from 25 663 to 28 170 lawyers.

It should be added that for 4 States and entities the number of lawyers reported includes legal advisors without providing the number of those advisors (**Cyprus**, **Portugal**, **UK-England and Wales** and **Israel**).

As a final remark, it is interesting to draw attention to the issue of lawyers' monopoly on legal representation. Such a monopoly exists in criminal matters in 33 States or entities in respect of defendants and in 22 States or entities in respect of victims. With regard to civil proceedings, lawyers have a monopoly in 18 States or entities, while concerning administrative proceedings their monopoly is ensured in 14 States or entities. In 13 States or entities, lawyers do not have monopoly of legal representation as a general rule in all types of proceedings.

In fact, most of the time, national legislations either establishes as a principle the lawyers' monopoly, enumerating exceptions to this rule or it provides for the principle of the absence of such a monopoly except for certain specific categories of cases, proceedings (exceeding certain values), courts (some specialised tribunals and often the Supreme Court and courts of appeal) or persons in respect of which legal representation by a lawyer is mandatory.

Generally, in civil matters before first instance tribunals, including labour and commercial cases, the function of representation before courts may also be exercised by prosecutors (supra), representatives of associations, institutions or public authorities, NGO, trade unions, family members (parents, marriage partners, other relatives), notaries, legal advisors or persons with a Master's Degree in law, assistants of attorneys or bailiffs, trainee lawyers, and even by any person of full legal capacity. In a great majority of States or entities, a party can represent him/herself.

In criminal matters, legal representation of victims may be carried out by public prosecutors, members of the family, victim protection associations, persons with a Master's Degree in law, minors' representatives, NGO and other capable persons. In some States or entities, victims can represent themselves before the courts. The principle of lawyers' monopoly applies essentially with regard to defendants, even though there could be exceptions (self-representation, relatives, attorneys' assistants, lecturers at universities etc.).

Sometimes, the judge's approval is required in order to depart from the rule of mandatory legal representation by a lawyer (for example in **Germany**, in criminal matters, in respect of other persons than lawyers and law lecturers at German universities; in the **Russian Federation** in criminal matters and only in addition to a professional lawyer; in **Montenegro** in civil and administrative matters; in **Norway** in general).

In administrative matters, the general rule is the absence of a monopoly and the categories of persons and authorities competent to intervene before courts are as various as in civil matters.

4. COURTS AND USERS

4.1 Organisation of the court system

Courts perform different tasks according to the competences described by law. In the majority of cases, courts are responsible for dealing with civil and criminal law cases, and possibly administrative matters. In addition, courts may have a responsibility for the maintenance of registers (land, business, civil registers, etc.) and have special departments for enforcement cases. A comparison of the court systems between the States or entities therefore needs to be done with care, taking into consideration the differences in competences.

The court networks in the 48 States or entities concerned differ between those where most of the case categories are addressed by courts of general jurisdiction, and those where a significant part of the disputes are addressed by specialised courts. In 19 States or entities, there are no specialised courts of first instance (**Andorra**, **Czech Republic**, **Georgia**, **UK-Northern Ireland**) or few specialised courts of first instance (**Armenia**, **Bosnia and Herzegovina**, **Denmark**, **Latvia**, **Lithuania**, **Republic of Moldova**, **Netherlands**, **Norway**, **Poland**, **Slovenia**, **Romania**, **Russian Federation**, **"the former Yugoslav Republic of Macedonia"**, **Ukraine**, **UK-England and Wales**, **UK-Scotland**). On the contrary, specialised courts represent more than 30 % of the first instance courts in **Croatia**, **France**, **Portugal** and even close to 50 % in **Belgium**, **Malta** or **Monaco**.

Specialised first instance courts deal with various matters. Most of the responding States or entities mentioned specialised administrative courts, commercial courts and labour courts. Several States or entities listed courts that deal for instance with military cases, family cases, enforcement of criminal sanctions, rent and tenancies. Particular courts exist for example in **Finland** (High Court of Impeachment: charges against Ministers), **Spain** (violence against women) or **Turkey** (civil and criminal intellectual property courts).

Number of all courts (geographic location) per 100 000 inhabitants in 2014 and variation between 2010 and 2014

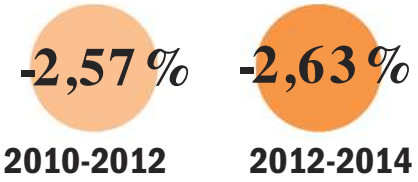
►Tables 4.1b and 4.7

Average 1,8
Median 1,4

ALB	1,3	+15 %
AND	3,9	0 %
ARM	0,7	-22 %
AUT	1,2	-31 %
AZE	1,2	+1 %
BEL	2,6	0 %
BIH	2,6	0 %
BGR	2,3	-9 %
HRV	4,8	+32 %
CYP	2,4	+17 %
CZE	0,9	0 %
DNK	0,5	0 %
EST	1,7	0 %
FIN	1,5	-1 %
FRA	1,0	+2 %
GEO	0,8	-33 %
DEU	1,4	-2 %
GRC	3,0	-29 %
HUN	1,6	0 %
IRL	3,0	0 %
ISL	2,0	-21 %
ITA	1,1	-50 %
LVA	2,4	0 %
LTU	2,1	-7 %
LUX	1,4	0 %
MLT	0,5	0 %
MDA	1,5	-4 %
MCO	2,6	0 %
MNE	3,5	0 %
NLD	0,2	-38 %
NOR	1,4	-1 %
ROU	1,1	-1 %
RUS	2,4	NA
SRB	2,3	+26 %
SVK	1,2	0 %
SVN	3,7	+17 %
ESP	1,6	+2 %
SWE	1,0	0 %
CHE	3,7	-26 %
MKD	1,6	0 %
TUR	0,8	-13 %
UKR	1,8	0 %
UK:ENG&WAL	0,8	-24 %
UK:NIR	1,4	NA
UK:SCO	0,7	-38 %
ISR	0,5	NA

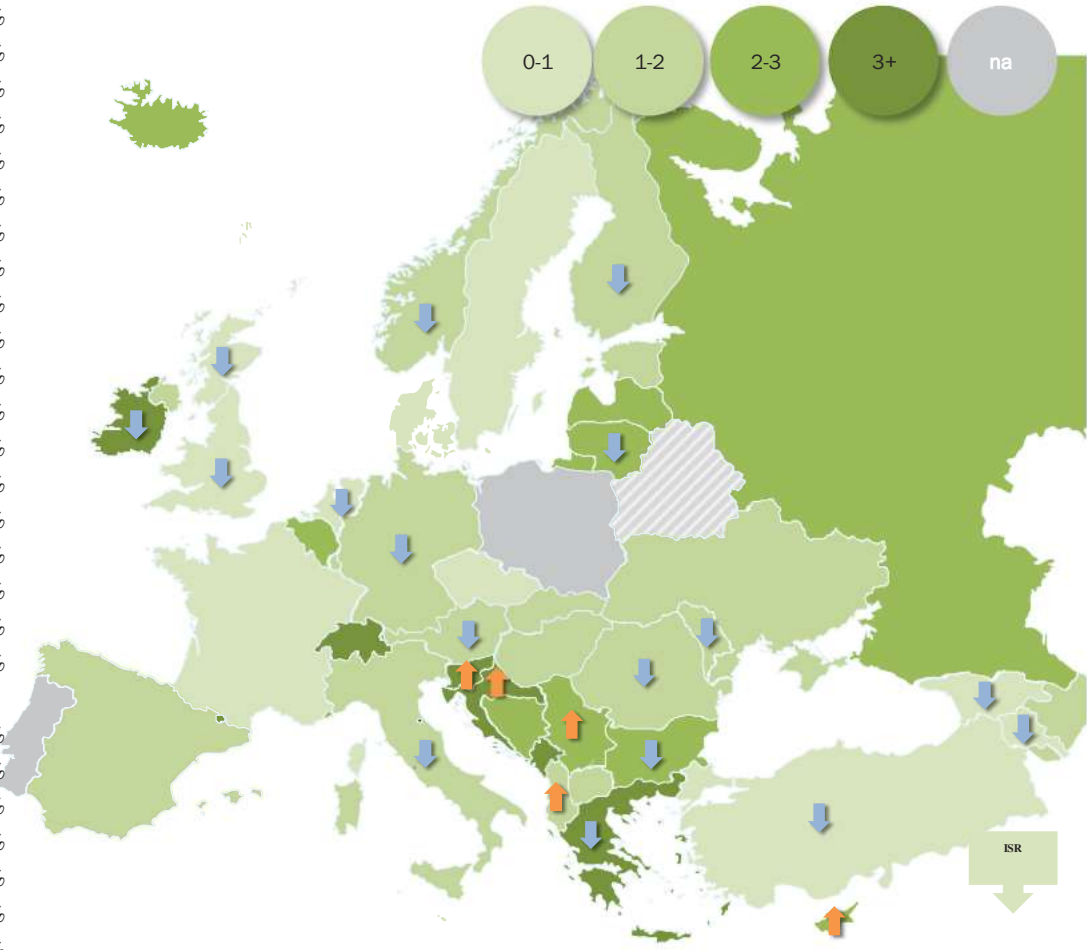
Evolution of the European average of all courts (geographic location)

►Table 4.7



Number of all courts (geographic location) per 100 000 inhabitants in 2014

►Tables 4.1b and 4.7



Increase in the number of courts (geographic locations) between 2010-2014 (+15% and more)

Decrease in the number of courts (geographic locations) between 2010-2014 (-15% and more)

Access to courts is a key element of the fundamental principle of access to justice. Therefore it is worth examining how the court system is organised on the territory of the States or entities concerned and then how litigants can physically accede to a judge.

Court organisation on the territory varies significantly among the 48 States or entities considered. Considering the differences between the systems including, or not, a significant number of specialised courts (see the report for a detailed analysis), this specific analysis is based on the total number of courts in order to highlight the density of the court systems.

This can be interpreted with regard to the number of court buildings available on the territory and to the size of the courts. Some States have made the choice to concentrate their court system and keep a small number of large courts, while others have made the choice to disseminate smaller courts throughout their territory. To assess this phenomenon, it is proposed to consider first of all, below, the total number of geographic locations of courts (it being understood that the number of courts of appeal and Supreme Courts, included in the data below, does not have a significant impact on the ratio, except for small States with a small number of first instance courts) against the number of first instance courts considered as legal entities. The following phenomenon can be observed:

- a concentration of courts (legal entities) in the same location (for instance **Austria**, **France**, **Russian Federation**),
- a splitting of the same court (legal entity) into various locations (for instance **Bosnia and Herzegovina**, **Croatia**, **Estonia**, **Finland**, **Latvia**, **Switzerland**); this phenomenon is of particular importance in **Ireland**, where there are only 4 courts of first instance disseminated through more than 90 locations.

Generally speaking the European trend goes towards a decrease in the number of courts and a consequent increase in the size of the courts, including more judges, as well as a stronger specialisation of the judicial system. In many States or entities, the judicial organisation is old. To take into consideration demographic trends, new technical means of transport and communication of court users, and the increased specialisation of judges, many States have recently set up, or are thinking of setting up (28 States or entities note that changes in the court organisation are foreseen), a new division of jurisdictions that would improve the efficiency of justice while creating economies of scale. These reforms of the judicial system are often 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 expected savings**, nor been implemented in full consultation with court staff. 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 and competences between various courts.

One third of the States or entities have initiated a concentration of their judicial system and decreased the number of courts between 2010 and 2014, some of them significantly: **Turkey** (- 13 %), **Ireland** (- 21 %), **Armenia** (- 22 %), **UK-England and Wales** (- 24 %), **Greece** (- 29 %), **Austria** (- 31 %), **Georgia** (- 33 %), **Netherlands** (- 38 %), **UK-Scotland** (- 38 %), **Italy** decreasing this number by 50 %. **Poland** and **Switzerland** can be added to this list, although the number of geographic locations, which was chosen here for the analysis, is not available; indeed the number of first instance courts (legal entities) has decreased by 21 % and 35 %, respectively, for these 2 States during the same period. It can also be noted that **Belgium** has reduced its number of courts (legal entities), but has kept the same number of locations. Some of these States have decided to accompany the general decrease in the number of courts by a stronger specialisation of their court system (**Austria**, **Italy**).

4.2 Use of information technology in European courts

In pursuit of better access to justice, easier procedures in every branch of law (civil, criminal and administrative) and closer cooperation between judicial and administrative authorities in different countries, a large number of Council of Europe Member states have been intent on developing information technology (IT) for courts (variously known as e-Justice, e-courts, Cyberjustice, electronic justice, etc.) for over ten years now. This intent is reflected in their commitment, to varying degrees, to IT development in courts and public prosecution services in order to improve the efficiency of their judicial systems.

The CEPEJ has carried out a thorough evaluation of the use of IT in the judicial systems of the Council of Europe's Member states as part of the CEPEJ's 2014-2016 cycle[3] by means of a more detailed questionnaire.

The aim has not been only to draw up an inventory of the development of IT tools and applications in the courts and prosecution services but also to identify a very first analysis of their impact on the efficiency and quality of the public service of justice.

[3] CEPEJ Study n°24 (CEPEJ(2016)2), "Use of information technology in European courts" – available on http://www.coe.int/cepej

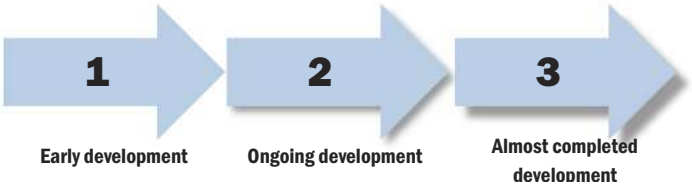
Use of information technology in European courts

Level of development of information technology (IT) in courts in 2014

►Section 2.1, CEPEJ Study n°24

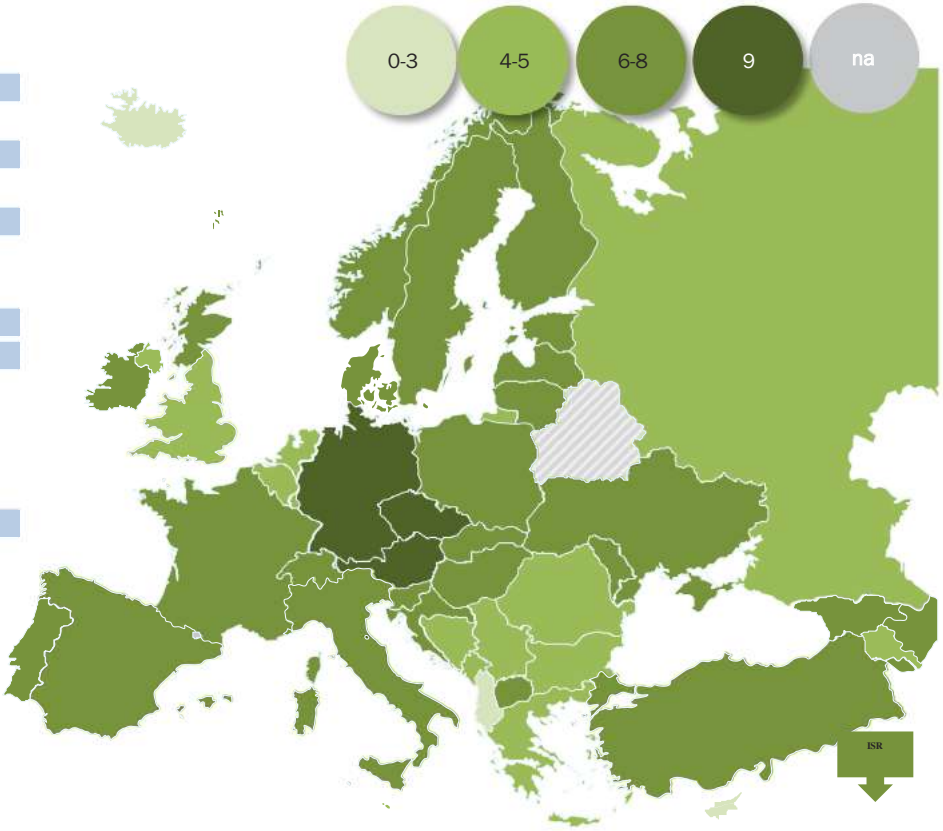
	Equipment	Legal framework	Governance
ALB	1	1	1
ARM	2	1	1
AUT	3	3	3
AZE	2	2	2
BEL	2	1	1
BIH	2	1	2
BGR	2	1	1
HRV	2	2	2
CYP	1	1	1
CZE	3	3	3
DNK	2	2	2
EST	3	3	2
FIN	3	3	2
FRA	2	2	3
GEO	2	2	2
DEU	3	3	3
GRC	2	2	1
HUN	3	2	3
ISL	1	1	1
IRL	2	2	2
ITA	2	2	3
LVA	3	2	3
LTU	2	2	2
LUX	2	1	2
MLT	2	1	2
MDA	2	2	2
MCO	2	2	3
MNE	2	1	2
NLD	2	1	2
NOR	2	2	2
POL	2	2	2
PRT	2	2	2
ROU	2	2	1
RUS	2	1	2
SRB	1	1	2
SVK	2	2	2
SVN	3	2	3
ESP	3	3	2
SWE	2	2	3
CHE	2	3	2
MKD	2	3	3
TUR	3	2	3
UKR	2	2	2
UK:ENG&WAL	2	1	2
UK:NIR	2	1	2
UK:SCO	2	1	3
ISR	3	2	3

Indices used for IT evaluation



Sum of IT indices in each field in 2014

►Section1.2, CEPEJ Study n°24



The analysis of the state of development of IT leads to a confirmation of the trend outlined in previous reports: **most States have invested significantly in IT for the functioning of their courts**.

The direct assistance devices to judges, prosecutors and clerks and court management tools are, however, far more developed than the electronic communication tools with professionals and court users.

The civil, commercial, criminal, administrative and "other" matters appear broadly to have been invested in in the same way by the States. Similarly, no priority seems to have been given to the development of IT tools to improve the quality of the public service of justice (internally as regards the operation of the court and externally as regards the relationship with clients and professionals) compared to those improving efficiency.

This preliminary finding makes it possible to identify other trends regarding the impact of IT from the perspective of efficiency and quality.

Thus, **the level of financial investment in the IT field does not appear to be related to the actual level of development**. Some countries seem to have invested a lot to obtain a modest level of equipment and, conversely, others seem to control expenditure and are at a relatively high level of equipment. This observation must of course be tempered by the fact that this study could not measure accurately in time the relationship between investment trends (often multi-year) and the results actually achieved, as well as external input that may have contributed to the computerisation (financial and material, resulting for example from EU programmes).

Next, **it seems that a good level of development of IT tools cannot be systematically linked to a good level in terms of court performance**. Indeed, the most technologically advanced countries do not always have the best indicators for efficiency. The reason for increased (or reduced) performance is in fact to be found in the combination of several factors such as the resources allocated, but also methods of evaluating court performance, and the use of IT as a lever for improvement rather than as an end in itself).

Finally, **the impact felt by the users could not be measured in this report**, but it can be deduced from the median European development index on electronic communication (measured at 5,9 out of 10) that this area still requires investment in many countries. Using the internet to not only communicate information to litigants but also to enable them to conduct online procedures, follow their case, or obtain an extract, are features that contribute not only to bring the public service of justice closer to the public but also to create a high level of trust in the system.

Member states should be encouraged to continue their investment in this field, relying in particular on good practices implemented in some of them such as **Austria**, the **Czech Republic** and **Germany**. The Guidelines to Cyberjustice which have been developed under the leadership of the working group "Quality" of the CEPEJ (CEPEJ-GT-QUAL), to be published by the end of 2016, will also support the policies of public reorganisation of judiciary services based on IT.

4.3 Information for the court users

Getting correct and sufficient information is essential to guarantee an effective access to justice. It is now very easy to obtain information regarding laws, procedures, forms, documents and courts from official websites.

Every State or entity has established websites making available national legislation and court case-law within the Ministry of Justice, Parliament, an Official Gazette, etc. These websites, such as those containing the case law of higher courts, are often used by practitioners.

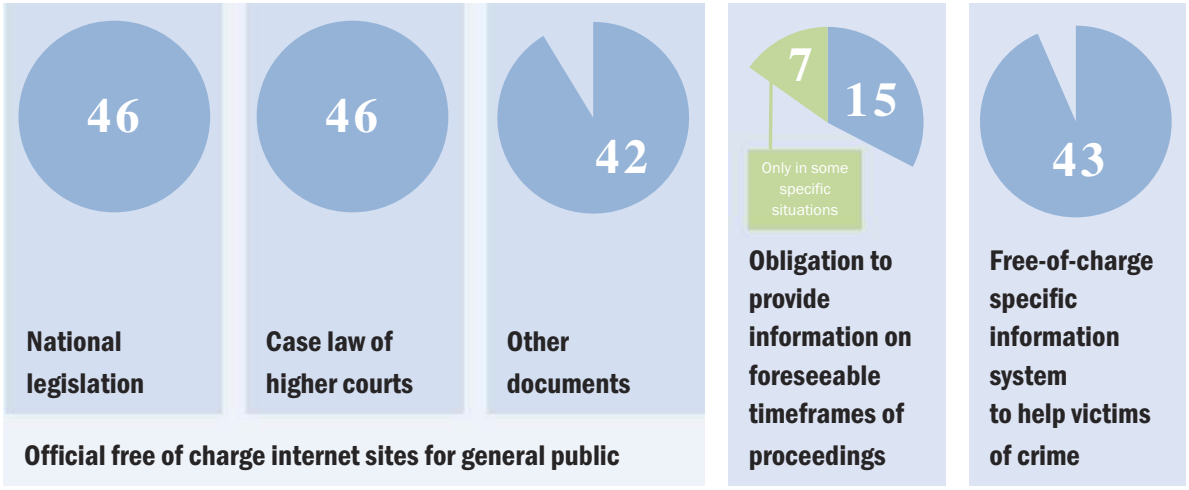
Court users seeking practical information about their rights or about the courts will make a better use of specific websites offered by the relevant courts or those created in their interest by the Ministry of Justice. Many States or entities indicate that these websites include forms that users can download to allow them to exercise their rights (**Bulgaria**, **Estonia**, **Finland**, **Greece**, **Hungary**, **Lithuania** and **Portugal**), applications concerning, for example, legal aid (**Finland**) or the getting of certificates (**Serbia**). These "practical" websites are developing in Europe.

It is not only important to provide general information on rights and proceedings via websites, but also to provide court users information in accordance with their expectations concerning the **foreseeability of the procedures**, i.e. the expected timeframe of a court procedure. This specific information, provided in the interests of the users, but not yet provided across Europe, can only be given by States which have set up an efficient case management system within their jurisdictions.

As regards **victims**, almost all the States and entities concerned, except **Andorra**, **Armenia** and **Montenegro**, have established free-of-charge information systems. The increasing care devoted to victims by the public service of justice in Europe can again be noticed in this area.

Obligation to provide information to courts users (Number of States)

►Figure 4.11



4.4 Compensation systems

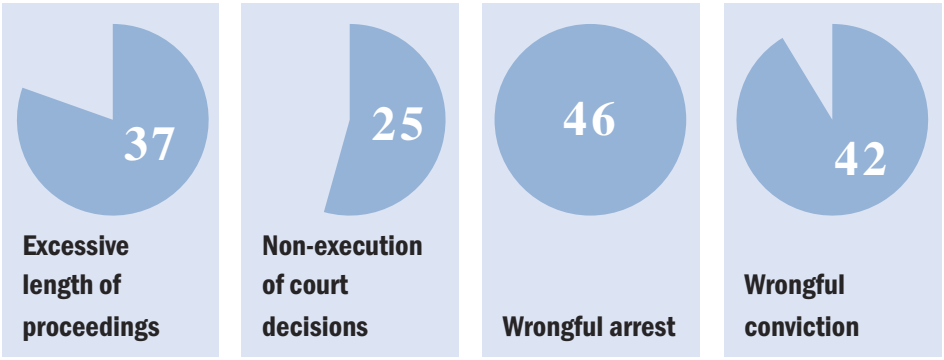
All the States and entities concerned have set up specific systems which make it possible for the court users to be compensated following dysfunctions within the court system which have affected them.

In the criminal law field, wrongful arrests and wrongful detention can be compensated in almost all the States.

Excessive lengths of judicial proceedings, which remain the main ground raised under ECHR Article 6 by applicants before the European Court of Human Rights, are subject to compensation in a wide majority of States or entities (37). The second main ground raised by the applicants regarding ECHR Article 6 is the non-enforcement of national court decisions; this dysfunction can be the subject of a compensation in half of the States and entities concerned (25).

Compensation systems (Number of States)

►Figure 4.12



5. EFFICIENCY

Efficiency and quality of the activity of courts and public prosecutors

Court efficiency plays a crucial role for upholding the rule of law, by ensuring that all persons, institutions and entities, both public and private, including the State, are accountable, and by guaranteeing timely, just and fair remedies. It supports good governance and helps combatting corruption and building confidence in the institutions. An efficient court system is an essential ingredient of an environment that allows individuals to pursue their human development through the effective enjoyment of economic and social rights, and which also promotes investment and encourages business.

This overview provides basic facts and figures on the performance of courts in 47 States or entities. It treats all analysed jurisdictions equally and does not intend to promote any particular type of justice system. Its approach, however, is inspired by the acknowledgement that the safeguarding of the fundamental principle of a fair **trial within a reasonable time (ECHR Article 6)** is a crucial element of the smooth functioning of courts. Accordingly, it builds on the premise that whatever the model of the national justice system or the legal tradition in which it is based, the length of proceedings, the number of pending cases, and the capacity of courts to deal with the caseload - though not exhaustive - are essential parameters of an efficient justice system.

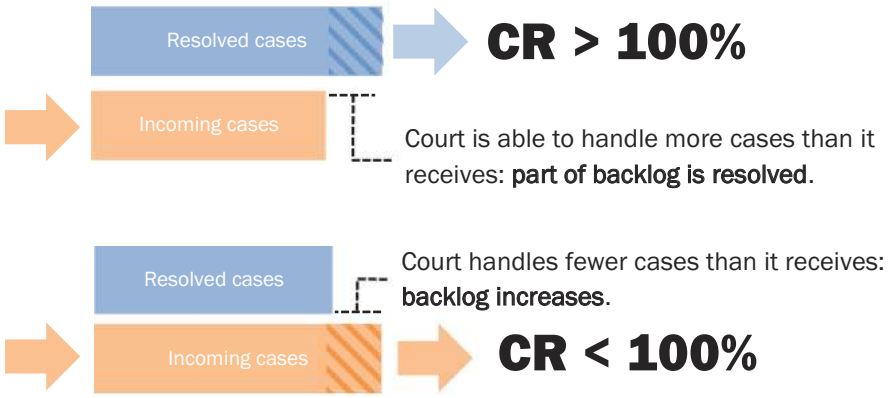
Data analysed here relates primarily to courts of first instance. Court performance is assessed in the context of specific sectors of justice, i.e. **criminal**, **civil** (mainly with regard to civil and commercial litigious cases), and **administrative cases**.

Information has been collected regarding two general categories: “other than criminal cases” and “criminal cases”, and a number of sub-categories within each of these groups.

There are relevant measurement difficulties related to differences between countries in the definition and categorisation of specific groups of cases. The distinctions employed in the CEPEJ evaluation make it possible to separate categories and facilitate categorisation within each system. Nevertheless, the information gathered from States and entities highlights significant differences in the way specific groups of cases are computed within the categories of the CEPEJ questionnaire; there are also reported differences within one national system over time. As a consequence, **the comparability of data across States and entities, and the interpretation of variations over a period of time is scrutinised in close connection with the comments provided by the States and entities on the specifics of each jurisdiction valid for both the civil and criminal sectors**.

Clearance Rate (CR)

The Clearance Rate (CR) is a simple ratio, obtained by dividing the number of resolved cases with the number of incoming cases, expressed as a percentage:



Essentially, **the Clearance Rate shows how the court or judicial system is coping with the in-flow of cases**. It allows comparisons even when the parameters of the cases concerned in different countries are not identical in every respect.

Disposition Time (DT)

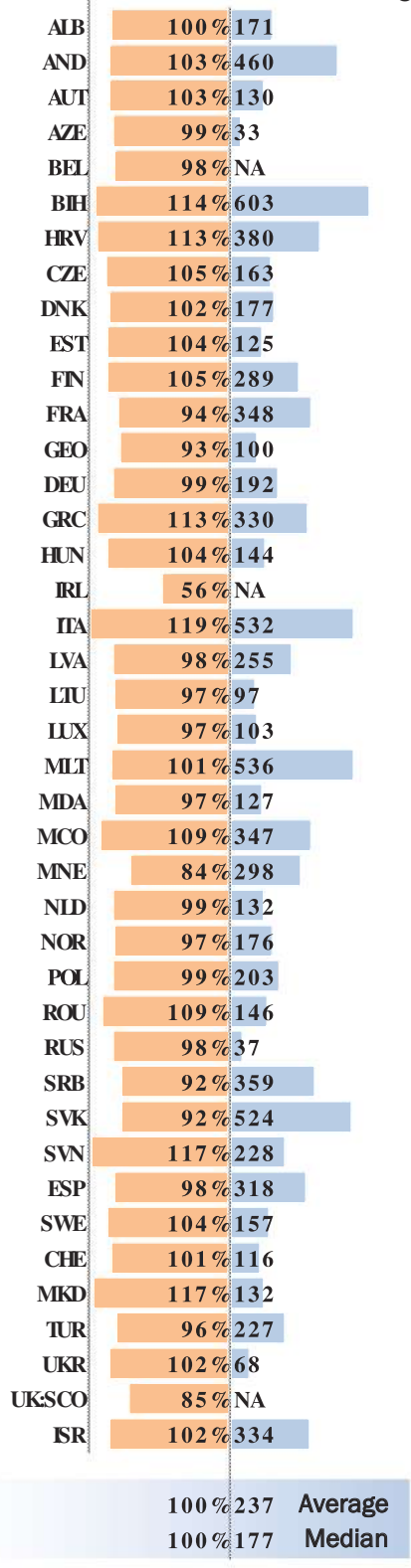
The indicator compares the total number of pending cases at the end of the observed period with the number of resolved cases during the same period and converts this ratio into a number of days. **This indicator measures the theoretical time necessary for a pending case to be solved in court in the light of the current pace of work of the courts in that country.**

Disposition Time is obtained by dividing the number of pending cases at the end of the observed period by the number of resolved cases within the same period multiplied by 365 (days in a year):

However, it needs to be mentioned that **this indicator is not an estimate of the average time needed to process a case but a theoretical average** of the duration of a case within a specific system. For example, if the ratio indicates that two cases will be processed within 90 days, one case might be solved on the 10th day and the second on the 90th day. The indicator fails to show the mix, concentration, or merit of the cases. Case level data of actual duration of cases from functional IT systems is needed in order to review these details and make a full analysis. In the meantime, this formula may offer valuable information on the estimated maximum length of proceedings.

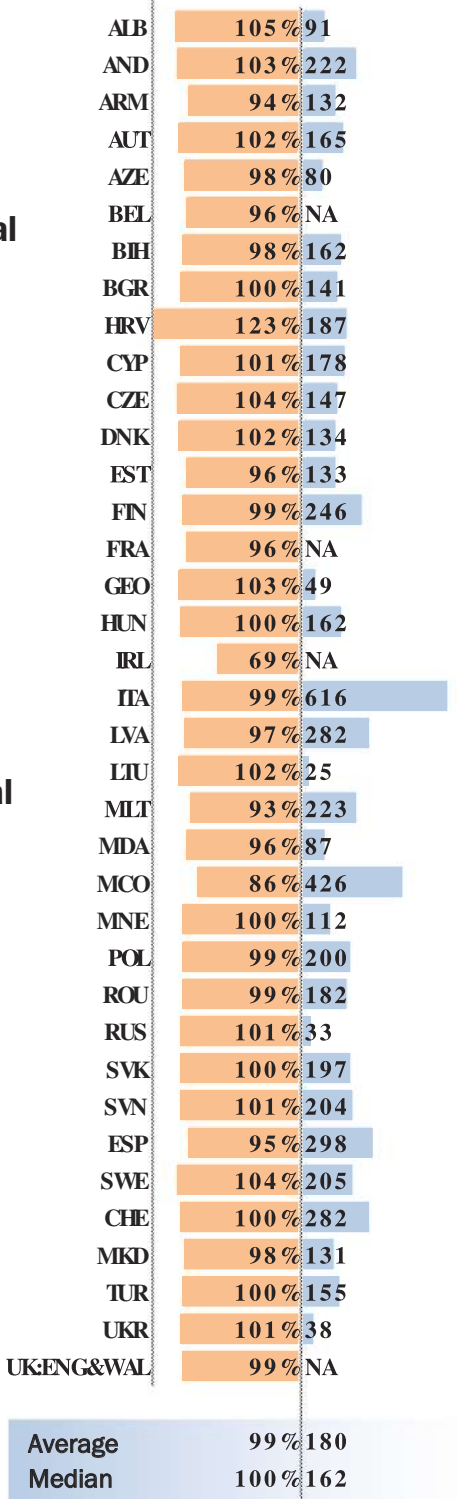
Clearance Rate (in %) and Disposition Time (in days) of civil and commercial litigious cases in 2014

▶Tables 5.6 and 5.7



Clearance Rate (in %) and Disposition Time (in days) of litigious divorce cases in 2014

▶Figure 5.10

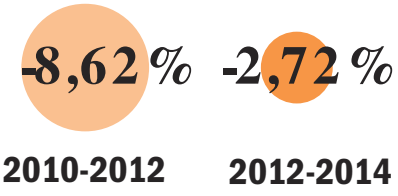


Evolution of the European average of Clearance Rate of civil and commercial litigious cases (points of percentage)

▶Table 5.6

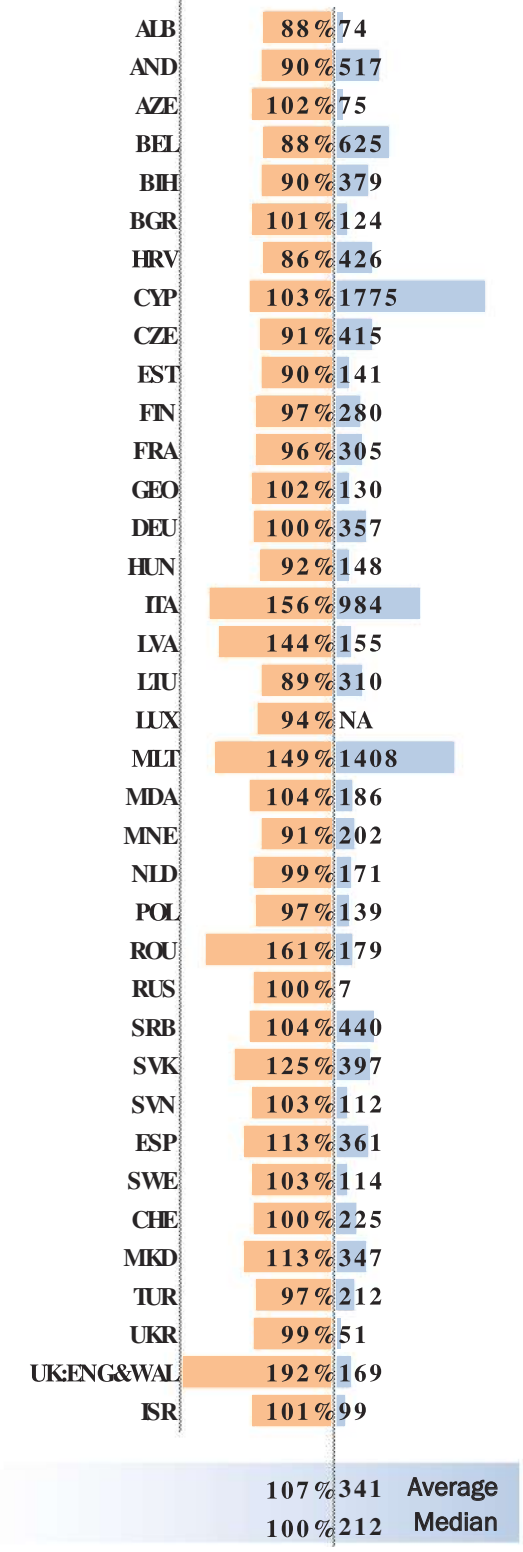
Evolution of the European average of Disposition Time of civil and commercial litigious cases

▶Table 5.7



Clearance Rate (in %) and Disposition Time (in days) of administrative cases in 2014

▶Tables 5.20 and 5.21



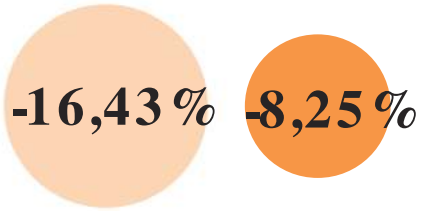
Evolution of the European average of Clearance Rate of administrative cases (points of percentage)

▶Table 5.20

2010-2012 2012-2014

Evolution of the European average of Disposition Time of administrative cases

▶Table 5.21



2010-2012 2012-2014

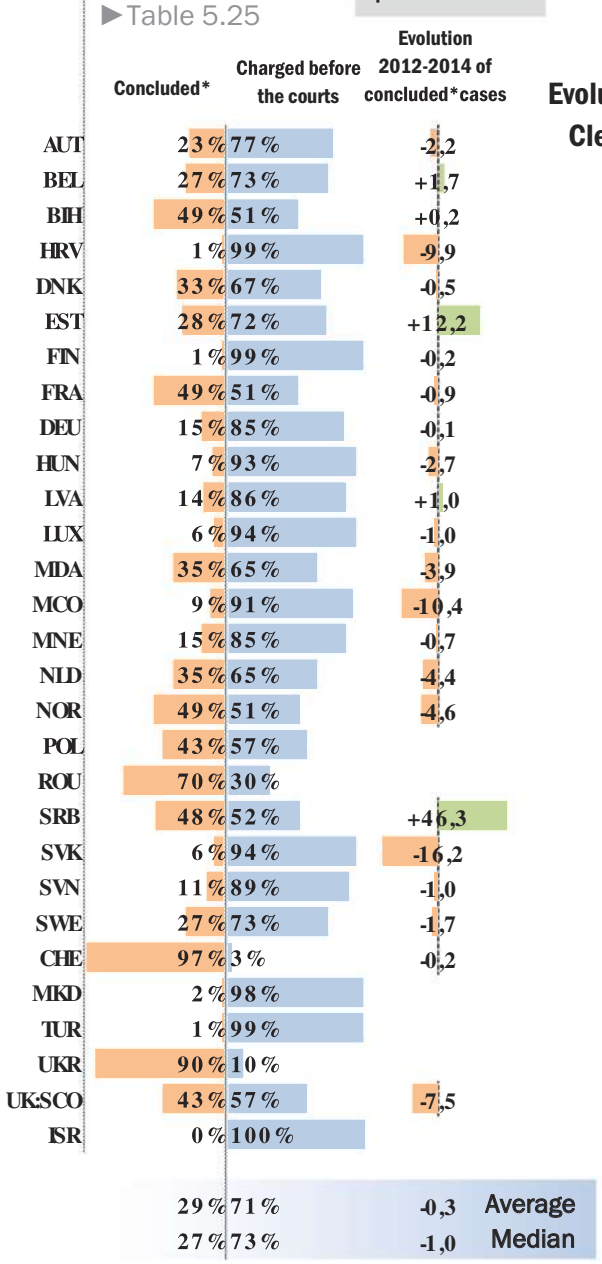
Clearance Rate (in %) and Disposition Time (in days) of criminal cases in 2014

▶Tables 5.31 and 5.32

Cases handled by public prosecutors in 2014

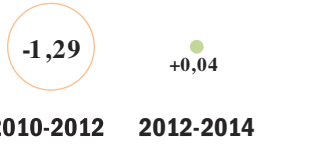
▶Table 5.25

*Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor



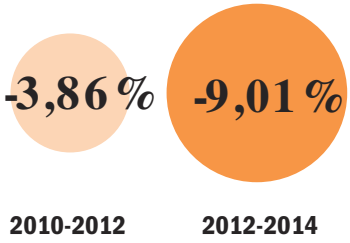
Evolution of the European average of Clearance Rate of criminal cases (points of percentage)

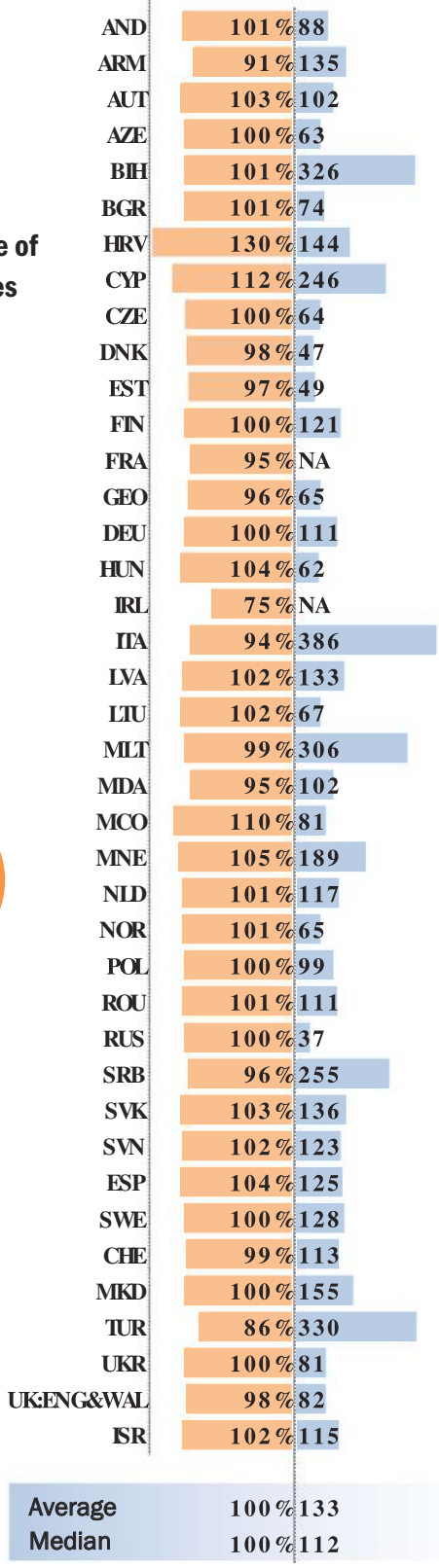
▶Table 5.31



Evolution of the European average of Disposition Time of criminal cases

▶Table 5.32





States continue their efforts towards a more detailed understanding of the activity of their courts, as regards the monitoring of compliance with the fundamental principles as protected by the ECHR and in terms of case-flow management and length of proceedings.

The 2016 evaluation highlights a sharp increase in the number of incoming criminal cases, while the category of "other than criminal cases" has slightly contracted (- 2 %). It also shows an overall positive trend for the ability of European courts to cope with incoming cases in the long term. This has been a constant trend in the civil and administrative justice sector since 2010, and, since 2012, also in the criminal sector. These developments are particularly significant if considered in the light of a relevant general increase in the number of incoming cases, compared to the 2012 CEPEJ evaluation, in particular, in the criminal sector (by 42 %) and in relation to litigious civil and commercial cases (by 7 %).

Compared to the previous evaluations, data for the 2014 evaluation of courts' efficiency in the **civil justice sector** (mainly civil and commercial litigious cases) shows that:

- there has been a discontinued trend in the improvement of the Clearance Rate of civil and commercial litigious cases received and solved at first instance; the average value for the Clearance Rate of 100 % in 2014 regarding civil and commercial cases means that States were able to deal with incoming cases in these areas but could not generally make progress in the reduction of backlog;

- the Disposition Time of litigious civil and commercial cases (on average 237 days in 2014) has slightly improved since 2010;

- with regard to pending cases, there has been a low but continuous increase in the backlog of civil and commercial litigious cases since 2010; improvements however can be observed in a number of States.

The figures for the 2014 evaluation of courts' efficiency in the **administrative justice sector** confirm that:

- the Clearance Rate of administrative law cases at first instance has constantly improved; the average value has been increasing from 99 % in 2010 to 107% in 2014;

- the Disposition Time of administrative cases (on average 341 days in 2014) has fairly improved since 2010;

- in line with the positive trends regarding the Clearance Rate and the Disposition Time, there has been a general decrease in the number of pending cases, by almost 42 %.

The data for the 2014 evaluation of courts' efficiency in the **criminal justice sector** shows that:

- in the vast majority of the States, public prosecutors were able to solve less cases than those received; by contrast, the average Clearance Rate of criminal cases resolved by courts is approximately 100 %, which means that courts can cope more or less satisfactorily with the incoming workload during the year;

however, the Clearance Rate is higher for the more complicated cases involving severe offences (103 %) compared to cases concerning minor offences (97 %);

- unlike for from civil and commercial litigious cases, data on criminal cases shows that no changes have occurred in the last six years in respect of the Clearance Rate, which has remained stable at 100 %;

- on average, the calculated Disposition Time for criminal cases in Europe has progressively improved over the last years; as expected, it is higher for severe crimes (195 days) compared to minor offences (133 days);

- the quantity of both incoming and pending cases diminished between 2010 and 2012 but increased substantially between 2012 and 2014.

Data for **specific categories of cases** offers a deeper insight into the length of proceedings in certain key areas across the sectors of justice (family, employment, commercial or criminal) and reflect better the functioning of justice systems in concrete contexts. However, it appears that the overall performance of States in these cases is less positive compared to the broader categories of civil and criminal law cases, but the limited availability of data means that conclusions must be drawn with some care. The figures show that:

- between 2010 and 2014 the average Clearance Rate of **litigious divorce cases** has decreased and is now slightly below 100 %, despite a positive increase in 2012. A negative trend between 2010 and 2014 can also be noted with regard to the evolution of the average Disposition Time for this category of cases, but the situation has improved compared to the 2012 evaluation.

- **employment dismissal cases** represent the only category, among three specific categories of civil cases analysed in this report, which registered a positive Clearance Rate in 2014; they also register the highest rate of appeal among the three specific categories of civil cases that were analysed;

- the 2014 evaluation confirms the results from the previous evaluation, namely that European States experience the most significant difficulties in managing the caseload in respect of **insolvency** proceedings; the development trend of the Disposition Time of insolvency cases is also of concern;

- States perform better with regard to **robbery cases** than **homicide cases** in terms of the ability to cope with incoming cases (i.e. Clearance Rate).

On a more general level the 2014-2016 evaluation cycle suggests namely the following pathways of development with regard to understanding and improving court efficiency:

1. **Economic recession has certainly been one of the main reasons for the increased volume of incoming cases and the extended duration of proceedings in some instances**. It has already affected the composition of the case-flow and has prompted important legislative reforms in a number of cases to adapt to the change. The impact of the changing economic situation should be closely followed in the future.

2. **Economic recession has also had an impact on the resources of courts and on the availability of legal aid for court users**. Variations in the number of incoming cases should also be considered in the light of this development.

3. **To improve timeliness and efficiency, online procedures for the processing of certain categories of claims are increasingly being developed and applied in different European States**. This is a trend that should be monitored carefully in the following years.

4. **Availability of disaggregated data is crucial to a better understanding of the effectiveness of the courts and of the reasons behind variations over time**. Important changes to the national statistical methodologies, aimed at bringing domestic systems in line with the CEPEJ methodology, are already in process. The CEPEJ welcomes and promotes these efforts as an invaluable tool in the collection of comparative data necessary to improve court performance.

The CEPEJ internet statistical database is available for everyone on : **www.coe.int/cepej**

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are 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.

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